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~~AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1817
OFFERED BY MR. THOMPSON OF MISSISSIPPI~~

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Complete Homeland
3 Security Act".

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

- Sec. 101. Authorization of appropriations.
- Sec. 102. Departmental management and operations.
- Sec. 103. Information analysis and infrastructure protection.
- Sec. 104. Science and technology.
- Sec. 105. Security enforcement and investigations.
- Sec. 106. Emergency preparedness and response.
- Sec. 107. Office of the Inspector General.

TITLE II—9/11 REFORM BILL ACCOUNTABILITY

- Sec. 201. Report on budget request for programs authorized by Public Law 108-458.

TITLE III—SECURING OUR ENTIRE BORDER ALL THE TIME,
EVERY DAY OF THE WEEK

Subtitle A—Securing our land borders

- Sec. 301. Land border security strategy.
- Sec. 302. Deployment of surveillance systems along U.S.-Mexico border.
- Sec. 303. Creation of northern and southern border coordinators.
- Sec. 304. Smart border accord implementation.
- Sec. 305. Requiring a vulnerability assessment of land ports of entry.



- Sec. 306. Study to determine appropriate level and allocation of personnel at ports of entry and border patrol sectors.
- Sec. 307. Assessment of study by Comptroller General.
- Sec. 308. Authorization of appropriations for increase in full-time Border Patrol agents.
- Sec. 309. Border Patrol unit for Virgin Islands.
- Sec. 310. Requiring report on the "One Face at the Border Initiative".

Subtitle B—CIS workflow study

- Sec. 311. CIS workflow, technology, and staffing assessment.

Subtitle C—Report on border violence

- Sec. 321. Studies related to feasibility and cost of locating and removing eight million undocumented aliens from United States.

Subtitle D—Center of Excellence on Border Security

- Sec. 331. Center of Excellence on Border Security.

TITLE IV—SECURING CHEMICAL PLANTS AND OTHER CRITICAL INFRASTRUCTURE

Subtitle A—Chemical Security Improvement

- Sec. 411. Short title.
- Sec. 412. Definitions.
- Sec. 413. Vulnerability assessments and site security plans.
- Sec. 414. Whistleblower protection.
- Sec. 415. Alternative approaches.
- Sec. 416. Enforcement.
- Sec. 417. Interagency technical support and cooperation.
- Sec. 418. Penalties.
- Sec. 419. Protection of information.
- Sec. 420. No effect on requirements under other law.

Subtitle B—Critical infrastructure prioritization

- Sec. 421. Critical infrastructure.
- Sec. 422. Security review.
- Sec. 423. Implementation report.

TITLE V—SECURING AIRPORTS, BAGGAGE, AND AIR CARGO

Subtitle A—Prohibition against increase in security service fees

- Sec. 501. Prohibition against increase in security service fees.

Subtitle B—Aviation security

- Sec. 511. Federal flight deck officers.
- Sec. 512. Letters of intent.
- Sec. 513. Aviation security capital fund.
- Sec. 514. Airport checkpoint screening explosive detection.
- Sec. 515. Flight communications.
- Sec. 516. Airport Site Access and Perimeter Security.
- Sec. 517. MANPAD countermeasure research.



- Sec. 518. Air charter and general aviation operations at Ronald Reagan Washington National Airport.
- Sec. 519. Inspection of cargo carried aboard commercial aircraft.

TITLE VI—SECURING TRAINS ACROSS AMERICA

Subtitle A—Public Transit Security

- Sec. 601. Short title.
- Sec. 602. Homeland security public transportation grants.
- Sec. 603. Training exercises.
- Sec. 604. Security best practices.
- Sec. 605. Public awareness.
- Sec. 606. National Transportation Security Centers.
- Sec. 607. Whistleblower protections.
- Sec. 608. Definition.
- Sec. 609. Memorandum of agreement.

Subtitle B—Rail Security

- Sec. 611. Short title.

CHAPTER 1—RAILROAD SECURITY

- Sec. 621. Railroad transportation security.
- Sec. 622. Freight and passenger rail security upgrades.
- Sec. 623. Fire and life-safety improvements.
- Sec. 624. Rail security research and development program.
- Sec. 625. Rail worker security training program.
- Sec. 626. Whistleblower protection.
- Sec. 627. Public outreach.
- Sec. 628. Passenger, baggage, and cargo screening.
- Sec. 629. Emergency responder training standards.
- Sec. 630. Information for first responders.
- Sec. 631. TSA personnel limitations.
- Sec. 632. Rail safety regulations.
- Sec. 633. Rail police officers.
- Sec. 634. Definitions.

CHAPTER 2—ASSISTANCE TO FAMILIES OF PASSENGERS

- Sec. 641. Assistance by national transportation safety board to families of passengers involved in rail passenger accidents.
- Sec. 642. Rail passenger carrier plans to address needs of families of passengers involved in rail passenger accidents.
- Sec. 643. Establishment of task force.

TITLE VII—SECURING CRITICAL INFRASTRUCTURE

- Sec. 701. Critical infrastructure.
- Sec. 702. Security review.
- Sec. 703. Implementation report.

TITLE VIII—PREVENTING A BIOLOGICAL ATTACK

- Sec. 801. GAO Report of Department biological terrorism programs.
- Sec. 802. Report on bio-countermeasures.



TITLE IX—PROTECTION OF AGRICULTURE

Sec. 901. Report to Congress on implementation of recommendations regarding protection of agriculture.

TITLE X—OPTIMIZING OUR SCREENING CAPABILITIES

Subtitle A—U.S. visitor and immigrant status indicator technology database

Sec. 1001. Interoperability of data for United States Visitor and Immigrant Status Indicator Technology.

Subtitle B—Studies to improve border management and immigration security

- Sec. 1011. Study on biometrics.
- Sec. 1012. Study on digitizing immigration benefit applications.
- Sec. 1013. Study on elimination of arrival/departure paper forms.
- Sec. 1014. Cataloguing immigration applications by biometric.

TITLE XI—SECURING CYBERSPACE AND HARNESSING TECHNOLOGY TO PREVENT DISASTER

Subtitle A—Department of Homeland Security Cybersecurity Enhancement

- Sec. 1101. Short title.
- Sec. 1102. Assistant Secretary for Cybersecurity.
- Sec. 1103. Cybersecurity training programs and equipment.
- Sec. 1104. Cybersecurity research and development.

Subtitle B—Coordination with National Intelligence Director

Sec. 1111. Identification and implementation of technologies that improve sharing of information with the National Intelligence Director.

Subtitle C—Cybersecurity research

Sec. 1121. Support of basic cybersecurity research.

Subtitle D—Cybersecurity training and equipment

Sec. 1131. Cybersecurity training programs and equipment.

TITLE XII—HELPING FIRST RESPONDERS GET THEIR JOB DONE

Subtitle A—Communications interoperability

- Sec. 1201. Interoperable communications technology grant program.
- Sec. 1202. Study reviewing communication equipment interoperability.
- Sec. 1203. Prevention of delay in reassignment of dedicated spectrum for public safety purposes.

Subtitle B—Homeland security terrorism exercises

- Sec. 1211. Short title.
- Sec. 1212. National terrorism exercise program.

Subtitle C—Citizenship Preparedness

- Sec. 1221. Findings.
- Sec. 1222. Purposes.



Sec. 1223. Citizens Corps; Private sector preparedness.

Subtitle D—Emergency medical services

Sec. 1231. Emergency Medical Services Administration.

Sec. 1232. Sense of Congress.

Subtitle E—Lessons learned information sharing system

Sec. 1241. Lessons learned, best practices, and corrective action.

Subtitle F—Technology transfer clearinghouse

Sec. 1251. Short title.

Sec. 1252. Technology development and transfer.

Subtitle G—Metropolitan medical response system

Sec. 1261. Metropolitan Medical Response System; authorization of appropriations.

TITLE XIII—FIGHTING DOMESTIC TERRORISM

Sec. 1301. Advisory Committee on Domestic Terrorist Organizations.

TITLE XIV—CREATING A DIVERSE AND MANAGEABLE
DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Authorities of Privacy Officer

Sec. 1401. Authorities of Privacy Officer.

Subtitle B—Ensuring diversity in Department of Homeland Security
programs

Sec. 1411. Annual reports relating to employment of covered persons.

Sec. 1412. Procurement.

Sec. 1413. Centers of Excellence Program.

Subtitle C—Protection of certain employee rights

Sec. 1421. Provisions to protect certain employee rights.

Subtitle D—Whistleblower protections

Sec. 1431. Whistleblower protections.

Subtitle E—Authority of Chief Information Officer

Sec. 1441. Authority of Chief Information Officer.

Subtitle F—Authorization for Office of Inspector General

Sec. 1451. Authorization for Office of Inspector General.

Subtitle G—Regional office

Sec. 1461. Colocated regional offices.

Subtitle H—DHS terrorism prevention plan

Sec. 1471. Short title.



Sec. 1472. Department of Homeland Security Terrorism Prevention Plan.
Sec. 1473. Annual crosscutting analysis of proposed funding for Department of Homeland Security programs.

Subtitle I—Tribal security

Sec. 1481. Office of Tribal Security.

TITLE XV__—SECURING OUR PORTS AND COASTLINES FROM
TERRORIST ATTACK

Sec. 1501. Security of maritime cargo containers.
Sec. 1502. Study on port risks.

TITLE XVI—AUTHORITY OF OTHER FEDERAL AGENCIES

Sec. 1601. Authority of other Federal agencies unaffected.

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

3 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

4 There is authorized to be appropriated for the De-
5 partment of Homeland Security \$41,036,180,000 for fis-
6 cal year 2006.

7 **SEC. 102. DEPARTMENTAL MANAGEMENT AND OPER-**
8 **ATIONS.**

9 Of the amount authorized under section 101, there
10 is authorized for departmental management and oper-
11 ations, including management and operations of the Office
12 for State and Local Government Coordination and Pre-
13 paredness, \$6,463,000,000.

14 **SEC. 103. INFORMATION ANALYSIS AND INFRASTRUCTURE**
15 **PROTECTION.**

16 Of the amount authorized under section 101, there
17 is authorized for information analysis and infrastructure
18 protection programs and activities \$873,245,000.



1 **SEC. 104. SCIENCE AND TECHNOLOGY.**

2 Of the amount authorized under section 101, there
3 is authorized for science and technology programs and ac-
4 tivities \$1,827,400,000, of which \$418,000,000 shall be
5 appropriated for aviation-security-related research and de-
6 velopment, \$115,000,000 shall be appropriated for the
7 Man-Portable Air Defense Systems, and \$35.4 million will
8 be appropriated for biological countermeasures and agri-
9 cultural defense.

10 **SEC. 105. SECURITY ENFORCEMENT AND INVESTIGATIONS.**

11 Of the amount authorized under section 101, there
12 is authorized for expenses related to border and transpor-
13 tation security, immigration, and other security and re-
14 lated functions, \$28,414,000,000, of which \$380,000,000
15 shall be appropriated for the hiring of 2,000 new border
16 patrol agents.

17 **SEC. 106. EMERGENCY PREPAREDNESS AND RESPONSE.**

18 Of the amount authorized under section 101, there
19 is authorized for emergency preparedness and response
20 programs and activities, \$3,258,531,000.

21 **SEC. 107. OFFICE OF THE INSPECTOR GENERAL.**

22 Of the amount authorized under section 101, there
23 is authorized for the Office of the Inspector General,
24 \$200,000,000.



1 **TITLE II—9/11 REFORM BILL**
2 **ACCOUNTABILITY**

3 **SEC. 201. REPORT ON BUDGET REQUEST FOR PROGRAMS**
4 **AUTHORIZED BY PUBLIC LAW 108-458.**

5 (a) **EXPLANATION OF HOMELAND SECURITY FUND-**
6 **ING SHORTFALL.—**

7 (1) **INITIAL REPORT.**—Not later than 30 days
8 after the date of the enactment of this section, the
9 President shall submit to Congress a report that ex-
10 plains each homeland security funding shortfall in-
11 cluded in the budget submitted to Congress for fiscal
12 year 2006 under section 1105(a) of title 31, United
13 States Code, including the rationale for requesting
14 less than the authorized level of funding for each
15 such funding shortfall.

16 (2) **ANNUAL REPORTS.**—Not later than 15 days
17 after the President submits to Congress the budget
18 for a fiscal year under section 1105(a) of title 31,
19 United States Code, the President shall submit to
20 Congress a report that explains each homeland secu-
21 rity funding shortfall included in the budget for the
22 fiscal year, including the rationale for requesting less
23 than the authorized level of funding for each such
24 funding shortfall.



1 (b) DEFINITION OF HOMELAND SECURITY FUNDING
2 SHORTFALL.—In this section, the term “homeland secu-
3 rity funding shortfall” means a program authorized by
4 Public Law 108–458 for which the amount of authoriza-
5 tion of appropriation for a fiscal year—

6 (1) is specified under such Act, and the Presi-
7 dent does not request under such budget the max-
8 imum amount authorized by such Act for such fiscal
9 year; or

10 (2) is not specified under such Act, and the
11 President does not request under such budget an
12 amount sufficient to operate the program as re-
13 quired by such Act.

14 **TITLE III—SECURING OUR EN-**
15 **TIRE BORDER ALL THE TIME,**
16 **EVERY DAY OF THE WEEK**
17 **Subtitle A—Securing Our Land**
18 **Borders**

19 **SEC. 301. LAND BORDER SECURITY STRATEGY.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity, in consultation with the heads of all other Federal
22 agencies with border-related functions or with facilities or
23 lands on or along the border, shall submit to the appro-
24 priate congressional committees (as defined in section 2
25 of the Homeland Security Act of 2002 (6 U.S.C. 101))



1 unclassified and classified versions of a unified, com-
2 prehensive strategy to secure the land borders of the
3 United States not later than 6 months after the date of
4 the enactment of this Act. The submission should include
5 a description of the actions already taken to implement
6 the strategy.

7 (b) CONTENTS.—The report shall cover the following
8 areas:

- 9 (1) Personnel.
- 10 (2) Infrastructure.
- 11 (3) Technology.
- 12 (4) Coordination of intelligence among agencies.
- 13 (5) Legal responsibilities and jurisdictional divi-
14 sions.
- 15 (6) Apprehension.
- 16 (7) Budgetary impact.
- 17 (8) Flow of commerce and economic impact.

18 (c) CONSULTATION.—In creating the strategy de-
19 scribed in subsection (a), the Federal agencies described
20 in such subsection shall consult private sector organiza-
21 tions and nongovernmental organizations with national se-
22 curity, privacy, agriculture, immigration, customs, trans-
23 portation, technology, legal, and business expertise.



1 (d) IMPLEMENTATION.—The Secretary shall imple-
2 ment the strategy not later than 12 months after the date
3 of the enactment of this Act.

4 (e) EVALUATION.—The Comptroller General of the
5 United States shall track, monitor, and evaluate such
6 strategy to secure our borders to determine its efficacy.

7 (f) REPORT.—Not later than 15 months after the
8 date of the enactment of this Act, and every year there-
9 after for the succeeding 5 years, the Comptroller General
10 of the United States shall submit a report to the Congress
11 on the results of the activities undertaken under sub-
12 section (a) during the previous year. Each such report
13 shall include an analysis of the degree to which the border
14 security strategy has been effective in securing our bor-
15 ders. Each such report shall include a collection and sys-
16 tematic analysis of data, including workload indicators, re-
17 lated to activities to improve and increase border security.

18 **SEC. 302. DEPLOYMENT OF SURVEILLANCE SYSTEMS**
19 **ALONG U.S.-MEXICO BORDER.**

20 (a) INITIAL THREAT ASSESSMENT.—

21 (1) IN GENERAL.—The Secretary of Homeland
22 Security shall conduct an assessment of the threat
23 of penetration of the land borders of the United
24 States, between the ports of entry, by terrorists and
25 criminals, and the threat to of such areas to ter-



1 rorist attack. In carrying out the threat assessments
2 under this paragraph, the Secretary shall categorize
3 the vulnerability of each land border corridor as
4 “high”, “medium”, or “low” and shall prioritize the
5 vulnerability of each land border corridor within
6 each such category. In conducting the threat assess-
7 ment, the Secretary of Homeland Security shall con-
8 sult with appropriate Federal, tribal, State, local,
9 and private sector representatives.

10 (2) REPORT.—Not later than 6 months after
11 the date of the enactment of this Act, the Secretary
12 shall prepare and submit to the Committee on
13 Homeland Security of the United States House of
14 Representatives a report that contains—

15 (A) the results of the threat assessments
16 conducted under paragraph (1);

17 (B) with respect to each land border cor-
18 ridor categorized under paragraph (1) as either
19 a “high”, “medium” or “low” land border cor-
20 ridor, descriptions of—

21 (i) infrastructure and technology im-
22 provement projects required for each land
23 border corridor in order to reduce its vul-
24 nerability; and



1 (ii) the resources required to make
2 such improvements; and

3 (C) a description of how the funds will be
4 used to implement technology and infrastruc-
5 ture improvement projects.

6 (b) FOLLOW-UP THREAT ASSESSMENTS.—The Sec-
7 retary of Homeland Security shall conduct follow-up
8 threat assessments of the land border between the ports
9 of entry every 2 years and shall submit such reports to
10 the Committee on Homeland Security of the House of
11 Representatives.

12 (c) PLAN.—Not later than December 31, 2005, the
13 Secretary of Homeland Security shall develop a com-
14 prehensive plan to fully deploy technological surveillance
15 systems along the United States land borders between the
16 ports of entry. Surveillance systems included in the deploy-
17 ment plan must—

18 (1) ensure continuous monitoring of every mile
19 of such borders; and

20 (2) to the extent practicable, be fully interoper-
21 able with existing surveillance systems and mission
22 systems, such as the Integrated Surveillance Intel-
23 ligence Systems already in use by the Department of
24 Homeland Security.



1 **SEC. 303. CREATION OF NORTHERN AND SOUTHERN BOR-**
2 **DER COORDINATORS.**

3 (a) IN GENERAL.—Title IV of the Homeland Secu-
4 rity Act of 2002 (6 U.S.C. 201 seq.) is amended—

5 (1) in section 402, by redesignating paragraph
6 (8) as paragraph (9) and by inserting after para-
7 graph (7) the following:

8 “(8) Increasing the security of the United
9 States at the ports of entry located along the north-
10 ern and southern borders, and improving the coordi-
11 nation among the agencies responsible for maintain-
12 ing that security.”; and

13 (2) in subtitle C, by adding at the end the fol-
14 lowing:

15 **“SEC. 431. BORDER COORDINATORS.**

16 “(a) IN GENERAL.—There shall be within the Direc-
17 torate of Border and Transportation Security the posi-
18 tions of Northern Border Coordinator and Southern Bor-
19 der Coordinator, who shall be appointed by the Secretary
20 and who shall report directly to the Under Secretary for
21 Border and Transportation Security.

22 “(b) RESPONSIBILITIES.—The Northern Border Co-
23 ordinator and the Southern Border Coordinator shall un-
24 dertake the following responsibilities along the northern
25 and southern borders, respectively—



1 “(1) serve as the primary official of the Depart-
2 ment responsible for coordinating all Federal secu-
3 rity activities along the border, especially at land
4 border ports of entry;

5 “(2) provide enhanced communication and
6 data-sharing between Federal, State, local, and trib-
7 al agencies on law enforcement, emergency response,
8 or security-related responsibilities for areas on or ad-
9 jacent to the borders of the United States with Can-
10 ada or Mexico;

11 “(3) work to improve the communications sys-
12 tems within the Department to facilitate the integra-
13 tion of communications of matters relating to border
14 security;

15 “(4) oversee the implementation of the perti-
16 nent bilateral agreement (the United States-Canada
17 ‘Smart Border’ Declaration applicable to the north-
18 ern border and the United States-Mexico Partner-
19 ship Agreement applicable to the southern border) to
20 improve border functions, ensure security, and pro-
21 mote trade and tourism;

22 “(5) consistent with section 5, assess all land
23 border ports of entry along the appropriate border
24 and develop a list of infrastructure and technology
25 improvement projects for submission to the Sec-



1 retary based on the ability of a project to fulfill im-
2 mediate security requirements and facilitate trade
3 across the borders of the United States; and

4 “(6) serve as a liaison to the foreign agencies
5 with responsibility for their respective border with
6 the United States.”.

7 (b) CLERICAL AMENDMENT.—Section 1(b) of such
8 Act is amended in the table of contents by inserting after
9 the item relating to section 430 the following:

“431. Border coordinators.”.

10 **SEC. 304. SMART BORDER ACCORD IMPLEMENTATION.**

11 The President shall submit to the appropriate con-
12 gressional committees (as defined in section 2 of the
13 Homeland Security Act of 2002 (6 U.S.C. 101)) informa-
14 tion about the ongoing progress on implementation of the
15 Smart Border Accords through quarterly reports on meet-
16 ings of the Smart Border Working Group.

17 **SEC. 305. REQUIRING A VULNERABILITY ASSESSMENT OF**
18 **LAND PORTS OF ENTRY.**

19 (a) INITIAL ASSESSMENT.—

20 (1) IN GENERAL.—The Secretary of Homeland
21 Security shall conduct an assessment of the vulner-
22 ability of each United States land port of entry to
23 penetration by terrorists and criminals or terrorist
24 attack. In carrying out assessments under this para-
25 graph, the Secretary shall categorize the vulner-



1 ability of each port of entry as “high”, “medium”,
2 or “low” and shall prioritize the vulnerability of each
3 port of entry within each such category. In con-
4 ducting the assessment, the Secretary of Homeland
5 Security shall consult with appropriate State, local,
6 tribal, and private sector representatives.

7 (2) REPORT.—Not later than one year after the
8 date of the enactment of this Act, the Secretary
9 shall prepare and submit to the appropriate congres-
10 sional committees (as that term is defined in section
11 2 of the Homeland Security Act of 2002 (6 U.S.C.
12 101)) a report that contains—

13 (A) the results of the assessment con-
14 ducted under paragraph (1);

15 (B) with respect to each port of entry cat-
16 egorized under paragraph (1) as either a
17 “high” or “medium” vulnerability port of entry,
18 descriptions of—

19 (i) infrastructure and technology im-
20 provement projects required for the port of
21 entry in order to reduce its vulnerability;
22 and

23 (ii) the resources required to make
24 such improvements; and



1 (C) a description of how the funds will be
2 used to implement technology and infrastruc-
3 ture improvement projects.

4 (b) FOLLOW-UP ASSESSMENTS.—The Secretary of
5 Homeland Security shall conduct follow-up assessments of
6 land border ports of entry every 2 years and shall submit
7 such reports to the appropriate congressional committees
8 (as defined in section 2 of the Homeland Security Act of
9 2002 (6 U.S.C. 101)).

10 **SEC. 306. STUDY TO DETERMINE APPROPRIATE LEVEL AND**
11 **ALLOCATION OF PERSONNEL AT PORTS OF**
12 **ENTRY AND BORDER PATROL SECTORS.**

13 (a) STUDY.—The Commissioner of the Bureau of
14 Customs and Border Protection of the Department of
15 Homeland Security shall conduct a study to determine the
16 necessary level and allocation of personnel of the Bureau
17 (including support staff) at United States ports of entry
18 and between ports of entry in order to fully carry out the
19 functions of the Bureau at such ports and locations. The
20 Commissioner shall update and revise the study on an an-
21 nual basis as appropriate.

22 (b) REQUIREMENTS.—

23 (1) IN GENERAL.—In conducting the study pur-
24 suant to subsection (a), the Commissioner shall take
25 into account the following:



1 (A) The most recent staffing assessment
2 from each port director and the head of each
3 border patrol sector, as required under para-
4 graph (2).

5 (B) The most recent relevant information,
6 analyses, and vulnerability assessments relating
7 to ports of entry and areas between ports of
8 entry, as described in paragraph (3) of section
9 201(d) of the Homeland Security Act of 2002,
10 and made available to the Commissioner in ac-
11 cordance with paragraph (18) of such section.

12 (C) Any requests for additional personnel,
13 if needed, from each port director and the head
14 of each border patrol sector, including a de-
15 scription of whether the additional personnel
16 should be assigned on a temporary or perma-
17 nent basis.

18 (D) An analysis of the impact of new avail-
19 able technology on staffing requirements of the
20 Bureau.

21 (E) An analysis of traffic volume and wait
22 times at ports of entry.

23 (F) An analysis of the training regimen for
24 new officers of the Bureau and inspectors from
25 the former Customs Service and the former Im-



1 migration and Naturalization Service and the
2 extent to which the creation of the Bureau's Of-
3 ficer position has changed the personnel needs
4 of the Department.

5 (2) ADDITIONAL REQUIREMENT.—Each port di-
6 rector and the head of each border patrol sector
7 shall complete and submit to the Commissioner on
8 an annual basis an assessment of the level and allo-
9 cation of personnel necessary to carry out the re-
10 sponsibilities of such port director or the head of
11 such border patrol sector, as the case may be.

12 (c) REPORTS.—

13 (1) INITIAL REPORT.—Not later than 120 days
14 after the date of the enactment of this Act, the
15 Commissioner shall prepare and submit to the
16 Comptroller General and Congress a report that con-
17 tains the results of the study conducted pursuant to
18 subsection (a).

19 (2) SUBSEQUENT REPORTS.—The Commis-
20 sioner shall prepare and submit to the Comptroller
21 General and Congress on not less than an annual
22 basis a report that contains each updated or revised
23 study.



1 **SEC. 307. ASSESSMENT OF STUDY BY COMPTROLLER GEN-**
2 **ERAL.**

3 (a) **ASSESSMENT.**—The Comptroller General shall
4 conduct an assessment of the study conducted by the Bu-
5 reau of Customs and Border Protection under section 306
6 and shall conduct an assessment of each update or revision
7 to the study. In conducting the assessment, the Comp-
8 troller General is authorized to solicit input from any per-
9 sonnel of the Bureau.

10 (b) **REPORT.**—The Comptroller General shall prepare
11 and submit to Congress a report that contains the results
12 of each assessment conducted pursuant to subsection (a),
13 including any recommendations thereto that the Comp-
14 troller General determines to be appropriate.

15 **SEC. 308. AUTHORIZATION OF APPROPRIATIONS FOR IN-**
16 **CREASE IN FULL-TIME BORDER PATROL**
17 **AGENTS.**

18 (a) **INCREASE.**—There are authorized to be appro-
19 priated to the Secretary of Homeland Security
20 \$300,000,000 for fiscal year 2006 to increase by not less
21 than 2,000 the number of positions for full-time active-
22 duty Border Patrol agents within the Department of
23 Homeland Security above the number of such positions for
24 which funds were allotted for fiscal year 2005.

25 (b) **ASSOCIATED COSTS.**—There are authorized to be
26 appropriated to the Secretary of Homeland Security



1 \$80,000,000 for fiscal year 2006 to pay the costs associ-
2 ated with the new hires described in subsection (a),
3 including—

4 (1) costs to increase by 166 of the number of
5 support staff positions;

6 (2) costs to increase by 1333 in the number of
7 vehicles; and

8 (3) costs to train the new hires described in
9 subsection (a) under an agreement with a Depart-
10 ment training facility other than the Artesia Border
11 Patrol Academy.

12 (c) **FACILITIES IMPACT ASSESSMENT.**—The Sec-
13 retary of Homeland Security shall conduct a facilities im-
14 pact assessment and report findings from such assess-
15 ment, with detailed estimates and costs. to the Committee
16 on Homeland Security of the United States House of Rep-
17 resentatives.

18 **SEC. 309. BORDER PATROL UNIT FOR VIRGIN ISLANDS.**

19 Not later than September 30, 2006, the Secretary of
20 Homeland Security shall establish at least one Border Pa-
21 trol unit for the Virgin Islands of the United States.

22 **SEC. 310. REQUIRING REPORT ON THE “ONE FACE AT THE**
23 **BORDER INITIATIVE”.**

24 (a) **IN GENERAL.**—Not later than September 30 of
25 each of the calendar years 2005, 2006, and 2007, the Sec-



1 retary of Homeland Security shall prepare and submit to
2 the Congress a report—

3 (1) describing and analyzing the goals, success,
4 and shortfalls of the One Face at the Border Initia-
5 tive at enhancing security and facilitating travel;

6 (2) providing a breakdown of the number of
7 personnel of the Bureau of Customs and Border
8 Protection that were personnel of the United States
9 Customs Service prior to the establishment of the
10 Department of Homeland Security, that were per-
11 sonnel of the Immigration and Naturalization Serv-
12 ice prior to the establishment of the Department of
13 Homeland Security, and that were hired after the
14 establishment of the Department of Homeland Secu-
15 rity;

16 (3) describing the training time provided to
17 each employee on an annual basis for the various
18 training components of the One Face at the Border
19 Initiative;

20 (4) outlining the steps taken by the Bureau of
21 Customs and Border Protection to ensure that ex-
22 pertise is retained with respect to customs, immigra-
23 tion, and agriculture inspection functions under the
24 One Face at the Border Initiative; and



1 (5) reviewing whether the missions of customs,
2 agriculture, and immigration are appropriately and
3 adequately addressed.

4 (b) ASSESSMENT OF REPORT.—The Comptroller
5 General of the United States shall the review the reports
6 submitted under subsection (a) and shall provide an as-
7 sessment to the appropriate congressional committees (as
8 defined in section 2 of the Homeland Security Act of 2002
9 (6 U.S.C. 101)) regarding the effectiveness of the One
10 Face at the Border Initiative.

11 **Subtitle B—CIS Workflow Study**

12 **SEC. 311. CIS WORKFLOW, TECHNOLOGY, AND STAFFING** 13 **ASSESSMENT.**

14 (a) IN GENERAL.—The Secretary of Homeland Secu-
15 rity shall conduct a comprehensive assessment of the Bu-
16 reau of Citizenship and Immigration Services (otherwise
17 know as “U.S. Citizenship and Immigration Services”)
18 within the Department of Homeland Security. Such as-
19 sessment shall include study of personnel, administrative
20 and technical support positions, technology, training, and
21 facilities.

22 (b) WORKFLOW.—As part of the study, the Secretary
23 shall examine all elements of such entity’s workflow, in
24 order to determine the most efficient way to handle its
25 work without compromising security. Any bottlenecks as-



1 sociated with security matters should be identified and
2 recommendations should be made on ways to minimize
3 such bottlenecks without compromising security. The Sec-
4 retary should assess the division of work, adequacy of in-
5 frastructure (particularly information technology), as well
6 as personnel needs.

7 (c) INTERACTIONS WITH OTHER ORGANIZATIONS.—
8 As part of the study, the Secretary shall examine such
9 entity's interactions with other government organizations.
10 Specifically, the Secretary shall determine whether exist-
11 ing memoranda of understanding and divisions of respon-
12 sibility, especially any which pre-date the establishment of
13 the Department of Homeland Security, need to be revised
14 in order to improve service delivery.

15 (d) BACKLOG COST.—As part of the study, the Sec-
16 retary shall assess the current cost of maintaining the
17 backlog (as defined in section 203 of the Immigration
18 Services and Infrastructure Improvements Act of 2000 (8
19 U.S.C. 1572)).

20 (e) INFORMATION TECHNOLOGY.—Aspects of this
21 study related to information technology should be coordi-
22 nated with the Chief Information Officer for the Depart-
23 ment of Homeland Security and should build on the find-
24 ings of the task force established by section 3 of the Immi-



1 gration and Naturalization Service Data Management Im-
2 provement Act of 2000 (Public Law 106-215).

3 (f) SUBMISSION.—The study should be completed not
4 later than January 1, 2006, and shall be submitted to the
5 Committee on Homeland Security of the United States
6 House of Representatives. It shall include recommenda-
7 tions for resource allocation.

8 **Subtitle C—Report on Border**
9 **Violence**

10 **SEC. 321. STUDIES RELATED TO FEASIBILITY AND COST OF**
11 **LOCATING AND REMOVING EIGHT MILLION**
12 **UNDOCUMENTED ALIENS FROM UNITED**
13 **STATES.**

14 (a) FEASIBILITY STUDY.—Commencing not later
15 than 30 days after the date of the enactment of this Act,
16 the Comptroller General of the United States shall con-
17 duct a study to evaluate—

18 (1) the ability of the Department of Homeland
19 Security to develop and implement a program to lo-
20 cate and initiate removal proceedings on the
21 8,000,000 undocumented immigrants who are pres-
22 ently residing in the United States;

23 (2) an estimate of the additional personnel and
24 other additional resources such a project would re-



1 quire for the Department and the Executive Office
2 for Immigration Review;

3 (3) the amount of time that such development
4 and implementation would require;

5 (4) the total cost to develop and implement this
6 program;

7 (5) the ability of State and local police depart-
8 ments to assist the Department in implementing this
9 program;

10 (6) an estimate of the additional personnel and
11 other additional resources the State and local police
12 departments would need if they participate with the
13 Department in implementing this program;

14 (7) the amount of time away from other State
15 and local police work that would be required of State
16 and local police departments to participate in this
17 program; and

18 (8) the total cost to State and local govern-
19 ments of such participation.

20 (b) STUDY ON CONSEQUENCES OF LOCATING AND
21 REMOVING EIGHT MILLION UNDOCUMENTED ALIENS.—

22 Commencing not later than 30 days after the date of the
23 enactment of this Act, the Comptroller General of the
24 United States shall conduct a study on the adverse con-



1 sequences that could result from locating and removing
2 8,000,000 undocumented aliens from the United States.

3 **Subtitle D—Center of Excellence**
4 **on Border Security**

5 **SEC. 331. CENTER OF EXCELLENCE ON BORDER SECURITY.**

6 The Secretary shall establish a university-based Cen-
7 ter for Border Security following the merit-review proc-
8 esses and procedures that have been established for select-
9 ing University Programs Centers of Excellence. The Cen-
10 ter shall conduct research, examine existing and emerging
11 border security technology and systems, and provide edu-
12 cation, technical, and analytical assistance for the Depart-
13 ment of Homeland Security to effectively secure the Na-
14 tion's borders.

15 **TITLE IV—SECURING CHEMICAL**
16 **PLANTS AND OTHER CRIT-**
17 **ICAL INFRASTRUCTURE**

18 **Subtitle A—Chemical Security**
19 **Improvement**

20 **SEC. 411. SHORT TITLE.**

21 This subtitle may be cited as the “Chemical Security
22 Improvement Act of 2005”.

23 **SEC. 412. DEFINITIONS.**

24 In this subtitle:



1 (1) ALTERNATIVE APPROACHES.—The term
2 “alternative approach” means an approach that sig-
3 nificantly reduces or eliminates the threat or con-
4 sequences of a terrorist release from a chemical
5 source, including an approach that—

6 (A) uses smaller quantities, nonhazardous
7 forms, or less hazardous forms of dangerous
8 substances;

9 (B) replaces a dangerous substance with a
10 nonhazardous or less hazardous substance; or

11 (C) uses nonhazardous or less hazardous
12 conditions or processes.

13 (2) CHEMICAL SOURCE.—The term “chemical
14 source” means a facility listed by the Secretary
15 under section 413(e) as a chemical source; and—

16 (3) DANGEROUS SUBSTANCE.—The term “dan-
17 gerous substance” means a substance present at a
18 chemical source that—

19 (A) can cause death, injury, or serious ad-
20 verse effects to human health or the environ-
21 ment; or

22 (B) could harm critical infrastructure or
23 national security.

24 (4) DEPARTMENT.—The term “Department”
25 means the Department of Homeland Security.



1 (5) ENVIRONMENT.—The term “environment”
2 means—

3 (A) the navigable waters, the waters of the
4 contiguous zone, and the ocean waters of which
5 the natural resources are under the exclusive
6 management authority of the United States;
7 and

8 (B) any other surface water, ground water,
9 drinking water supply, land surface or sub-
10 surface strata, or ambient air within the United
11 States or under the jurisdiction of the United
12 States.

13 (6) OWNER OR OPERATOR.—The term “owner
14 or operator” means any person who owns, leases, op-
15 erates, controls, or supervises a chemical source.

16 (7) RELEASE.—The term “release” means any
17 spilling, leaking, pumping, pouring, emitting,
18 emptying, discharging, injecting, escaping, leaching,
19 dumping, or disposing into the environment (includ-
20 ing the abandonment or discarding of barrels, con-
21 tainers, and other closed receptacles containing any
22 hazardous substance or pollutant or contaminant),
23 but excludes—

24 (A) any release which results in exposure
25 to persons solely within a workplace, with re-



1 spect to a claim which such persons may assert
2 against the employer of such persons;

3 (B) emissions from the engine exhaust of
4 a motor vehicle, rolling stock, aircraft, vessel, or
5 pipeline pumping station engine; or

6 (C) the normal application of fertilizer or
7 pesticide.

8 (8) SECRETARY.—The term “Secretary” means
9 the Secretary of Homeland Security.

10 (9) SECURITY MEASURE.—

11 (A) IN GENERAL.—The term “security
12 measure” means an action carried out to ensure
13 or enhance the security of a chemical source.

14 (B) INCLUSIONS.—The term “security
15 measure”, with respect to a chemical source, in-
16 cludes measures such as—

17 (i) employee training and background
18 checks;

19 (ii) the limitation and prevention of
20 access to controls of the chemical source;

21 (iii) the protection of the perimeter of
22 the chemical source, including the deploy-
23 ment of armed physical security personnel;

24 (iv) the installation and operation of
25 intrusion detection sensors;



1 (v) the implementation of measures to
2 increase computer or computer network se-
3 curity;

4 (vi) the installation of measures to
5 protect against long-range weapons;

6 (vii) the installation of measures and
7 controls to protect against or reduce the
8 consequences of a terrorist attack; and

9 (viii) the implementation of any other
10 security-related measures or the conduct of
11 any similar security-related activity, as de-
12 termined by the Secretary.

13 (10) **TERRORISM.**—The term “terrorism” has
14 the meaning given to that term in section 2 of the
15 Homeland Security Act of 2002 (6 U.S.C. 101).

16 (11) **TERRORIST RELEASE.**—The term “ter-
17 rorist release” means—

18 (A) a release from a chemical source into
19 the environment of a dangerous substance that
20 is caused by an act of terrorism; and

21 (B) the theft of a dangerous substance by
22 a person for off-site release in furtherance of an
23 act of terrorism.



1 **SEC. 413. VULNERABILITY ASSESSMENTS AND SITE SECU-**
2 **RITY PLANS.**

3 (a) **REQUIREMENT.—**

4 (1) **IN GENERAL.—**Not later than 1 year after
5 the date of the enactment of this subtitle, the Sec-
6 retary shall promulgate regulations that—

7 (A) require the owner or operator of each
8 chemical source included on the list described in
9 subsection (e)(1)—

10 (i) to conduct an assessment of the
11 vulnerability of the chemical source to a
12 terrorist release; and

13 (ii) to prepare and implement a site
14 security plan that addresses the results of
15 the vulnerability assessment; and

16 (B) establish procedures, protocols, and
17 standards for vulnerability assessments and site
18 security plans.

19 (2) **CONTENTS OF VULNERABILITY ASSESS-**
20 **MENT.—**A vulnerability assessment required under
21 the regulations promulgated under paragraph (1) or
22 any assessment determined substantially equivalent
23 by the Secretary under subsection (c) shall include
24 the identification and evaluation of—

25 (A) critical assets and infrastructures;



- 1 (B) hazards that may result from a ter-
- 2 rorist release; and
- 3 (C) weaknesses in—
- 4 (i) physical security;
- 5 (ii) structural integrity of contain-
- 6 ment, processing, and other critical infra-
- 7 structure;
- 8 (iii) protection systems;
- 9 (iv) procedural and employment poli-
- 10 cies;
- 11 (v) communication systems;
- 12 (vi) transportation infrastructure in
- 13 the proximity of the chemical source;
- 14 (vii) utilities;
- 15 (viii) contingency response; and
- 16 (ix) other areas as determined by the
- 17 Secretary.

18 (3) CONTENTS OF SITE SECURITY PLAN.—A

19 site security plan required under the regulations pro-

20 mulgated under paragraph (1) or any plan sub-

21 mitted to the Secretary under subsection (c)—

22 (A) shall include security measures to sig-

23 nificantly reduce the vulnerability of the chem-

24 ical source covered by the plan to a terrorist re-

25 lease;



1 (B) shall describe, at a minimum, par-
2 ticular equipment, plans, and procedures that
3 could be implemented or used by or at the
4 chemical source in the event of a terrorist re-
5 lease;

6 (C) shall provide for the assessment and,
7 as applicable, implementation of alternative ap-
8 proaches in accordance with section 415; and

9 (D) shall be developed in consultation with
10 local law enforcement, first responders, employ-
11 ees, and local emergency planning committees,
12 as established pursuant to section 301(c) of the
13 Emergency Planning and Community Right-To-
14 Know Act of 1986 (42 U.S.C. 11001(c)).

15 (4) SECURITY EXERCISES.—Not later than 1
16 year after the date of the enactment of this subtitle,
17 the Secretary shall promulgate regulations estab-
18 lishing procedures, protocols, and standards for the
19 conduct of security exercises, including—

20 (A) the performance of force-on-force exer-
21 cises that—

22 (i) involve physical security personnel
23 employed by the owner or operator of the
24 chemical source to act as the force des-
25 ignated to defend the facility;



1 (ii) involve personnel designated by
2 the Secretary to act as the force des-
3 ignated to simulate a terrorist attempt to
4 attack the chemical source to cause a ter-
5 rorist release;

6 (iii) are designed, overseen, and evalu-
7 ated by the Department; and

8 (iv) are conducted at least once every
9 3 years; and

10 (B) the performance of all other such exer-
11 cises at periodic intervals necessary to ensure
12 the optimal performance of security measures.

13 (5) GUIDANCE TO SMALL BUSINESSES.—Not
14 later than 1 year after the date of the enactment of
15 this Act, the Secretary shall publish guidance to as-
16 sist small businesses in complying with paragraphs
17 (2) and (3).

18 (6) THREAT INFORMATION.—To the maximum
19 extent practicable under applicable authority and in
20 the interests of national security, the Secretary shall
21 provide to an owner or operator of a chemical source
22 required to prepare a vulnerability assessment and
23 site security plan threat information that is relevant
24 to the chemical source.



1 (7) COORDINATED ASSESSMENTS AND PLANS.—

2 The regulations promulgated under paragraph (1)
3 shall permit the development and implementation of
4 coordinated vulnerability assessments and site secu-
5 rity plans in any case in which more than 1 chemical
6 source is operating at a single location or at contig-
7 uous locations, including cases in which a chemical
8 source is under the control of more than 1 owner or
9 operator.

10 (b) CERTIFICATION AND SUBMISSION.—

11 (1) IN GENERAL.—Except as provided in sub-
12 section (c), each owner or operator of a chemical
13 source shall certify in writing to the Secretary that
14 the owner or operator has completed a vulnerability
15 assessment and has developed and implemented (or
16 is implementing) a site security plan in accordance
17 with this subtitle, including—

18 (A) regulations promulgated under sub-
19 section (a)(1); and

20 (B) any existing vulnerability assessment
21 or security plan endorsed by the Secretary
22 under subsection (c)(1).

23 (2) SUBMISSION.—

24 (A) IN GENERAL.—Not later than 18
25 months after the date of the promulgation of



1 regulations under subsection (a)(1), an owner
2 or operator of a chemical source shall provide to
3 the Secretary copies of the vulnerability assess-
4 ment and site security plan of the chemical
5 source for review.

6 (B) CERTIFICATION.—

7 (i) IN GENERAL.—Not later than 2
8 years after the date on which the Secretary
9 receives copies of the vulnerability assess-
10 ment and site security plan of a chemical
11 source under subparagraph (A), the Sec-
12 retary shall determine whether the chem-
13 ical source is in compliance with the re-
14 quirements of this Act, including—

15 (I) paragraph (1);

16 (II) regulations promulgated
17 under subsections (a)(1) and (a)(3);
18 and

19 (III) any existing vulnerability
20 assessment or site security plan en-
21 dorsed by the Secretary under sub-
22 section (c)(1).

23 (ii) CERTIFICATE.—If the Secretary
24 determines that the chemical source is in
25 compliance with the requirements of this



1 Act, the Secretary shall provide to the
2 chemical source and make available for
3 public inspection a certificate of approval
4 that contains the following statement (in
5 which statement the bracketed space shall
6 be the name of the chemical source):
7 “[_____] is in compliance with
8 the Chemical Security Improvement Act of
9 2005.”

10 (iii) DETERMINATION OF NONCOMPLI-
11 ANCE.—If the Secretary determines under
12 clause (i) that a chemical source is not in
13 compliance with the requirements of this
14 Act, the Secretary shall exercise the au-
15 thority provided in section 416.

16 (iv) REPORT TO CONGRESS.—Not
17 later than 1 year after the promulgation of
18 regulations in subsection (a)(1) and for
19 every year afterwards, the Secretary shall
20 submit to the Congress a report outlining
21 the number of facilities that have provided
22 vulnerability assessments and site security
23 plans to the Secretary, what portion of
24 these submissions have been reviewed by
25 the Secretary, and what portion of these



1 submissions are in compliance with clause

2 (i).

3 (3) OVERSIGHT.—

4 (A) IN GENERAL.—The Secretary shall, at
5 such times and places as the Secretary deter-
6 mines to be appropriate, conduct or require the
7 conduct of vulnerability assessments and other
8 activities (including qualified third-party audits)
9 to ensure and evaluate compliance with this
10 subtitle (including regulations promulgated
11 under subsection (a)(1) and (c)(1)).

12 (B) RIGHT OF ENTRY.—In carrying out
13 this subtitle, the Secretary (or a designee), on
14 presentation of credentials, shall have a right of
15 entry to, on, or through any premises of an
16 owner or operator of a chemical source.

17 (C) REQUESTS FOR RECORDS.—In car-
18 rying out this subtitle, the Secretary (or a des-
19 ignee) may require the submission of, or, on
20 presentation of credentials, may at reasonable
21 times seek access to and copy any documenta-
22 tion necessary for—

23 (i) review or analysis of a vulnerability
24 assessment or site security plan; or



1 (ii) implementation of a site security
2 plan.

3 (D) COMPLIANCE.—If the Secretary deter-
4 mines that an owner or operator of a chemical
5 source is not maintaining, producing, or permit-
6 ting access to the premises of a chemical source
7 or records as required by this paragraph, the
8 Secretary may issue an order requiring compli-
9 ance with the relevant provisions of this section.

10 (E) QUALIFIED THIRD-PARTY AUDITS.—
11 The Secretary shall establish standards as to
12 the qualifications of third-party auditors. Such
13 standards shall ensure the qualifications of the
14 third-party auditor provide sufficient expertise
15 in—

16 (i) chemical site security
17 vulnerabilities;

18 (ii) chemical site security measures;

19 (iii) alternative approaches; and

20 (iv) such other areas as the Secretary
21 determines to be appropriate and nec-
22 essary.

23 (4) SUBMISSION OF CHANGES.—The owner or
24 operator of a chemical source shall provide to the
25 Secretary a description of any significant change



1 that is made to the vulnerability assessment or site
2 security plan required for the chemical source under
3 this section, not later than 90 days after the date
4 the change is made.

5 (c) EXISTING VULNERABILITY ASSESSMENTS AND
6 SECURITY PLANS.—Upon submission of a petition by an
7 owner or operator of a chemical source to the Secretary
8 in conjunction with a submission under subsection
9 (b)(2)(A), the Secretary—

10 (1) may endorse any vulnerability assessment or
11 security plan—

12 (A) that was conducted, developed, or re-
13 quired by—

14 (i) industry;

15 (ii) State or local authorities; or

16 (iii) other applicable law; and

17 (B) that was conducted before, on, or after
18 the date of enactment of this subtitle; and

19 (C) the contents of which the Secretary de-
20 termines meet the standards established under
21 the requirements of subsections (a)(1), (a)(2),
22 and (a)(3);

23 (2) may make an endorsement of an existing
24 vulnerability assessment or security plan under para-



1 graph (1) contingent on modification of the vulner-
2 ability assessment or security plan to address—

3 (A) a particular threat or type of threat; or

4 (B) a requirement under (a)(2) or (a)(3).

5 (d) REGULATORY CRITERIA.—In exercising the au-
6 thority under subsections (a), (b), (c), or (e) with respect
7 to a chemical source, the Secretary shall consider—

8 (1) the likelihood that a chemical source will be
9 the target of terrorism;

10 (2) the potential extent of death, injury, or seri-
11 ous adverse effects to human health or the environ-
12 ment that would result from a terrorist release;

13 (3) the potential harm to critical infrastructure
14 and national security from a terrorist release; and

15 (4) such other security-related factors as the
16 Secretary determines to be appropriate and nec-
17 essary to protect the public health and welfare, crit-
18 ical infrastructure, and national security.

19 (e) LIST OF CHEMICAL SOURCES.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this subtitle, the
22 Secretary shall develop a list of chemical sources in
23 existence as of that date.



1 (2) CONSIDERATIONS.—In developing the list
2 under paragraph (1), the Secretary shall take into
3 consideration the criteria specified in subsection (d).

4 (3) PRIORITIZATION.—In developing the list
5 under paragraph (1), the Secretary shall determine
6 the potential extent of death, injury, or severe ad-
7 verse effects to human health that would result from
8 a terrorist release of dangerous substances from a
9 chemical source.

10 (4) SCOPE.—In developing the list under para-
11 graph (1), the Secretary shall include at least those
12 facilities that pose a risk of potential death, injury,
13 or severe adverse effects to not fewer than 15,000
14 individuals.

15 (5) FUTURE DETERMINATIONS.—Not later than
16 3 years after the date of the promulgation of regula-
17 tions under subsection (a)(1), and every 3 years
18 thereafter, the Secretary shall, after considering the
19 criteria described in subsection (d)—

20 (A) determine whether additional facilities
21 (including, as of the date of the determination,
22 facilities that are operational and facilities that
23 will become operational in the future) shall be
24 considered to be a chemical source under this
25 subtitle;



1 (B) determine whether any chemical source
2 identified on the most recent list under para-
3 graph (1) no longer presents a risk sufficient to
4 justify retention of classification as a chemical
5 source under this subtitle; and

6 (C) update the list as appropriate.

7 (f) 5-YEAR REVIEW.—Not later than 5 years after
8 the date of the certification of a vulnerability assessment
9 and a site security plan under subsection (b)(1), and not
10 less often than every 5 years thereafter (or on such a
11 schedule as the Secretary may establish by regulation), the
12 owner or operator of the chemical source covered by the
13 vulnerability assessment or site security plan shall—

14 (1) ensure the vulnerability assessment and site
15 security plan meet the most recent regulatory stand-
16 ards issues under subsection (a)(1);

17 (2)(A) certify to the Secretary that the chemical
18 source has completed the review and implemented
19 any modifications to the site security plan; and

20 (B) submit to the Secretary a description of
21 any changes to the vulnerability assessment or site
22 security plan; and

23 (3) submit to the Secretary a new assessment
24 of alternative approaches.

25 (g) PROTECTION OF INFORMATION.—



1 (1) CRITICAL INFRASTRUCTURE INFORMA-
2 TION.—Except with respect to certifications specified
3 in subsections (b)(1) and (f)(2)(A), vulnerability as-
4 sessments and site security plans obtained in accord-
5 ance with this subtitle, and all information derived
6 from those vulnerability assessments and site secu-
7 rity plans that could pose a risk to a particular
8 chemical source, shall be deemed critical infrastruc-
9 ture information as defined in section 212 of the
10 Homeland Security Act of 2002 (6 U.S.C. 131), and
11 subject to all protections under sections 213 and
12 214 of that Act.

13 (2) EXCEPTIONS TO PENALTIES.—Section
14 214(f) of the Homeland Security Act of 2002 (6
15 U.S.C. 133(f)) shall not apply to a person described
16 in that section that discloses information described
17 in paragraph (1)—

18 (A) for use in any administrative or judi-
19 cial proceeding to impose a penalty for failure
20 to comply with a requirement of this subtitle; or

21 (B) for the purpose of making a disclosure
22 evidencing government, owner or operator, or
23 employee activities that threaten the security of
24 a chemical source or are inconsistent with the
25 requirements of this subtitle.



1 (3) RULE OF CONSTRUCTION.—Nothing in this
2 subsection shall be construed to authorize the with-
3 holding of information from members of Congress
4 acting in their official capacity.

5 **SEC. 414. WHISTLEBLOWER PROTECTION.**

6 (a) IN GENERAL.—No person employed at a chemical
7 source may be discharged, demoted, suspended, threat-
8 ened, harassed, or in any other manner discriminated
9 against because of any lawful act done by the person—

10 (1) to provide information, cause information to
11 be provided, or otherwise assist in an investigation
12 regarding any conduct which the person reasonably
13 believes constitutes a violation of any law, rule or
14 regulation related to the security of the chemical
15 source, or any other threat to the security of the
16 chemical source, when the information or assistance
17 is provided to or the investigation is conducted by—

18 (A) a Federal regulatory or law enforce-
19 ment agency;

20 (B) any member or committee of the Con-
21 gress; or

22 (C) a person with supervisory authority
23 over the person (or such other person who has
24 the authority to investigate, discover, or termi-
25 nate misconduct); or



1 (2) to file, cause to be filed, testify, participate
2 in, or otherwise assist in a proceeding or action filed
3 or about to be filed relating to a violation of any
4 law, rule, or regulation related to the security of a
5 chemical source or any other threat to the security
6 of a chemical source; or

7 (3) to refuse to violate or assist in the violation
8 of any law, rule, or regulation related to the security
9 of chemical sources.

10 (b) ENFORCEMENT ACTION.—

11 (1) IN GENERAL.—A person who alleges dis-
12 charge or other discrimination by any person in vio-
13 lation of subsection (a) may seek relief under sub-
14 section (c), by—

15 (A) filing a complaint with the Secretary of
16 Labor; or

17 (B) if the Secretary of Labor has not
18 issued a final decision within 180 days of the
19 filing of the complaint and there is no showing
20 that such delay is due to the bad faith of the
21 claimant, bringing an action at law or equity
22 for de novo review in the appropriate district
23 court of the United States, which shall have ju-
24 risdiction over such an action without regard to
25 the amount in controversy.

1 (2) PROCEDURE.—

2 (A) IN GENERAL.—An action under para-
3 graph (1)(A) shall be governed under the rules
4 and procedures set forth in section 42121(b) of
5 title 49, United States Code.

6 (B) EXCEPTION.—Notification made under
7 section 42121(b)(1) of title 49, United States
8 Code, shall be made to the person named in the
9 complaint and to the person's employer.

10 (C) BURDENS OF PROOF.—An action
11 brought under paragraph (1)(B) shall be gov-
12 erned by the legal burdens of proof set forth in
13 section 42121(b) of title 49, United States
14 Code.

15 (D) STATUTE OF LIMITATIONS.—An action
16 under paragraph (1) shall be commenced not
17 later than 90 days after the date on which the
18 violation occurs.

19 (c) REMEDIES.—

20 (1) IN GENERAL.—A person prevailing in any
21 action under subsection (b)(1) shall be entitled to all
22 relief necessary to make the person whole.

23 (2) COMPENSATORY DAMAGES.—Relief for any
24 action under paragraph (1) shall include—



1 (A) reinstatement with the same seniority
2 status that the person would have had, but for
3 the discrimination;

4 (B) the amount of back pay, with interest;
5 and

6 (C) compensation for any special damages
7 sustained as a result of the discrimination, in-
8 cluding litigation costs, expert witness fees, and
9 reasonable attorney fees.

10 (d) RIGHTS RETAINED BY PERSON.—Nothing in this
11 section shall be deemed to diminish the rights, privileges,
12 or remedies of any person under any Federal or State law,
13 or under any collective bargaining agreement.

14 **SEC. 415. ALTERNATIVE APPROACHES.**

15 (a) ASSESSMENT.—

16 (1) IN GENERAL.—A site security plan under
17 section 413(a)(1) shall provide for the conduct of an
18 assessment of alternative approaches.

19 (2) INCLUSIONS.—An assessment under this
20 subsection shall include information on—

21 (A) the nature of each alternative ap-
22 proach considered, such as—

23 (i) the quantity of each dangerous
24 substance considered for reduction;



- 1 (ii) the form of any dangerous sub-
2 stance considered for replacement and the
3 form of potential replacements considered;
- 4 (iii) any dangerous substance consid-
5 ered for replacement and a description of
6 any potential replacements considered; and
- 7 (iv) any process or conditions consid-
8 ered for modification and a description of
9 the potential modification;
- 10 (B) the degree to which each alternative
11 approach considered could potentially reduce
12 the threat or consequence of a terrorist release;
13 and
- 14 (C) specific considerations that led to the
15 implementation or rejection of each alternative
16 approach, including—
- 17 (i) requirements under this subtitle;
18 (ii) cost;
19 (iii) cost savings;
- 20 (iv) availability of replacement or
21 modification technology or technical exper-
22 tise;
- 23 (v) the applicability of existing re-
24 placement or modification technology to
25 the chemical source; and



1 (vi) any other factor that the owner of
2 operator of the chemical source considered
3 in judging the practicability of each alter-
4 native approach.

5 (b) IMPLEMENTATION.—

6 (1) IN GENERAL.—A chemical source described
7 in paragraph (2) shall implement options to signifi-
8 cantly reduce or eliminate the threat or con-
9 sequences of a terrorist release through the use of
10 alternative approaches that would not create an
11 equal or greater risk to human health or the envi-
12 ronment.

13 (2) APPLICABILITY.—This subsection applies to
14 a chemical source if—

15 (A) the chemical source poses a potential
16 of harm to more than 15,000 people, unless the
17 owner or operator of the chemical source can
18 demonstrate to the Secretary through an as-
19 sessment of alternative approaches that avail-
20 able alternative approaches—

21 (i) would not significantly reduce the
22 number of people at risk of death, injury,
23 or serious adverse effects resulting from a
24 terrorist release;



1 (ii) cannot feasibly be incorporated
2 into the operation of the chemical source;
3 or

4 (iii) would significantly and demon-
5 strably impair the ability of the owner or
6 operator of the chemical source to continue
7 its business; or

8 (B)(i) the chemical source poses a poten-
9 tial of harm to fewer than 15,000 people; and

10 (ii) implementation of options to signifi-
11 cantly reduce the threat or consequence of a
12 terrorist release through the use of alternative
13 approaches if practicable in the judgment of the
14 owner or operator of the chemical source.

15 (c) ALTERNATIVE APPROACHES CLEARINGHOUSE.—

16 (1) AUTHORITY.—The Secretary shall establish
17 a publicly available clearinghouse to compile and dis-
18 seminate information on the use and availability of
19 alternative approaches.

20 (2) INCLUSIONS.—The clearinghouse shall in-
21 clude information on—

22 (A) general and specific types of alter-
23 native approaches;

24 (B) combinations of chemical sources, sub-
25 stances of concern, and hazardous processes or



1 conditions for which alternative approaches
2 could be appropriate;

3 (C) the scope of current use and avail-
4 ability of specific alternative approaches;

5 (D) the costs and cost savings resulting
6 from alternative approaches;

7 (E) technological transfer;

8 (F) the availability of technical assistance;

9 (G) current users of alternative ap-
10 proaches; and

11 (H) such other information as the Admin-
12 istrator deems appropriate.

13 (3) COLLECTION OF INFORMATION.—The Sec-
14 retary shall collect information for the
15 clearinghouse—

16 (A) from documents submitted by owners
17 or operators pursuant to this Act;

18 (B) by surveying owners or operators who
19 have registered their facilities pursuant to part
20 68 of title 40 Code of Federal Regulations (or
21 successor regulations); or

22 (C) through such other methods as the
23 Secretary deems appropriate.

24 (4) PUBLIC AVAILABILITY.—Information avail-
25 able publicly through the clearinghouse shall not



1 allow the identification of any specific facility or vio-
2 late the exemptions of section 552(b)(4) of title 5,
3 United States Code.

4 (5) STUDY OF ALTERNATIVE AND INHERENTLY
5 SAFER APPROACHES TO CHEMICAL SAFETY AND SE-
6 CURITY.—

7 (A) STUDY.—Not later than 6 months
8 after the date of the enactment of this Act, the
9 Secretary shall enter into an arrangement with
10 the National Academy of Sciences to provide for
11 a comprehensive study of—

12 (i) the currently available chemical
13 technologies, practices, strategies, and
14 other methods for improving the inherent
15 safety and security of United States chem-
16 ical manufacturing, transportation, and
17 usage sites and infrastructure against the
18 threat of terrorism;

19 (ii) methods for assessing the degree
20 of inherent safety of chemical technologies,
21 practices, strategies, and other means;

22 (iii) methods for integrating inher-
23 ently safer chemical technologies, practices,
24 strategies, and other means into risk man-



1 agement for critical infrastructure protec-
2 tion; and

3 (iv) progress and directions in re-
4 search in chemical sciences and technology
5 that may provide new chemical tech-
6 nologies, practices, strategies, and other
7 means to improve inherent safety and se-
8 curity.

9 (B) REPORT.—

10 (i) IN GENERAL.—The arrangement
11 entered into under subparagraph (A) shall
12 provide that the National Academy of
13 Sciences shall submit to the Secretary a
14 final report on the study conducted under
15 subparagraph (A) by no later than 18
16 months after a contract for the arrange-
17 ment is signed.

18 (ii) RECOMMENDATIONS.—The report
19 under this subparagraph shall include such
20 recommendations regarding government
21 and private sector practices to encourage
22 the adoption of currently available inher-
23 ently safer and more secure chemical tech-
24 nologies and strategies to reduce the
25 vulnerabilities of existing and future chem-



1 ical manufacturing, transportation, and
2 usage sites and infrastructure, and regard-
3 ing research directions in green chemistry
4 and chemical engineering that would lead
5 to inherently more secure, safer, and eco-
6 nomically viable chemical products, proc-
7 esses, and procedures, as the Academy de-
8 termines appropriate.

9 (C) TRANSMISSION TO CONGRESS.—The
10 Secretary shall promptly transmit a copy of the
11 report under this subparagraph to the Congress
12 and make the report available to the public.

13 **SEC. 416. ENFORCEMENT.**

14 (a) FAILURE TO COMPLY.—If an owner or operator
15 of a non-Federal chemical source fails to certify or submit
16 a vulnerability assessment or site security plan in accord-
17 ance with this subtitle, the Secretary may issue an order
18 requiring the certification and submission of a vulner-
19 ability assessment or site security plan in accordance with
20 section 413(b).

21 (b) DISAPPROVAL.—The Secretary may disapprove
22 under subsection (a) a vulnerability assessment or site se-
23 curity plan submitted under section 413(b) or (c) if the
24 Secretary determines that—



1 (1) the vulnerability assessment or site security
2 plan does not comply with regulations promulgated
3 under section 413(a)(1), or the procedure, protocol,
4 or standard endorsed or recognized under section
5 413(c); or

6 (2) the site security plan, or the implementation
7 of the site security plan, is insufficient to address—

8 (A) the results of a vulnerability assess-
9 ment of a chemical source; or

10 (B) a threat of a terrorist release.

11 (c) COMPLIANCE.—If the Secretary disapproves a
12 vulnerability assessment or site security plan of a chemical
13 source under subsection (b), the Secretary shall—

14 (1) provide the owner or operator of the chem-
15 ical source a written notification of the determina-
16 tion that includes a clear explanation of deficiencies
17 in the vulnerability assessment, site security plan, or
18 implementation of the assessment or plan;

19 (2) consult with the owner or operator of the
20 chemical source to identify appropriate steps to
21 achieve compliance; and

22 (3) if, following that consultation, the owner or
23 operator of the chemical source does not achieve
24 compliance by such date as the Secretary determines
25 to be appropriate under the circumstances, issue an



1 order requiring the owner or operator to correct
2 specified deficiencies.

3 (d) PROTECTION OF INFORMATION.—Any determina-
4 tion of disapproval or order made or issued under this sec-
5 tion shall be exempt from disclosure—

6 (1) under section 552 of title 5, United States
7 Code;

8 (2) under any State or local law providing for
9 public access to information; and

10 (3) except as provided in section 413(g)(2), in
11 any Federal or State civil or administrative pro-
12 ceeding.

13 **SEC. 417. INTERAGENCY TECHNICAL SUPPORT AND CO-**
14 **OPERATION.**

15 The Secretary—

16 (1) in addition to such consultation as is re-
17 quired in this subtitle, shall consult with Federal
18 agencies with relevant expertise, and may request
19 those Federal agencies to provide technical and ana-
20 lytical support, in implementing this subtitle; and

21 (2) may provide reimbursement for such tech-
22 nical and analytical support received as the Sec-
23 retary determines to be appropriate.



1 **SEC. 418. PENALTIES.**

2 (a) **JUDICIAL RELIEF.**—In a civil action brought in
3 United States district court, any owner or operator of a
4 chemical source that violates or fails to comply with any
5 order issued by the Secretary under this subtitle or a site
6 security plan submitted to the Secretary under this sub-
7 title or recognized by the Secretary, for each day on which
8 the violation occurs or the failure to comply continues,
9 may be subject to—

10 (1) an order for injunctive relief; and

11 (2) a civil penalty of not more than \$50,000.

12 (b) **ADMINISTRATIVE PENALTIES.**—

13 (1) **PENALTY ORDERS.**—The Secretary may
14 issue an administrative penalty of not more than
15 \$250,000 for failure to comply with an order issued
16 by the Secretary under this subtitle.

17 (2) **NOTICE AND HEARING.**—Before issuing an
18 order described in paragraph (1), the Secretary shall
19 provide to the person against whom the penalty is to
20 be assessed—

21 (A) written notice of the proposed order;

22 and

23 (B) the opportunity to request, not later
24 than 30 days after the date on which the per-
25 son receives the notice, a hearing on the pro-
26 posed order.



1 (3) PROCEDURES.—The Secretary may promul-
2 gate regulations outlining the procedures for admin-
3 istrative hearings and appropriate review under this
4 subsection, including necessary deadlines.

5 **SEC. 419. PROTECTION OF INFORMATION.**

6 (a) DEFINITION OF PROTECTED INFORMATION.—

7 (1) IN GENERAL.—In this section, the term
8 “protected information” means—

9 (A) a vulnerability assessment or site secu-
10 rity plan required by subsection (a) or (b) of
11 section 413;

12 (B) any study, analysis, or other document
13 generated by the owner or operator of a chem-
14 ical source primarily for the purpose of pre-
15 paring a vulnerability assessment or site secu-
16 rity plan (including any alternative approach
17 analysis); or

18 (C) any other information provided to or
19 obtained or obtainable by the Secretary solely
20 for the purposes of this subtitle from the owner
21 or operator of a chemical source that, if re-
22 leased, is reasonably likely to increase the prob-
23 ability or consequences of a terrorist release.

24 (2) OTHER OBLIGATIONS UNAFFECTED.—Noth-
25 ing in this section affects—



1 (A) the handling, treatment, or disclosure
2 of information obtained from a chemical source
3 under any other law;

4 (B) any obligation of the owner or operator
5 of a chemical source to submit or make avail-
6 able information to a Federal, State, or local
7 government agency under, or otherwise to com-
8 ply with, any other law; or

9 (C) the public disclosure of information de-
10 rived from protected information, so long as the
11 information disclosed—

12 (i) would not divulge methods or proc-
13 esses entitled to protection as trade secrets
14 in accordance with the purposes of section
15 1905 of title 18, United States Code;

16 (ii) does not identify any particular
17 chemical source; and

18 (iii) is not reasonably likely to in-
19 crease the probability or consequences of a
20 terrorist release, even if the same informa-
21 tion is also contained in a document re-
22 ferred to in paragraph (1).

23 (b) DISCLOSURE EXEMPTION.—Protected informa-
24 tion shall be exempt from disclosure under—



1 (1) section 552 of title 5, United States Code;

2 and

3 (2) any State or local law providing for public
4 access to information.

5 (c) RULE OF CONSTRUCTION.—Subsection (b) shall
6 not be construed to apply to a certificate of compliance
7 or a determination of noncompliance under clause (ii) or
8 (iii), respectively, of section 413(b)(2)(B).

9 **SEC. 420. NO EFFECT ON REQUIREMENTS UNDER OTHER**
10 **LAW.**

11 Nothing in this subtitle affects any duty or other re-
12 quirement imposed under any other Federal or State law.

13 **Subtitle B—Critical Infrastructure**
14 **Prioritization**

15 **SEC. 421. CRITICAL INFRASTRUCTURE.**

16 (a) COMPLETION OF PRIORITIZATION.—Not later
17 than 90 days after the date of the enactment of this Act,
18 the Secretary of Homeland Security shall complete the
19 prioritization of the Nation's critical infrastructure ac-
20 cording to all of the following criteria:

21 (1) The threat of terrorist attack, based on
22 threat information received and analyzed by the Of-
23 fice of Information Analysis of the Department re-
24 garding the intentions and capabilities of terrorist



1 groups and other potential threats to the Nation's
2 critical infrastructure.

3 (2) The likelihood that an attack would cause
4 the destruction or significant disruption of such in-
5 frastructure.

6 (3) The likelihood that an attack would result
7 in substantial numbers of deaths and serious bodily
8 injuries, a substantial adverse impact on the na-
9 tional economy, or a substantial adverse impact on
10 national security.

11 (b) COOPERATION.—Such prioritization shall be de-
12 veloped in cooperation with other relevant Federal agen-
13 cies, State, local, and tribal governments, and the private
14 sector, as appropriate.

15 **SEC. 422. SECURITY REVIEW.**

16 (a) REQUIREMENT.—Not later than 9 months after
17 the date of the enactment of this Act, the Secretary, in
18 coordination with other relevant Federal agencies, State,
19 local, and tribal governments, and the private sector, as
20 appropriate, shall—

21 (1) review existing Federal, State, local, tribal,
22 and private sector plans for securing the critical in-
23 frastructure included in the prioritization developed
24 under section 421;



1 (2) recommend changes to existing plans for se-
2 curing such infrastructure, as the Secretary deter-
3 mines necessary; and

4 (3) coordinate and contribute to protective ef-
5 forts of other Federal, State, local, and tribal agen-
6 cies and the private sector, as appropriate, as di-
7 rected in Homeland Security Presidential Directive
8 7.

9 (b) CONTENTS OF PLANS.—The recommendations
10 made under subsection (a)(2) shall include—

11 (1) necessary protective measures to secure
12 such infrastructure, including milestones and time-
13 frames for implementation; and

14 (2) to the extent practicable, performance
15 metrics to evaluate the benefits to both national se-
16 curity and the Nation's economy from the implemen-
17 tation of such protective measures.

18 **SEC. 423. IMPLEMENTATION REPORT.**

19 (a) IN GENERAL.—Not later than 15 months after
20 the date of the enactment of this Act, the Secretary shall
21 submit a report to the Committee on Homeland Security
22 of the House of Representatives and the Committee on
23 Homeland Security and Governmental Affairs of the Sen-
24 ate on the implementation of section 422. Such report
25 shall detail—



1 (1) the Secretary's review and coordination of
2 security plans under section 422; and

3 (2) the Secretary's oversight of the execution
4 and effectiveness of such plans.

5 (b) UPDATE.—Not later than 1 year after the sub-
6 mission of the report under subsection (a), the Secretary
7 shall provide an update of such report to the congressional
8 committees described in subsection (a).

9 **TITLE V—SECURING AIRPORTS,**
10 **BAGGAGE, AND AIR CARGO**
11 **Subtitle A—Prohibition Against**
12 **Increase in Security Service Fees**

13 **SEC. 501. PROHIBITION AGAINST INCREASE IN SECURITY**
14 **SERVICE FEES.**

15 None of the funds authorized under this Act may be
16 derived from an increase in security service fees estab-
17 lished under section 44940 of title 49, United States Code.

18 **Subtitle B—Aviation Security**

19 **SEC. 511. FEDERAL FLIGHT DECK OFFICERS.**

20 (a) TRAINING, SUPERVISION, AND EQUIPMENT.—
21 Section 44921(e) of title 49, United States Code, is
22 amended by adding at the end the following:

23 “(3) DATES OF TRAINING.—The Secretary shall
24 ensure that a pilot who is eligible to receive Federal
25 flight deck officer training is offered a choice of



1 training dates and is provided at least 30 days ad-
2 vance notice of the dates.

3 “(4) TRAVEL TO TRAINING FACILITIES.—The
4 Secretary shall establish a program to improve travel
5 access to Federal flight deck officer training facili-
6 ties through the use of charter flights or improved
7 scheduled air carrier service.

8 “(5) REQUALIFICATION AND RECURRENT
9 TRAINING.—

10 “(A) STANDARDS.—The Secretary shall es-
11 tablish qualification standards for facilities
12 where Federal flight deck officers can receive
13 requalification and recurrent training.

14 “(B) LOCATIONS.—The Secretary shall
15 provide for requalification and recurrent train-
16 ing at geographically diverse facilities, including
17 military facilities, Federal, State, and local law
18 enforcement facilities, and private training fa-
19 cilities that meet the qualification standards es-
20 tablished under subparagraph (A).

21 “(6) COSTS OF TRAINING.—

22 “(A) IN GENERAL.—The Secretary shall
23 provide Federal flight deck officer training, re-
24 qualification training, and recurrent training to



1 eligible pilots at no cost to the pilots or the air
2 carriers that employ the pilots.

3 “(B) TRANSPORTATION AND EXPENSES.—
4 The Secretary may provide travel expenses to a
5 pilot receiving Federal flight deck officer train-
6 ing, requalification training, or recurrent train-
7 ing.

8 “(7) ISSUANCE OF BADGES.—Not later than
9 180 days after the date of enactment of this para-
10 graph, the Secretary shall issue badges to Federal
11 flight deck officers.”.

12 (b) REVOCATION OF DEPUTIZATION OF PILOT AS
13 FEDERAL FLIGHT DECK OFFICER.—Section 44921(d)(4)
14 of title 49, United States Code, is amended to read as
15 follows:

16 “(4) REVOCATION.—

17 “(A) ORDERS.—The Assistant Secretary of
18 Homeland Security (Transportation Security
19 Administration) may issue, for good cause, an
20 order revoking the deputization of a Federal
21 flight deck officer under this section. The order
22 shall include the specific reasons for the revoca-
23 tion.

24 “(B) HEARINGS.—An individual who is ad-
25 versely affected by an order of the Assistant



1 Secretary under subparagraph (A) is entitled to
2 a hearing on the record. When conducting a
3 hearing under this section, the administrative
4 law judge shall not be bound by findings of fact
5 or interpretations of laws and regulations of the
6 Assistant Secretary.

7 “(C) APPEALS.—An appeal from a deci-
8 sion of an administrative law judge as a result
9 of a hearing under subparagraph (B) shall be
10 made to the Secretary or the Secretary’s des-
11 ignee.

12 “(D) JUDICIAL REVIEW OF A FINAL
13 ORDER.—The determination and order of the
14 Secretary revoking the deputization of a Fed-
15 eral flight deck officer under this section shall
16 be final and conclusive unless the individual
17 against whom such an order is issued files an
18 application for judicial review, not later than 60
19 days following the date of entry of such order,
20 in the appropriate United States court of ap-
21 peals.”.



22 (c) FEDERAL FLIGHT DECK OFFICER FIREARM CAR-
23 RIAGE PILOT PROGRAM.—Section 44921(f) of title 49,
24 United States Code, is amended by adding at the end the
25 following:

1 “(4) PILOT PROGRAM.—

2 “(A) IN GENERAL.—Not later than 90
3 days after the date of enactment of this para-
4 graph, the Secretary shall implement a pilot
5 program to allow pilots participating in the
6 Federal flight deck officer program to transport
7 their firearms on their persons. The Secretary
8 may prescribe any training, equipment, or pro-
9 cedures that the Secretary determines necessary
10 to ensure safety and maximize weapon reten-
11 tion.

12 “(B) REVIEW.—Not later than 1 year
13 after the date of initiation of the pilot program,
14 the Secretary shall conduct a review of the safe-
15 ty record of the pilot program and transmit a
16 report on the results of the review to Congress.

17 “(C) OPTION.—If the Secretary as part of
18 the review under subparagraph (B) determines
19 that the safety level obtained under the pilot
20 program is comparable to the safety level deter-
21 mined under existing methods of pilots carrying
22 firearms on aircraft, the Secretary shall allow
23 all pilots participating in the Federal flight
24 deck officer program the option of carrying
25 their firearm on their person subject to such re-



1 quirements as the Secretary determines appro-
2 priate.”.

3 (d) REFERENCES TO UNDER SECRETARY.—Section
4 44921 of title 49, United States Code, is amended—

5 (1) in subsection (a) by striking “Under Sec-
6 retary of Transportation for Security” and inserting
7 “Secretary of Homeland Security”;

8 (2) by striking “Under Secretary” each place it
9 appears and inserting “Secretary”; and

10 (3) by striking “Under Secretary’s” each place
11 it appears and inserting “Secretary’s”.

12 **SEC. 512. LETTERS OF INTENT.**

13 (a) INSTALLATION OF EDS SYSTEMS.—Section
14 44923(d) of title 49, United States Code, is amended by
15 adding at the end the following:

16 “(7) INSTALLATION OF EDS SYSTEMS.—Upon
17 the request of a sponsor for an airport, the Assistant
18 Secretary for Homeland Security (Transportation
19 Security Administration) shall revise a letter of in-
20 tent issued under this subsection to provide for re-
21 imbursement of such additional costs as may be nec-
22 essary to achieve complete in-line explosive detection
23 system installation at the airport.”.



1 (b) FEDERAL SHARE.—Section 44923(e) of title 49,
2 United States Code, is amended by adding at the end the
3 following:

4 “(3) DEADLINE FOR REVISIONS.—The Assist-
5 ant Secretary for Homeland Security (Transpor-
6 tation Security Administration) shall revise letters of
7 intent referred to in paragraph (2) not later than 30
8 days after the date of enactment of this paragraph.

9 “(4) EXTENSION OF REIMBURSEMENT SCHED-
10 ULES.—If the Assistant Secretary considers it nec-
11 essary and appropriate due to fiscal constraints in
12 any fiscal year, the Assistant Secretary, for purposes
13 of ensuring reimbursement of the Federal share as
14 provided in paragraph (1), may revise a letter of in-
15 tent issued under this section to extend the reim-
16 bursement schedule for one or more fiscal years.”.

17 **SEC. 513. AVIATION SECURITY CAPITAL FUND.**

18 (a) IN GENERAL.—Section 44923(h)(1) of title 49,
19 United States Code, is amended—

20 (1) in the second sentence by striking “in each
21 of fiscal years 2004 through 2007” and inserting
22 “in each of fiscal years 2004 and 2005, and
23 \$650,000,000 in each of fiscal years 2006 and
24 2007,”; and



1 (2) in the third sentence by striking “at least
2 \$250,000,000 in each of such fiscal years” and in-
3 serting “at least \$250,000,000 in each of fiscal
4 years 2004 and 2005, and at least \$650,000,000 in
5 each of fiscal years 2006 and 2007,” .

6 (b) DISCRETIONARY GRANTS.—Section 44923(h)(3)
7 of such title is amended by striking “for a fiscal year,
8 \$125,000,000” and inserting “, \$125,000,000 for each of
9 fiscal years 2004 and 2005, and \$525,000,000 for each
10 of fiscal years 2006 and 2007,”.

11 **SEC. 514. AIRPORT CHECKPOINT SCREENING EXPLOSIVE**
12 **DETECTION.**

13 Section 44940 of title 49, United States Code, is
14 amended—

15 (1) in subsection (d)(4) by inserting “, other
16 than subsection (i),” before “except to”; and

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

18 “(i) CHECKPOINT SCREENING SECURITY FUND.—

19 “(1) ESTABLISHMENT.—There is established in
20 the Department of Homeland Security a fund to be
21 known as the ‘Checkpoint Screening Security Fund’.

22 “(2) DEPOSITS.—In fiscal year 2006, after
23 amounts are made available under section 44923(h),
24 the next \$250,000,000 derived from fees received



1 under subsection (a)(1) shall be available to be de-
2 posited in the Fund.

3 “(3) FEES.—The Secretary of Homeland Secu-
4 rity shall impose the fee authorized by subsection
5 (a)(1) so as to collect at least \$250,000,000 in fiscal
6 year 2006 for deposit into the Fund.

7 “(4) AVAILABILITY OF AMOUNTS.—Amounts in
8 the Fund shall be available until expended for the
9 purchase, deployment, and installation of equipment
10 to improve the ability of security screening personnel
11 at screening checkpoints to detect explosives.”.

12 **SEC. 515. FLIGHT COMMUNICATIONS.**

13 Section 4021 of the Intelligence Reform and Ter-
14 rorism Prevention Act of 2004 (118 Stat. 3723) is amend-
15 ed by adding at the end the following:

16 “(d) FLIGHT COMMUNICATION.—

17 “(1) STUDY.—To expand the purposes of the
18 study under subsection (a), the Assistant Secretary
19 shall conduct a study on the viability of devices to
20 enable discreet, wireless communications between
21 flight attendants, pilots, Federal air marshals, and
22 ground-based personnel during a passenger commer-
23 cial aircraft flight to improve coordination of plan-
24 ning and activities in the event of an act of ter-
25 rorism.



1 an unrestricted area. The Secretary may issue a waiver
2 of this provision on an airport-by-airport basis, subject to
3 the following requirements:

4 (1) The Secretary shall promptly notify Con-
5 gress of any waivers granted under this section, the
6 purpose for which such waivers were granted, and
7 the duration of the waiver.

8 (2) Under no circumstances shall a waiver be
9 granted for more than 7 days, although the Sec-
10 retary may issue as many waivers to an airport as
11 is deemed appropriate by the Secretary. In the event
12 of multiple waivers, the Secretary shall provide to
13 Congress an estimate of when the airport will be in
14 compliance with this subsection.

15 (e) BACKGROUND CHECKS FOR WORKERS.—The
16 Secretary shall ensure that all unescorted airport per-
17 sonnel accessing airport sterile and secured areas have
18 successfully undergone a background check. The back-
19 ground checks required under this section shall include,
20 at a minimum:

21 (1) A fingerprint-based criminal history records
22 check, or, if such a check is not possible, a check of
23 the National Criminal Information Center.

24 (2) A local criminal history check.

25 (3) Verification of previous employment.



1 (4) Verification of identity, to include, but not
2 be limited to, social security number.

3 (5) A check of all terrorist watch lists operated
4 by the Federal Government, or upon certification by
5 the Secretary that it is suitably comprehensive, the
6 terrorist watch list operated by the Terrorist Screen-
7 ing Center.

8 This subsection shall apply to all airport personnel hired
9 more than 3 months after the date of enactment of this
10 Act and for all airport personnel, regardless of the date
11 on which they were hired, no more than one year after
12 such date of enactment.

13 (d) REPORT.—The Administrator of the Transpor-
14 tation Security Administration shall submit to Congress,
15 no later than January 31, 2005, a report that contains
16 a description of ongoing efforts and projected timelines
17 for—

18 (1) developing and implementing uniform
19 screening standards for airport personnel with ac-
20 cess to sterile areas;

21 (2) completing an assessment of available tech-
22 nologies that are applicable to securing airport pe-
23 rimeters and making this information available to
24 airport operators; and



1 (3) developing and implementing a standardized
2 approach to conducting airport vulnerability assess-
3 ments and compliance inspections.

4 (e) LIMITATION ON STATUTORY CONSTRUCTION.—

5 Nothing in this section shall be construed to provide pas-
6 sengers, airport workers, or other personnel not granted
7 regular access to secure areas before the date of enact-
8 ment of this Act authority to do so, regardless of whether
9 such person has undergone security screening.

10 (f) DEFINITIONS.—In this section, the following defi-
11 nitions apply:

12 (1) STERILE AREA.—The term “sterile area”
13 means any part of an airport that is regularly acces-
14 sible to passengers after having cleared a passenger
15 security screening checkpoint.

16 (2) SECURE AREA.—The term “secure area”
17 means parts of an airport complex not typically ac-
18 cessible to passengers, including areas outside of ter-
19 minal buildings, baggage handling and loading
20 areas, parked aircraft, runways, air control towers,
21 and similar areas.

22 (3) AIRPORT PERSONNEL.—The term “airport
23 personnel” shall mean those persons, whether em-
24 ployed by the airport, air carriers, or by companies
25 that conduct business in airports.



1 (g) AUTHORIZATION OF APPROPRIATIONS.—Of the
2 amount authorized under section 901, there is authorized
3 to be appropriated such sums as may be necessary to carry
4 out this section. Except as provided in the preceding sen-
5 tence, this section shall have no force or affect.

6 **SEC. 517. MANPAD COUNTERMEASURE RESEARCH.**

7 (a) IN GENERAL.—In addition to research on air-
8 based MANPAD countermeasures, the Secretary of
9 Homeland Security shall conduct research on alternate
10 technologies, including ground-based countermeasures.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated \$115,000,000 for fiscal year
13 2006 to carry out this section.

14 **SEC. 518. AIR CHARTER AND GENERAL AVIATION OPER-**
15 **ATIONS AT RONALD REAGAN WASHINGTON**
16 **NATIONAL AIRPORT.**

17 Notwithstanding any law, regulation, or agency policy
18 or directive that has the effect of generally prohibiting
19 general aviation aircraft from landing at Ronald Reagan
20 Washington National Airport, not later than 60 days after
21 the date of enactment of this Act, the Secretary of Trans-
22 portation, acting through the Federal Aviation Adminis-
23 tration, in consultation with the Secretary of Homeland
24 Security, shall permit the resumption of nonscheduled,
25 commercial air carrier air charter and general aviation op-



1 erations at Ronald Reagan Washington National Airport.
2 In complying with the requirements of this section, the
3 Secretary of Transportation shall consult with the general
4 aviation industry.

5 **SEC. 519. INSPECTION OF CARGO CARRIED ABOARD COM-**
6 **MERCIAL AIRCRAFT.**

7 (a) **IN GENERAL.**—Not later than 1 year after the
8 date of the enactment of this Act, the Secretary of Home-
9 land Security shall implement a system that uses equip-
10 ment, technology, personnel, and other means to inspect
11 35 percent of cargo transported in passenger aircraft oper-
12 ated by an air carrier or foreign air carrier in air transpor-
13 tation or intrastate transportation. At a minimum, this
14 system shall meet the same standards as those established
15 by the Secretary for equipment, technology, and personnel
16 used to screen passenger baggage. Within 2 years after
17 the date of the enactment of this Act, the Secretary shall
18 use this system to inspect at least 65 percent of cargo
19 transported in passenger aircraft. Not later than three
20 years after the date of enactment of this Act, the Sec-
21 retary shall use this system to inspect at least 100 percent
22 of cargo transported in passenger aircraft.

23 (b) **REPORT.**—Not later than 1 year after the date
24 of the enactment of this Act, the Secretary shall transmit



1 to the Congress a report describing the system established
2 under subsection (a).

3 **TITLE VI—SECURING TRAINS**
4 **ACROSS AMERICA**
5 **Subtitle A—Public Transit Security**

6 **SEC. 601. SHORT TITLE.**

7 This subtitle may be cited as the “Safe Transit and
8 Rail Awareness and Investments for National Security Act
9 of 2005” or the “Safe TRAINS Act”.

10 **SEC. 602. HOMELAND SECURITY PUBLIC TRANSPORTATION**
11 **GRANTS.**

12 (a) **AUTHORIZATION.**—The Secretary of Homeland
13 Security is authorized to make grants for the purpose of
14 improving the security of public transportation systems
15 against acts of terrorism. The grant program shall be ad-
16 ministered by the Director of the Office of Domestic Pre-
17 paredness to ensure that the program is consistent with
18 other Department of Homeland Security grant programs.

19 (b) **CONSIDERATIONS.**—Among the considerations on
20 which grants shall be awarded under this section are the
21 following:

22 (1) Risk of terrorism, including threat assess-
23 ment, vulnerabilities of public transportation sys-
24 tems, potential effects of acts of terrorism against



1 public transportation systems, and past acts of ter-
2 rorism against modes of transportation.

3 (2) Merits of the proposed projects to increase
4 national security, based on a consideration of—

5 (A) threats;

6 (B) vulnerabilities;

7 (C) consequences, including human casual-
8 ties and economic impacts;

9 (D) consequence management;

10 (E) the likelihood that such projects would
11 have been pursued in the normal course of busi-
12 ness and in the absence of national security
13 considerations; and

14 (F) feasibility, based on the technical and
15 operational merits of the projects.

16 (c) ALLOWABLE USE OF FUNDS.—Grants made
17 under this section shall be used for the purposes of—

18 (1) support for increased capital investments in
19 cameras, close-circuit television, and other surveil-
20 lance systems;

21 (2) increased capital investment in command,
22 control, and communications systems, including in-
23 vestments for redundancy and interoperability and
24 for improved situational awareness, such as emer-
25 gency call boxes and vehicle locator systems;

1 (3) increased training, including for carrying
2 out exercises under section 603, and technical sup-
3 port for public transportation employees, especially
4 for security awareness, prevention, and emergency
5 response, including evacuation and decontamination;

6 (4) expanded deployment of equipment and
7 other measures, including canine detection teams,
8 for the detection of explosives and chemical, biologi-
9 cal, radiological, and nuclear agents;

10 (5) capital improvements and operating activi-
11 ties, including personnel expenditures, to increase
12 the physical security of stations, vehicles, bridges,
13 and tunnels;

14 (6) capital improvements and operating activi-
15 ties to improve passenger survivability in the event
16 of an attack, including improvements in ventilation,
17 drainage, fire safety technology, emergency commu-
18 nications systems, lighting systems, passenger
19 egress, and accessibility by emergency response per-
20 sonnel;

21 (7) acquisition of emergency response and sup-
22 port equipment, including fire suppression and de-
23 contamination equipment; and



1 (8) expansion of employee education and public
2 awareness campaigns regarding security on public
3 transportation systems.

4 (d) ELIGIBLE RECIPIENTS.—Grants shall be made
5 available under this section directly to owners, operators,
6 and providers of public transportation systems. Owners,
7 operators, and providers of infrastructure over which pub-
8 lic transportation operates, but which is not primarily
9 used for public transportation, may also be eligible for
10 grants at the discretion of the Secretary.

11 (e) ACCOUNTABILITY.—The Secretary shall adopt
12 necessary procedures, including audits, to ensure that
13 grants made under this section are expended in accord-
14 ance with the purposes of this subtitle and the priorities
15 and other criteria developed by the Secretary. If the Sec-
16 retary determines that a recipient has used any portion
17 of the grant funds received under this section for a pur-
18 pose other than the allowable uses specified for that grant
19 under this section, the grantee shall return any amount
20 so used to the Treasury of the United States.

21 (f) PROCEDURES FOR GRANT AWARD.—The Sec-
22 retary shall prescribe procedures and schedules for the
23 awarding of grants under this section, including applica-
24 tion and qualification procedures, and a record of decision
25 on applicant eligibility. The Secretary shall issue a final



1 rule establishing the procedures not later than 90 days
2 after the date of enactment of this Act.

3 (g) COST SHARE.—Grants made under this section
4 shall account for no more than—

5 (1) 85 percent for fiscal year 2006;

6 (2) 80 percent for fiscal year 2007; and

7 (3) 75 percent for fiscal year 2008,

8 of the expense of the purposes for which the grants are
9 used.

10 (h) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary to carry
12 out the purposes of this section—

13 (1) \$1,200,000,000 for fiscal year 2006;

14 (2) \$900,000,000 for fiscal year 2007; and

15 (3) \$700,000,000 for fiscal year 2008.

16 Amounts appropriated pursuant to this subsection shall
17 remain available until expended.

18 **SEC. 603. TRAINING EXERCISES.**

19 (a) GUIDELINES.—Not later than 4 months after the
20 date of enactment of this Act, the Secretary of Homeland
21 Security shall publish guidelines for the conduct by recipi-
22 ents of grants under section 602 of appropriate exercises
23 for emergency response and public transportation em-
24 ployee training purposes.



1 (b) PLANS.—Not later than 6 months after receipt
2 of a grant under section 602, the recipient of such grant
3 shall transmit to the Secretary its emergency response
4 plan as well as a plan for conducting exercises for emer-
5 gency response and public transportation employee train-
6 ing purposes pursuant to the guidelines published under
7 subsection (a).

8 (c) EXERCISES.—

9 (1) REQUIREMENT.—Not later than 1 year
10 after receipt of a grant under section 602, the re-
11 cipient of such grant shall conduct an exercise pur-
12 suant to the plan for conducting exercises trans-
13 mitted under subsection (b).

14 (2) EXEMPTIONS.—The Secretary may exempt
15 a grant recipient from the requirement under para-
16 graph (1) if the recipient has recently conducted an
17 equivalent exercise.

18 (3) NOTICE AND REPORT.—Not later than 30
19 days after conducting an exercise under paragraph
20 (1) or as described in paragraph (2), the recipient
21 shall notify the Secretary that such exercise has
22 been completed, including a description of the re-
23 sults of the exercise and findings and lessons learned
24 from the exercise, and shall make recommendations
25 for changes, if necessary, to existing emergency re-



1 sponse plans. If the recipient revises an emergency
2 response plan as a result of an exercise under this
3 subsection, the recipient shall transmit the revised
4 plan to the Secretary not later than 6 months after
5 the date of the exercise.

6 (d) TECHNICAL ASSISTANCE.—The Secretary shall
7 provide technical assistance in the design, preparation for,
8 and conduct of emergency response exercises.

9 (e) USE OF PLANS.—The Secretary shall ensure that
10 information submitted to the Secretary under this section
11 is protected from any form of disclosure that might com-
12 promise public transportation security or trade secrets.
13 Notwithstanding the preceding sentence, the Secretary
14 may use such information, on a nonattributed basis unless
15 otherwise agreed to by the source of the information, to
16 aid in developing recommendations, best practices, and
17 materials for use by public transportation authorities to
18 improve security practices and emergency response capa-
19 bilities.

20 **SEC. 604. SECURITY BEST PRACTICES.**

21 Not later than 120 days after the date of enactment
22 of this Act, the Secretary of Homeland Security shall de-
23 velop, disseminate to appropriate owners, operators, and
24 providers of public transportation systems, public trans-
25 portation employees and employee representatives, and



1 Federal, State, and local officials, and transmit to Con-
2 gress, a report containing best practices for the security
3 of public transportation systems. In developing best prac-
4 tices, the Secretary shall be responsible for consulting with
5 and collecting input from owners, operators, and providers
6 of public transportation systems, public transportation
7 employee representatives, first responders, industry asso-
8 ciations, private sector experts, academic experts, and ap-
9 propriate Federal, State, and local officials.

10 **SEC. 605. PUBLIC AWARENESS.**

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



1 SEC. 606. NATIONAL TRANSPORTATION SECURITY CEN-
2 TERS.

3 (a) ESTABLISHMENT.—The Secretary of Homeland
4 Security, working jointly with the Secretary of Transpor-
5 tation, shall establish more than 1 but not more than 4
6 National Transportation Security Centers at institutions
7 of higher education to assist in carrying out this subtitle,
8 to conduct research and education activities, and to de-
9 velop or provide professional training, including the train-
10 ing of public transportation employees and public trans-
11 portation-related professionals, with emphasis on utiliza-
12 tion of intelligent transportation systems, technologies,
13 and architectures.

14 (b) CRITERIA.—The Secretary shall designate the
15 Centers according to the following selection criteria:

16 (1) The demonstrated commitment of the insti-
17 tution to transportation security issues.

18 (2) The use of and experience with partnerships
19 with other institutions of higher education, Federal
20 laboratories, or other nonprofit laboratories.

21 (3) Capability to conduct both practical and
22 theoretical research and technical systems analysis.

23 (4) Utilization of intelligent transportation sys-
24 tem technologies and architectures.

25 (5) Ability to develop professional training pro-
26 grams.



1 (6) Capability and willingness to conduct edu-
2 cation of transportation security professionals.

3 (7) Such other criteria as the Secretary may
4 designate.

5 (c) FUNDING.—The Secretary shall provide such
6 funding as is necessary to the National Transportation Se-
7 curity Centers established under subsection (a) to carry
8 out this section.

9 **SEC. 607. WHISTLEBLOWER PROTECTIONS.**

10 (a) IN GENERAL.—No covered individual may be dis-
11 charged, demoted, suspended, threatened, harassed, rep-
12 rimanded, investigated, or in any other manner discrimi-
13 nated against (including by a denial, suspension, or rev-
14 ocation of a security clearance or by any other security
15 access determination) if such discrimination is due, in
16 whole or in part, to any lawful act done, perceived to have
17 been done, or intended to be done by the covered
18 individual—

19 (1) to provide information, cause information to
20 be provided, or otherwise assist in an investigation
21 regarding any conduct which the covered individual
22 reasonably believes constitutes a violation of any
23 law, rule or regulation relating to national or home-
24 land security, which the covered individual reason-
25 ably believes constitutes a threat to national or



1 homeland security, or which the covered individual
2 reasonably believes constitutes fraud, waste or mis-
3 management of Government funds intended to be
4 used for national or homeland security, when the in-
5 formation or assistance is provided to or the inves-
6 tigation is conducted by—

7 (A) a Federal, State or local regulatory or
8 law enforcement agency (including an office of
9 Inspector General under the Inspector General
10 Act of 1978);

11 (B) any Member of Congress, any com-
12 mittee of Congress, or the Government Ac-
13 countability Office; or

14 (C) a person with supervisory authority
15 over the covered individual (or such other per-
16 son who has the authority to investigate, dis-
17 cover, or terminate misconduct);

18 (2) to file, cause to be filed, testify, participate
19 in, or otherwise assist in a proceeding or action filed
20 or about to be filed relating to an alleged violation
21 of any law, rule or regulation relating to national or
22 homeland security; or

23 (3) to refuse to violate or assist in the violation
24 of any law, rule, or regulation relating to national or
25 homeland security.



1 (b) ENFORCEMENT ACTION.—

2 (1) IN GENERAL.—A covered individual who al-
3 leges discharge or other discrimination by any per-
4 son in violation of subsection (a) may seek relief
5 under subsection (c) by—

6 (A) filing a complaint with the Secretary of
7 Labor; or

8 (B) if the Secretary has not issued a final
9 decision within 180 days after the filing of the
10 complaint and there is no showing that such
11 delay is due to the bad faith of the claimant,
12 bringing an action at law or equity for de novo
13 review in the appropriate district court of the
14 United States, which shall have jurisdiction
15 over such an action without regard to the
16 amount in controversy.

17 (2) PROCEDURE.—

18 (A) IN GENERAL.—An action under para-
19 graph (1)(A) shall be governed under the rules
20 and procedures set forth in section 42121(b) of
21 title 49, United States Code.

22 (B) EXCEPTION.—Notification made under
23 section 42121(b)(1) of title 49, United States
24 Code, shall be made to the person named in the
25 complaint and to the person's employer.



1 (C) BURDENS OF PROOF.—An action
2 brought under paragraph (1)(B) shall be gov-
3 erned by the legal burdens of proof set forth in
4 section 42121(b) of title 49, United States
5 Code.

6 (D) STATUTE OF LIMITATIONS.—An action
7 under paragraph (1) shall be commenced not
8 later than 1 year after the date on which the
9 violation occurs.

10 (e) REMEDIES.—

11 (1) IN GENERAL.—A covered individual pre-
12 vailing in any action under subsection (b)(1) shall be
13 entitled to all relief necessary to make the covered
14 individual whole.

15 (2) DAMAGES.—Relief for any action under
16 paragraph (1) shall include—

17 (A) reinstatement with the same seniority
18 status that the covered individual would have
19 had, but for the discrimination;

20 (B) the amount of any back pay, with in-
21 terest;

22 (C) compensation for any special damages
23 sustained as a result of the discrimination, in-
24 cluding litigation costs, expert witness fees, and
25 reasonable attorney fees; and



1 (D) punitive damages in an amount not to
2 exceed the greater of 3 times the amount of any
3 compensatory damages awarded under this sec-
4 tion or \$5,000,000.

5 (d) STATE SECRETS PRIVILEGE.—If, in any action
6 brought under subsection (b)(1)(B), the Government as-
7 serts as a defense the privilege commonly referred to as
8 the “state secrets privilege” and the assertion of such
9 privilege prevents the plaintiff from establishing a prima
10 facie case in support of the plaintiff’s claim, the court shall
11 enter judgment for the plaintiff and shall determine the
12 relief to be granted.

13 (e) CRIMINAL PENALTIES.—

14 (1) IN GENERAL.—It shall be unlawful for any
15 person employing a covered individual to commit an
16 act prohibited by subsection (a). Any person vio-
17 lating this paragraph shall be fined under title 18 of
18 the United States Code, imprisoned not more than
19 10 years, or both.

20 (2) REPORTING REQUIREMENT.—The Depart-
21 ment of Justice shall submit to Congress an annual
22 report on the enforcement of paragraph (1). Each
23 such report shall (A) identify each case in which for-
24 mal charges under paragraph (1) were brought, (B)
25 describe the status or disposition of each such case,

1 and (C) in any actions under subsection (b)(1)(B) in
2 which the covered individual was the prevailing party
3 or the substantially prevailing party, indicate wheth-
4 er or not any formal charges under paragraph (1)
5 have been brought and, if not, the reasons therefor.

6 (f) RIGHTS RETAINED BY COVERED INDIVIDUAL.—
7 Nothing in this section shall be deemed to diminish the
8 rights, privileges, or remedies of any covered individual
9 under any Federal or State law, or under any collective
10 bargaining agreement. The rights and remedies in this
11 section may not be waived by any agreement, policy, form,
12 or condition of employment.

13 (g) DEFINITIONS.—For purposes of this section—

14 (1) the term “covered individual” means an em-
15 ployee of—

16 (A) the Department of Homeland Security
17 (which, for purposes of this section, includes the
18 Transportation Security Administration);

19 (B) a Federal contractor or subcontractor;
20 and

21 (C) an employer within the meaning of sec-
22 tion 701(b) of the Civil Rights Act of 1964 (42
23 U.S.C. 2000e(b));

24 (2) the term “lawful” means not specifically
25 prohibited by law, except that, in the case of any in-



1 formation the disclosure of which is specifically pro-
 2 hibited by law or specifically required by Executive
 3 order to be kept secret in the interest of national de-
 4 fense or the conduct of foreign affairs, any disclo-
 5 sure of such information to any Member of Con-
 6 gress, committee of Congress, or other recipient au-
 7 thorized to receive such information, shall be deemed
 8 lawful;

9 (3) the term "Federal contractor" means a per-
 10 son who has entered into a contract with the De-
 11 partment of Homeland Security;

12 (4) the term "employee" means—

13 (A) with respect to an employer referred to
 14 in paragraph (1)(A), an employee as defined by
 15 section 2105 of title 5, United States Code; and

16 (B) with respect to an employer referred to
 17 in subparagraph (A) or (B) of paragraph (1),
 18 any officer, partner, employee, or agent;

19 (5) the term "subcontractor"—

20 (A) means any person, other than the Fed-
 21 eral contractor, who offers to furnish or fur-
 22 nishes any supplies, materials, equipment, or
 23 services of any kind under a contract with the
 24 Department of Homeland Security or a sub-



1 contract entered into in connection with such a
2 contract; and

3 (B) includes any person who offers to fur-
4 nish or furnishes general supplies to the Fed-
5 eral contractor or a higher tier subcontractor;
6 and

7 (6) the term "person" means a corporation,
8 partnership, State entity, business association of any
9 kind, trust, joint-stock company, or individual.

10 (h) TERMS AND CONDITIONS.—A grant under this
11 subtitle shall be subject to terms and conditions of section
12 5333 of title 49, United States Code.

13 (i) AUTHORIZATION OF FUNDS.—Of the amounts au-
14 thorized under section 101, there is authorized to be ap-
15 propriated amounts necessary for carrying out this sec-
16 tion. Except as provided in the preceding sentence, this
17 section shall have no force or effect.

18 **SEC. 608. DEFINITION.**

19 In this subtitle, the following definitions apply:

20 (1) PUBLIC TRANSPORTATION EMPLOYEES.—

21 The term "public transportation employees" means
22 security personnel, dispatchers, vehicle and vessel
23 operators, other onboard employees, maintenance
24 and support personnel, and other appropriate em-



1 ployees of owners, operators, and providers of public
2 transportation systems.

3 (2) PUBLIC TRANSPORTATION SYSTEMS.—The
4 term “public transportation systems” means pas-
5 senger, commuter, and light rail, including subways,
6 buses, commuter ferries, and other modes of public
7 transit.

8 **SEC. 609. MEMORANDUM OF AGREEMENT.**

9 (a) REQUIREMENT TO WORK JOINTLY.—The Sec-
10 retary of Homeland Security shall work jointly with the
11 Secretary of Transportation in carrying out this subtitle.

12 (b) MEMORANDUM.—Within 60 days after the date
13 of the enactment of this Act, the Secretary of Homeland
14 Security and the Secretary of Transportation shall execute
15 a memorandum of agreement governing the roles and re-
16 sponsibilities of the Department of Homeland Security
17 and the Department of Transportation, respectively in ad-
18 dressing public transportation security matters, including
19 the process their department will follow to carry out this
20 subtitle and promote communications, efficiency, and non-
21 duplication of effort.

22 **Subtitle B—Rail Security**

23 **SEC. 611. SHORT TITLE.**

24 This subtitle may be cited as the “Rail Security Act
25 of 2005”.



1 **CHAPTER 1—RAILROAD SECURITY**

2 **SEC. 621. RAILROAD TRANSPORTATION SECURITY.**

3 (a) **IN GENERAL.**—

4 (1) **REQUIREMENTS.**—The Secretary shall de-
5 velop, prepare, implement, and update—

6 (A) a railroad security assessment under
7 subsection (b)(1);

8 (B) a railroad security plan under sub-
9 section (b)(2);

10 (C) prioritized recommendations for im-
11 proving railroad security under subsection (d);

12 (D) guidance for the rail worker security
13 training program as authorized by section 624;
14 and

15 (E) a national plan for public outreach and
16 awareness for improving railroad security as
17 authorized by section 627.

18 (2) **ROLE OF SECRETARY OF TRANSPOR-**
19 **TATION.**—The Secretary shall work jointly with the
20 Secretary of Transportation, in developing, pre-
21 paring, revising, implementing, and updating the
22 documents required by paragraph (1).

23 (3) **MEMORANDUM OF AGREEMENT.**—Within 60
24 days after the date of enactment of this Act, the
25 Secretary and the Secretary of Transportation shall



1 execute a memorandum of agreement governing the
2 roles and responsibilities of the Department of
3 Homeland Security and the Department of Trans-
4 portation, respectively, in addressing railroad trans-
5 portation security matters, including the processes
6 the departments will follow to carry out this chapter
7 and promote communications, efficiency, and non-
8 duplication of effort.

9 (b) SECURITY ASSESSMENT.—

10 (1) IN GENERAL.—Not later than 180 days
11 after the date of enactment of this Act, the Sec-
12 retary shall complete the security assessment of rail-
13 road transportation required under subsection
14 (a)(1). The security assessment shall include—

15 (A) identification and evaluation of critical
16 railroad assets and infrastructures;

17 (B) identification of threats to those assets
18 and infrastructures;

19 (C) identification of vulnerabilities that are
20 specific to the transportation of hazardous ma-
21 terials by railroad;

22 (D) identification of redundant and backup
23 systems required to ensure the continued oper-
24 ation of critical elements of the railroad system
25 in the event of an attack or other incident, in-



1 cluding disruption of commercial electric power
2 or communications networks; and

3 (E) identification of security weaknesses in
4 passenger and cargo security, transportation in-
5 frastructure, protection systems (including pas-
6 senger and cargo screening), procedural poli-
7 cies, communications systems, employee train-
8 ing, emergency response planning, and any
9 other area identified by the assessment.

10 (2) SECURITY PLAN.—The Secretary shall use
11 the security assessment completed under paragraph
12 (1) to develop a transportation modal security plan
13 under section 114(t)(1)(B) of title 49, United States
14 Code, for the security of the Nation's railroads. The
15 plan shall—

16 (A) establish a strategy for minimizing ter-
17 rorist threats to railroad transportation sys-
18 tems;

19 (B) establish a strategy for maximizing the
20 efforts of railroads to mitigate damage from
21 terrorist attacks;

22 (C) require the Federal Government to
23 provide increased security support at high or
24 severe threat levels of alert;



1 (D) set forth procedures for establishing
 2 and maintaining permanent and comprehensive
 3 consultative relations among the parties de-
 4 scribed in subsection (c);

5 (E) include a contingency plan to ensure
 6 the continued movement of freight and pas-
 7 sengers in the event of an attack affecting the
 8 railroad system, which shall contemplate—

9 (i) the possibility of rerouting traffic
 10 due to the loss of critical infrastructure,
 11 such as a bridge, tunnel, yard, or station;
 12 and

13 (ii) methods of continuing railroad
 14 service in the Northeast Corridor in the
 15 event of a commercial power loss, or catas-
 16 trophe affecting a critical bridge, tunnel,
 17 yard, or station; and

18 (F) account for actions taken or planned
 19 by both public and private entities to address
 20 security issues identified under paragraph (1)
 21 and assess the effective integration of such ac-
 22 tions.

23 (c) CONSULTATION.—In developing the plan under
 24 subsection (b)(2) and the recommendations under sub-
 25 section (d), the Secretary and the Secretary of Transpor-



1 tation shall consult with the freight and passenger railroad
2 carriers, nonprofit employee organizations representing
3 rail workers, nonprofit employee organizations rep-
4 resenting emergency responders, owners or lessors of rail
5 cars used to transport hazardous materials, shippers of
6 hazardous materials, manufacturers of rail tank cars,
7 State Departments of Transportation, public safety offi-
8 cials, and other relevant parties.

9 (d) RECOMMENDATIONS.—The Secretary shall de-
10 velop prioritized recommendations for improving railroad
11 security, including recommendations for—

12 (1) improving the security of rail tunnels, rail
13 bridges, rail switching and car storage areas, other
14 rail infrastructure and facilities, information sys-
15 tems, and other areas identified as posing significant
16 railroad-related risks to public safety and the move-
17 ment of interstate commerce, taking into account
18 the impact that any proposed security measure
19 might have on the provision of railroad service;

20 (2) deploying surveillance equipment;

21 (3) deploying equipment to detect explosives
22 and hazardous chemical, biological, and radioactive
23 substances, and any appropriate countermeasures;

24 (4) installing redundant and backup systems to
25 ensure the continued operation of critical elements



1 of the railroad system in the event of an attack or
2 other incident, including disruption of commercial
3 electric power or communications networks;

4 (5) conducting public outreach campaigns on
5 passenger railroads; and

6 (6) identifying the immediate and long-term
7 costs of measures that may be required to address
8 those risks.

9 (e) REPORT.—

10 (1) CONTENTS.—Not later than 180 days after
11 the date of enactment of this Act, the Secretary
12 shall transmit to the Committee on Transportation
13 and Infrastructure and the Committee on Homeland
14 Security of the House of Representatives and to the
15 Committee on Commerce, Science, and Transpor-
16 tation of the Senate a report containing the security
17 assessment, plan, and prioritized recommendations
18 required by this section, along with an estimate of
19 the cost to implement such recommendations.

20 (2) FORMAT.—The report may be submitted in
21 a classified format if the Secretary determines that
22 such action is necessary.

23 (f) PERIODIC UPDATES.—The Secretary shall update
24 the railroad security assessment, security plan, and
25 prioritized recommendations for improving railroad secu-



1 rity under subsection (a), and the guidance for a railroad
2 worker security training program under section 105, every
3 2 years and submit a report, which may be submitted in
4 both classified and redacted formats, to the Committee on
5 Transportation and Infrastructure and the Committee on
6 Homeland Security of the House of Representatives and
7 to the Committee on Commerce, Science, and Transpor-
8 tation of the Senate not less frequently than April 1 of
9 each even-numbered year.

10 (g) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary
12 \$10,000,000 for the purpose of carrying out this section.

13 **SEC. 622. FREIGHT AND PASSENGER RAIL SECURITY UP-**
14 **GRADES.**

15 (a) SECURITY IMPROVEMENT GRANTS.—The Sec-
16 retary, in coordination with the Secretary of Transpor-
17 tation, is authorized to make grants to freight and pas-
18 senger railroad carriers, nonprofit employee organizations
19 that represent rail workers, shippers of hazardous mate-
20 rials by rail, owners of rail cars used in the transportation
21 of hazardous materials, manufacturers of rail tank cars,
22 and State and local governments, for costs incurred in the
23 conduct of activities to prevent or respond to acts of ter-
24 rorism or sabotage against railroads, or other railroad se-
25 curity threats, including—



- 1 (1) perimeter protection systems, including ac-
2 cess control, installation of better lighting, fencing,
3 and barricades at railroad facilities;
- 4 (2) structural modification or replacement of
5 rail cars transporting hazardous materials to im-
6 prove their resistance to acts of terrorism;
- 7 (3) technologies for reduction of tank car vul-
8 nerability;
- 9 (4) security improvements to passenger railroad
10 stations, trains, and infrastructure;
- 11 (5) tunnel protection systems;
- 12 (6) evacuation improvements;
- 13 (7) inspection technologies, including verified
14 visual inspection technologies using hand-held read-
15 ers and discs;
- 16 (8) security and redundancy for critical commu-
17 nications, computer, and train control systems essen-
18 tial for secure railroad operations or to continue rail-
19 road operations after an attack impacting railroad
20 operations;
- 21 (9) train tracking and interoperable commu-
22 nications systems;
- 23 (10) chemical, biological, radiological, or explo-
24 sive detection systems and devices;
- 25 (11) surveillance equipment;



1 (12) additional police and security officers, in-
2 cluding canine units;

3 (13) accommodation of cargo or passenger
4 screening equipment;

5 (14) employee security awareness, prepared-
6 ness, and response training (including compliance
7 with section 625);

8 (15) public security awareness campaigns;

9 (16) emergency response equipment, including
10 fire suppression and decontamination equipment;
11 and

12 (17) other improvements recommended by the
13 report required by section 621, including infrastruc-
14 ture, facilities, and equipment upgrades.

15 (b) CONDITIONS.—The Secretary shall require recipi-
16 ents of funds for construction under this section and sec-
17 tion 623 of this Act to apply the standards of section
18 24312 of title 49, United States Code, as in effect on Sep-
19 tember 1, 2004, with respect to the construction in the
20 same manner as Amtrak is required to comply with such
21 standards for construction work financed under an agree-
22 ment made under section 24308(a) of such title 49.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Secretary
25 \$600,000,000 to carry out the purposes of this section,



1 of which \$100,000,000 shall be used by the Secretary for
2 making grants to Amtrak, in accordance with this section.
3 Amounts appropriated pursuant to this subsection shall
4 remain available until expended.

5 **SEC. 623. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

6 (a) LIFE-SAFETY NEEDS.—There are authorized to
7 be appropriated to Amtrak for the purposes of carrying
8 out this section the following amounts:

9 (1) For the 6 new york tunnels to provide ven-
10 tilation, electrical, and fire safety technology up-
11 grades, emergency communication and lighting sys-
12 tems, and emergency access and egress for
13 passengers—

14 (A) \$100,000,000 for fiscal year 2006;

15 (B) \$100,000,000 for fiscal year 2007;

16 (C) \$100,000,000 for fiscal year 2008;

17 (D) \$100,000,000 for fiscal year 2009;

18 and

19 (E) \$170,000,000 for fiscal year 2010.

20 (2) For the baltimore & potomac tunnel and the
21 union tunnel, together, to provide adequate drain-
22 age, ventilation, communication, lighting, and pas-
23 senger egress upgrades—

24 (A) \$10,000,000 for fiscal year 2006;

25 (B) \$10,000,000 for fiscal year 2007;



- 1 (C) \$10,000,000 for fiscal year 2008;
2 (D) \$10,000,000 for fiscal year 2009; and
3 (E) \$17,000,000 for fiscal year 2010.

- 4 (3) For the washington, district of columbia,
5 union station tunnels to improve ventilation, commu-
6 nication, lighting, and passenger egress upgrades—
7 (A) \$8,000,000 for fiscal year 2006;
8 (B) \$8,000,000 for fiscal year 2007;
9 (C) \$8,000,000 for fiscal year 2008;
10 (D) \$8,000,000 for fiscal year 2009; and
11 (E) \$8,000,000 for fiscal year 2010.

- 12 (b) AVAILABILITY OF APPROPRIATED FUNDS.—
13 Amounts appropriated pursuant to this section shall re-
14 main available until expended.

15 **SEC. 624. RAIL SECURITY RESEARCH AND DEVELOPMENT**
16 **PROGRAM.**

- 17 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
18 MENT PROGRAM.—The Secretary shall carry out a re-
19 search and development program for the purpose of im-
20 proving railroad security that may include research and
21 development projects to—

- 22 (1) reduce the vulnerability of passenger trains,
23 stations, and equipment to explosives and hazardous
24 chemical, biological, and radioactive substances;



1 (2) test new emergency response techniques and
2 technologies;

3 (3) develop improved freight technologies,
4 including—

5 (A) technologies for sealing rail cars;

6 (B) automatic inspection of rail cars; and

7 (C) communication-based train controls;

8 (4) test wayside detectors that can detect tam-
9 pering with railroad equipment;

10 (5) support enhanced security for the transpor-
11 tation of hazardous materials by rail, including—

12 (A) technologies to detect a breach in a
13 tank car and transmit information about the in-
14 tegrity of tank cars to the train crew;

15 (B) research to improve tank car integrity;
16 and

17 (C) techniques to transfer hazardous mate-
18 rials from rail cars that are damaged or other-
19 wise represent an unreasonable risk to human
20 life or public safety; and

21 (6) other projects recommended in the report
22 required by section 621.

23 (b) COORDINATION WITH OTHER RESEARCH INITIA-
24 TIVES.—The Secretary shall ensure that the research and
25 development program authorized by this section is coordi-

1 nated with other research and development initiatives at
2 the Department of Homeland Security, the Department
3 of Transportation, and other Federal agencies.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Secretary
6 \$50,000,000 in each of fiscal years 2006 and 2007 to
7 carry out the purposes of this section. Amounts appro-
8 priated pursuant to this subsection shall remain available
9 until expended.

10 **SEC. 625. RAIL WORKER SECURITY TRAINING PROGRAM.**

11 (a) IN GENERAL.—Not later than 90 days after the
12 date of enactment of this Act, the Secretary, in consulta-
13 tion with appropriate law enforcement, security, and ter-
14 rorism experts, representatives of railroad carriers, and
15 nonprofit employee organizations that represent rail work-
16 ers, shall develop and issue detailed guidance for a rail
17 worker security training program to prepare rail workers
18 for potential threat conditions.

19 (b) PROGRAM ELEMENTS.—The guidance developed
20 under subsection (a) shall require such a program to in-
21 clude, at a minimum, elements that address the following:

22 (1) Determination of the seriousness of any oc-
23 currence.

24 (2) Crew and passenger communication and co-
25 ordination.



1 (3) Appropriate responses to defend oneself.

2 (4) Use of protective devices.

3 (5) Evacuation procedures.

4 (6) Live situational training exercises regarding
5 various threat conditions, including tunnel evacu-
6 ation procedures.

7 (7) Any other subject the Secretary considers
8 appropriate.

9 (c) RAILROAD CARRIER PROGRAMS.—Not later than
10 60 days after the Secretary issues guidance under sub-
11 section (a) in final form, each railroad carrier shall develop
12 a rail worker security training program in accordance with
13 that guidance and submit it to the Secretary for approval.
14 Not later than 60 days after receiving a railroad carrier's
15 program under this subsection, the Secretary shall review
16 the program and approve it or require the railroad carrier
17 to make any revisions the Secretary considers necessary
18 for the program to meet the guidance requirements.

19 (d) TRAINING.—Not later than 1 year after the Sec-
20 retary approves the training program developed by a rail-
21 road carrier under this section, the railroad carrier shall
22 complete the training of all rail workers in accordance with
23 that program.

24 (e) UPDATES.—The Secretary shall update the train-
25 ing guidance issued under subsection (a) from time to

1 time to reflect new or different security threats, and re-
2 quire railroad carriers to revise their programs accordingly
3 and provide additional training to their rail workers.

4 **SEC. 626. WHISTLEBLOWER PROTECTION.**

5 (a) IN GENERAL.—Subchapter I of chapter 201 of
6 title 49, is amended by inserting after section 20115 the
7 following:

8 **“§ 20116. Whistleblower protection for railroad secu-
9 rity matters**

10 “(a) DISCRIMINATION AGAINST EMPLOYEE.—No
11 railroad carrier engaged in interstate or foreign commerce
12 may discharge a railroad employee or otherwise discrimi-
13 nate against a railroad employee because the employee (or
14 any person acting pursuant to a request of the employee)

15 “(1) provided, caused to be provided, or is
16 about to provide or cause to be provided, to the em-
17 ployer or the Federal Government information relat-
18 ing to a perceived threat to security;

19 “(2) provided, caused to be provided, or is
20 about to provide or cause to be provided, testimony
21 before Congress or at any Federal or State pro-
22 ceeding regarding a perceived threat to security;

23 “(3) has assisted or participated, or is about to
24 assist or participate, in any manner in a proceeding
25 or any other action to enhance railroad security; or



1 “(4) refused to violate or assist in the violation
2 of any law, rule, or regulation related to railroad se-
3 curity.

4 “(b) ENFORCEMENT ACTION.—

5 “(1) IN GENERAL.—A person who alleges dis-
6 charge or other discrimination by any person in vio-
7 lation of subsection (a) may seek relief under sub-
8 section (c) by

9 “(A) filing a complaint with the Secretary
10 of Labor; or

11 “(B) if the Secretary of Labor has not
12 issued a final decision within 180 days of the
13 filing of the complaint and there is no showing
14 that such delay is due to the bad faith of the
15 claimant, bringing an action at law or equity
16 for de novo review in the appropriate district
17 court of the United States, which shall have ju-
18 risdiction over such an action without regard to
19 the amount in controversy.

20 “(2) PROCEDURE.—

21 “(A) IN GENERAL.—An action under para-
22 graph (1)(A) shall be governed under the rules
23 and procedures set forth in section 42121(b) of
24 this title.



1 “(B) EXCEPTION.—Notification made
2 under section 42121(b)(1) of this title, shall be
3 made to the person named in the complaint and
4 to the employer.

5 “(C) BURDENS OF PROOF.—An action
6 brought under paragraph (1)(B) shall be gov-
7 erned by the legal burdens of proof set forth in
8 section 42121(b) this title.

9 “(D) STATUTE OF LIMITATIONS.—An ac-
10 tion under paragraph (1)(A) shall be com-
11 menced not later than 90 days after the date on
12 which the violation occurs.

13 “(e) REMEDIES.—

14 “(1) IN GENERAL.—An employee prevailing in
15 any action under subsection (b)(1) shall be entitled
16 to all relief necessary to make the employee whole.

17 “(2) COMPENSATORY DAMAGES.—Relief for any
18 action under paragraph (1) shall include

19 “(A) reinstatement with the same seniority
20 status that the employee would have had, but
21 for the discrimination;

22 “(B) the amount of back pay, with inter-
23 est; and

24 “(C) compensation for any special damages
25 sustained as a result of the discrimination, in-



1 cluding litigation costs, expert witness fees, and
2 reasonable attorney fees.

3 “(d) RIGHTS RETAINED BY EMPLOYEE.—Except as
4 provided in subsection (e), nothing in this section shall be
5 deemed to diminish the rights, privileges, or remedies of
6 any employee under any Federal or State law, or under
7 any collective bargaining agreement.

8 “(e) ELECTION OF REMEDIES.—An employee of a
9 railroad carrier may not seek protection under both this
10 section and another provision of law for the same allegedly
11 unlawful act of the railroad carrier.

12 “(f) DISCLOSURE OF IDENTITY.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), without the written consent of the em-
15 ployee, the Secretary of Labor may not disclose the
16 name of an employee of a railroad carrier who has
17 provided information about an alleged violation of
18 this section.

19 “(2) EXCEPTION.—The Secretary of Labor
20 shall disclose to the Attorney General the name of
21 an employee described in paragraph (1) of this sub-
22 section if the matter is referred to the Attorney Gen-
23 eral for enforcement.”.



1 (b) CONFORMING AMENDMENT.—The table of sec-
2 tions for chapter 201 of title 49, is amended by inserting
3 after the item relating to section 20115 the following:

“20116. Whistleblower protection for railroad security matters.”

4 **SEC. 627. PUBLIC OUTREACH.**

5 Not later than 180 days after the date of enactment
6 of this Act, the Secretary shall develop a national plan
7 for public outreach and awareness. Such plan shall be de-
8 signed to increase awareness of measures that the general
9 public, railroad passengers, and railroad employees can
10 take to increase railroad system security. Such plan shall
11 also provide outreach to railroad carriers and their em-
12 ployees to improve their awareness of available tech-
13 nologies, ongoing research and development efforts, and
14 available Federal funding sources to improve railroad se-
15 curity. Not later than 9 months after the date of enact-
16 ment of this Act, the Secretary shall implement the plan
17 developed under this section.

18 **SEC. 628. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

19 The Secretary shall—

20 (1) analyze the cost and feasibility of requiring
21 security screening for passengers, baggage, and
22 cargo on passenger trains; and

23 (2) report the results of the study, together
24 with any recommendations that the Secretary may
25 have for implementing a rail security screening pro-



1 gram to the Committee on Transportation and In-
2 frastructure and the Committee on Homeland Secu-
3 rity of the House of Representatives and to the
4 Committee on Commerce, Science, and Transpor-
5 tation of the Senate not later than 1 year after the
6 date of enactment of this Act.

7 **SEC. 629. EMERGENCY RESPONDER TRAINING STANDARDS.**

8 Not later than 90 days after the date of enactment
9 of this Act, the Secretary of Transportation shall issue
10 training standards for persons responsible for responding
11 to emergency situations occurring during transportation
12 of hazardous materials by rail, in accordance with existing
13 regulations, to ensure their ability to protect nearby per-
14 sons, property, or the environment from the effects of acci-
15 dents involving hazardous materials.

16 **SEC. 630. INFORMATION FOR FIRST RESPONDERS.**

17 (a) IN GENERAL.—The Secretary of Transportation
18 shall provide grants to Operation Respond Institute for
19 the purpose of

20 (1) deploying and expanding the Operation Re-
21 spond Emergency Information System software;

22 (2) developing, implementing, and maintaining
23 a railroad infrastructure mapping program that cor-
24 relates railroad right-of-way information with high-
25 way grid maps and overhead imagery of traffic



1 routes, hazardous materials routes, and commuter
2 rail lines; and

3 (3) establishing an alert and messaging capa-
4 bility for use during emergencies involving freight
5 and passenger railroads.

6 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There
7 are authorized to be appropriated to the Secretary of
8 Transportation to carry out this section \$2,500,000 for
9 each of fiscal years 2005, 2006, and 2007. Amounts ap-
10 propriated pursuant to this subsection shall remain avail-
11 able until expended.

12 **SEC. 631. TSA PERSONNEL LIMITATIONS.**

13 Any statutory limitation on the number of employees
14 in the Transportation Security Administration, before or
15 after its transfer to the Department of Homeland Secu-
16 rity, does not apply to the extent that any such employees
17 are responsible for implementing the provisions of this
18 title.

19 **SEC. 632. RAIL SAFETY REGULATIONS.**

20 Section 20103(a) of title 49, United States Code, is
21 amended by striking “safety” the first place it appears,
22 and inserting “safety, including security”.



1 **SEC. 633. RAIL POLICE OFFICERS.**

2 Section 28101 of title 49, United States Code, is
3 amended by striking “the rail carrier” each place it ap-
4 pears and inserting “any rail carrier”.

5 **SEC. 634. DEFINITIONS.**

6 For purposes of this chapter—

7 (1) the terms “railroad” and “railroad carrier”
8 have the meaning given those terms in section
9 20102 of title 49, United States Code; and

10 (2) the term “Secretary” means the Secretary
11 of Homeland Security, acting through the Under
12 Secretary of Homeland Security for Border and
13 Transportation Security.

14 **CHAPTER 2—ASSISTANCE TO FAMILIES**
15 **OF PASSENGERS**

16 **SEC. 641. ASSISTANCE BY NATIONAL TRANSPORTATION**
17 **SAFETY BOARD TO FAMILIES OF PAS-**
18 **SENGERS INVOLVED IN RAIL PASSENGER AC-**
19 **CIDENTS.**

20 (a) **IN GENERAL.**—Subchapter III of chapter 11 of
21 title 49, United States Code, is amended by adding at the
22 end the following:

23 **“§ 1138. Assistance to families of passengers involved**
24 **in rail passenger accidents**

25 **“(a) IN GENERAL.**—As soon as practicable after
26 being notified of a rail passenger accident within the



1 United States involving a rail passenger carrier and result-
2 ing in a major loss of life, the Chairman of the National
3 Transportation Safety Board shall

4 “(1) designate and publicize the name and
5 phone number of a director of family support serv-
6 ices who shall be an employee of the Board and shall
7 be responsible for acting as a point of contact within
8 the Federal Government for the families of pas-
9 sengers involved in the accident and a liaison be-
10 tween the rail passenger carrier and the families;
11 and

12 “(2) designate an independent nonprofit organi-
13 zation, with experience in disasters and posttrauma
14 communication with families, which shall have pri-
15 mary responsibility for coordinating the emotional
16 care and support of the families of passengers in-
17 volved in the accident.

18 “(b) RESPONSIBILITIES OF THE BOARD.—The Board
19 shall have primary Federal responsibility for

20 “(1) facilitating the recovery and identification
21 of fatally injured passengers involved in an accident
22 described in subsection (a); and

23 “(2) COMMUNICATING WITH THE FAMILIES OF
24 PASSENGERS INVOLVED IN THE ACCIDENT AS TO
25 THE ROLES OF.—



1 “(A) the organization designated for an ac-
2 cident under subsection (a)(2);

3 “(B) Government agencies; and

4 “(C) the rail passenger carrier involved,
5 with respect to the accident and the post-accident
6 activities.

7 “(c) RESPONSIBILITIES OF DESIGNATED ORGANIZA-
8 TION.—The organization designated for an accident under
9 subsection (a)(2) shall have the following responsibilities
10 with respect to the families of passengers involved in the
11 accident:

12 “(1) To provide mental health and counseling
13 services, in coordination with the disaster response
14 team of the rail passenger carrier involved.

15 “(2) To take such actions as may be necessary
16 to provide an environment in which the families may
17 grieve in private.

18 “(3) To meet with the families who have trav-
19 eled to the location of the accident, to contact the
20 families unable to travel to such location, and to
21 contact all affected families periodically thereafter
22 until such time as the organization, in consultation
23 with the director of family support services des-
24 ignated for the accident under subsection (a)(1), de-
25 termines that further assistance is no longer needed.



1 “(4) To arrange a suitable memorial service, in
2 consultation with the families.

3 “(d) PASSENGER LISTS.—

4 “(1) REQUESTS FOR PASSENGER LISTS.—

5 “(A) REQUESTS BY DIRECTOR OF FAMILY
6 SUPPORT SERVICES.—It shall be the responsi-
7 bility of the director of family support services
8 designated for an accident under subsection
9 (a)(1) to request, as soon as practicable, from
10 the rail passenger carrier involved in the acci-
11 dent a list, which is based on the best available
12 information at the time of the request, of the
13 names of the passengers that were aboard the
14 rail passenger carrier’s train involved in the ac-
15 cident. A rail passenger carrier shall use rea-
16 sonable efforts, with respect to its unreserved
17 trains, and passengers not holding reservations
18 on its other trains, to ascertain the names of
19 passengers aboard a train involved in an acci-
20 dent.

21 “(B) REQUESTS BY DESIGNATED ORGANI-
22 ZATION.—The organization designated for an
23 accident under subsection (a)(2) may request
24 from the rail passenger carrier involved in the
25 accident a list described in subparagraph (A).



1 “(2) USE OF INFORMATION.—The director of
2 family support services and the organization may
3 not release to any person information on a list ob-
4 tained under paragraph (1) but may provide infor-
5 mation on the list about a passenger to the family
6 of the passenger to the extent that the director of
7 family support services or the organization considers
8 appropriate.

9 “(e) CONTINUING RESPONSIBILITIES OF THE
10 BOARD.—In the course of its investigation of an accident
11 described in subsection (a), the Board shall, to the max-
12 imum extent practicable, ensure that the families of pas-
13 sengers involved in the accident

14 “(1) are briefed, prior to any public briefing,
15 about the accident and any other findings from the
16 investigation; and

17 “(2) are individually informed of and allowed to
18 attend any public hearings and meetings of the
19 Board about the accident.

20 “(f) USE OF RAIL PASSENGER CARRIER RE-
21 SOURCES.—To the extent practicable, the organization
22 designated for an accident under subsection (a)(2) shall
23 coordinate its activities with the rail passenger carrier in-
24 volved in the accident to facilitate the reasonable use of
25 the resources of the carrier.



1 “(g) PROHIBITED ACTIONS.—

2 “(1) ACTIONS TO IMPEDE THE BOARD.—No
3 person (including a State or political subdivision)
4 may impede the ability of the Board (including the
5 director of family support services designated for an
6 accident under subsection (a)(1)), or an organization
7 designated for an accident under subsection (a)(2),
8 to carry out its responsibilities under this section or
9 the ability of the families of passengers involved in
10 the accident to have contact with one another.

11 “(2) UNSOLICITED COMMUNICATIONS.—No un-
12 solicited communication concerning a potential ac-
13 tion for personal injury or wrongful death may be
14 made by an attorney (including any associate, agent,
15 employee, or other representative of an attorney) or
16 any potential party to the litigation to an individual
17 (other than an employee of the rail passenger car-
18 rier) injured in the accident, or to a relative of an
19 individual involved in the accident, before the 45th
20 day following the date of the accident.

21 “(3) PROHIBITION ON ACTIONS TO PREVENT
22 MENTAL HEALTH AND COUNSELING SERVICES.—No
23 State or political subdivision may prevent the em-
24 ployees, agents, or volunteers of an organization des-
25 ignated for an accident under subsection (a)(2) from



1 providing mental health and counseling services
2 under subsection (c)(1) in the 30-day period begin-
3 ning on the date of the accident. The director of
4 family support services designated for the accident
5 under subsection (a)(1) may extend such period for
6 not to exceed an additional 30 days if the director
7 determines that the extension is necessary to meet
8 the needs of the families and if State and local au-
9 thorities are notified of the determination.

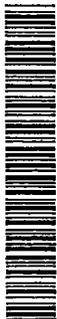
10 “(h) DEFINITIONS.—In this section, the following
11 definitions apply:

12 “(1) RAIL PASSENGER ACCIDENT.—The term
13 ‘rail passenger accident’ means any rail passenger
14 disaster occurring in the provision of

15 “(A) interstate intercity rail passenger
16 transportation (as such term is defined in sec-
17 tion 24102); or

18 “(B) interstate or intrastate high-speed
19 rail (as such term is defined in section 26105)
20 transportation,
21 regardless of its cause or suspected cause.

22 “(2) RAIL PASSENGER CARRIER.—The term
23 ‘rail passenger carrier’ means a rail carrier pro-
24 viding



1 “(A) interstate intercity rail passenger
2 transportation (as such term is defined in sec-
3 tion 24102); or

4 “(B) interstate or intrastate high-speed
5 rail (as such term is defined in section 26105)
6 transportation,

7 except that such term shall not include a tourist,
8 historic, scenic, or excursion rail carrier.

9 “(3) PASSENGER.—The term ‘passenger’ in-
10 cludes

11 “(A) an employee of a rail passenger car-
12 rier aboard a train;

13 “(B) any other person aboard the train
14 without regard to whether the person paid for
15 the transportation, occupied a seat, or held a
16 reservation for the rail transportation; and

17 “(C) any other person injured or killed in
18 the accident.

19 “(i) LIMITATION ON STATUTORY CON-
20 STRUCTION.—Nothing in this section may
21 be construed as limiting the actions that a
22 rail passenger carrier may take, or the ob-
23 ligations that a rail passenger carrier may
24 have, in providing assistance to the fami-



1 lies of passengers involved in a rail pas-
2 senger accident.

3 “(i) RELINQUISHMENT OF INVESTIGATIVE PRI-
4 ORITY.—

5 “(1) GENERAL RULE.—This section (other than
6 subsection (g)) shall not apply to a railroad accident
7 if the Board has relinquished investigative priority
8 under section 1131(a)(2)(B) and the Federal agency
9 to which the Board relinquished investigative pri-
10 ority is willing and able to provide assistance to the
11 victims and families of the passengers involved in
12 the accident.

13 “(2) BOARD ASSISTANCE.—If this section does
14 not apply to a railroad accident because the Board
15 has relinquished investigative priority with respect to
16 the accident, the Board shall assist, to the maximum
17 extent possible, the agency to which the Board has
18 relinquished investigative priority in assisting fami-
19 lies with respect to the accident.”.

20 “(b) CONFORMING AMENDMENT.—The table of sec-
21 tions for such chapter is amended by inserting after the
22 item relating to section 1137 the following:

“1138. Assistance to families of passengers involved in rail passenger acci-
dents.”.



1 **SEC. 642. RAIL PASSENGER CARRIER PLANS TO ADDRESS**
2 **NEEDS OF FAMILIES OF PASSENGERS IN-**
3 **VOLVED IN RAIL PASSENGER ACCIDENTS.**

4 (a) IN GENERAL.—Part C of subtitle V of title 49,
5 United States Code, is amended by adding at the end the
6 following new chapter:

7 **“CHAPTER 251—FAMILY ASSISTANCE**

“Sec.

“25101. Plans to address needs of families of passengers involved in rail pas-
senger accidents.

8 **“§ 25101. Plans to address needs of families of pas-**
9 **sengers involved in rail passenger acci-**
10 **dents**

11 “(a) SUBMISSION OF PLANS.—Not later than 180
12 days after the date of the enactment of this section, each
13 rail passenger carrier shall submit to the Secretary of
14 Transportation and the Chairman of the National Trans-
15 portation Safety Board a plan for addressing the needs
16 of the families of passengers involved in any rail passenger
17 accident involving a train of the rail passenger carrier and
18 resulting in a major loss of life.

19 “(b) CONTENTS OF PLANS.—A plan to be submitted
20 by a rail passenger carrier under subsection (a) shall in-
21 clude, at a minimum, the following:



1 “(1) A plan for publicizing a reliable, toll-free
2 telephone number, and for providing staff, to handle
3 calls from the families of the passengers.

4 “(2) A process for notifying the families of the
5 passengers, before providing any public notice of the
6 names of the passengers, either by utilizing the serv-
7 ices of the organization designated for the accident
8 under section 1138(a)(2) of this title or the services
9 of other suitably trained individuals.

10 “(3) An assurance that the notice described in
11 paragraph (2) will be provided to the family of a
12 passenger as soon as the rail passenger carrier has
13 verified that the passenger was aboard the train
14 (whether or not the names of all of the passengers
15 have been verified) and, to the extent practicable, in
16 person.

17 “(4) An assurance that the rail passenger car-
18 rier will provide to the director of family support
19 services designated for the accident under section
20 1138(a)(1) of this title, and to the organization des-
21 ignated for the accident under section 1138(a)(2) of
22 this title, immediately upon request, a list (which is
23 based on the best available information at the time
24 of the request) of the names of the passengers
25 aboard the train (whether or not such names have



1 been verified), and will periodically update the list.
2 The plan shall include a procedure, with respect to
3 unreserved trains and passengers not holding res-
4 ervations on other trains, for the rail passenger car-
5 rier to use reasonable efforts to ascertain the names
6 of passengers aboard a train involved in an accident.

7 “(5) An assurance that the family of each pas-
8 senger will be consulted about the disposition of all
9 remains and personal effects of the passenger within
10 the control of the rail passenger carrier.

11 “(6) An assurance that if requested by the fam-
12 ily of a passenger, any possession of the passenger
13 within the control of the rail passenger carrier (re-
14 gardless of its condition) will be returned to the fam-
15 ily unless the possession is needed for the accident
16 investigation or any criminal investigation.

17 “(7) An assurance that any unclaimed posses-
18 sion of a passenger within the control of the rail
19 passenger carrier will be retained by the rail pas-
20 senger carrier for at least 18 months.

21 “(8) An assurance that the family of each pas-
22 senger or other person killed in the accident will be
23 consulted about construction by the rail passenger
24 carrier of any monument to the passengers, includ-
25 ing any inscription on the monument.



1 “(9) An assurance that the treatment of the
2 families of nonrevenue passengers will be the same
3 as the treatment of the families of revenue pas-
4 sengers.

5 “(10) An assurance that the rail passenger car-
6 rier will work with any organization designated
7 under section 1138(a)(2) of this title on an ongoing
8 basis to ensure that families of passengers receive an
9 appropriate level of services and assistance following
10 each accident.

11 “(11) An assurance that the rail passenger car-
12 rier will provide reasonable compensation to any or-
13 ganization designated under section 1138(a)(2) of
14 this title for services provided by the organization.

15 “(12) An assurance that the rail passenger car-
16 rier will assist the family of a passenger in traveling
17 to the location of the accident and provide for the
18 physical care of the family while the family is stay-
19 ing at such location.

20 “(13) An assurance that the rail passenger car-
21 rier will commit sufficient resources to carry out the
22 plan.

23 “(14) An assurance that the rail passenger car-
24 rier will provide adequate training to the employees



1 and agents of the carrier to meet the needs of sur-
2 vivors and family members following an accident.

3 “(15) An assurance that, upon request of the
4 family of a passenger, the rail passenger carrier will
5 inform the family of whether the passenger’s name
6 appeared on any preliminary passenger manifest for
7 the train involved in the accident.

8 “(c) LIMITATION ON LIABILITY.—A rail passenger
9 carrier shall not be liable for damages in any action
10 brought in a Federal or State court arising out of the per-
11 formance of the rail passenger carrier in preparing or pro-
12 viding a passenger list, or in providing information con-
13 cerning a train reservation, pursuant to a plan submitted
14 by the rail passenger carrier under subsection (b), unless
15 such liability was caused by conduct of the rail passenger
16 carrier which was grossly negligent or which constituted
17 intentional misconduct.

18 “(d) DEFINITIONS.—In this section—

19 “(1) the terms ‘rail passenger accident’ and
20 ‘rail passenger carrier’ have the meanings such
21 terms have in section 1138 of this title; and

22 “(2) the term ‘passenger’ means a person
23 aboard a rail passenger carrier’s train that is in-
24 volved in a rail passenger accident.



1 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—
 2 Nothing in this section may be construed as limiting the
 3 actions that a rail passenger carrier may take, or the obli-
 4 gations that a rail passenger carrier may have, in pro-
 5 viding assistance to the families of passengers involved in
 6 a rail passenger accident.”.

7 (b) CONFORMING AMENDMENT.—The table of chap-
 8 ters for subtitle V of title 49, United States Code, is
 9 amended by adding after the item relating to chapter 249
 10 the following new item:

 “251. FAMILY ASSISTANCE25101”.

11 **SEC. 643. ESTABLISHMENT OF TASK FORCE.**

12 (a) ESTABLISHMENT.—Not later than 180 days after
 13 the date of enactment of this Act, the Secretary of Trans-
 14 portation, in coordination with the National Transpor-
 15 tation Safety Board, organizations potentially designated
 16 under section 1138(a)(2) of title 49, United States Code,
 17 rail passenger carriers, and families which have been in-
 18 volved in rail accidents, shall establish a task force con-
 19 sisting of representatives of such entities and families, rep-
 20 resentatives of passenger rail carrier employees, and rep-
 21 resentatives of such other entities as the Secretary con-
 22 siders appropriate.

23 (b) MODEL PLAN AND RECOMMENDATIONS.—The
 24 task force established pursuant to subsection (a) shall
 25 develop—



1 (1) a model plan to assist passenger rail car-
2 riers in responding to passenger rail accidents;

3 (2) recommendations on methods to improve
4 the timeliness of the notification provided by pas-
5 senger rail carriers to the families of passengers in-
6 volved in a passenger rail accident;

7 (3) recommendations on methods to ensure that
8 the families of passengers involved in a passenger
9 rail accident who are not citizens of the United
10 States receive appropriate assistance; and

11 (4) recommendations on methods to ensure that
12 emergency services personnel have as immediate and
13 accurate a count of the number of passengers on-
14 board the train as possible.

15 (c) REPORT.—Not later than 1 year after the date
16 of the enactment of this Act, the Secretary shall transmit
17 to the Committee on Transportation and Infrastructure
18 of the House of Representatives and the Committee on
19 Commerce, Science, and Transportation of the Senate a
20 report containing the model plan and recommendations
21 developed by the task force under subsection (b).



1 **TITLE VII—SECURING CRITICAL**
2 **INFRASTRUCTURE**

3 **SEC. 701. CRITICAL INFRASTRUCTURE.**

4 (a) **COMPLETION OF PRIORITIZATION.**—Not later
5 than 90 days after the date of the enactment of this Act,
6 the Secretary of Homeland Security shall complete the
7 prioritization of the Nation's critical infrastructure ac-
8 cording to all of the following criteria:

9 (1) The threat of terrorist attack, based on
10 threat information received and analyzed by the Of-
11 fice of Information Analysis of the Department re-
12 garding the intentions and capabilities of terrorist
13 groups and other potential threats to the Nation's
14 critical infrastructure.

15 (2) The likelihood that an attack would cause
16 the destruction or significant disruption of such in-
17 frastructure.

18 (3) The likelihood that an attack would result
19 in substantial numbers of deaths and serious bodily
20 injuries, a substantial adverse impact on the na-
21 tional economy, or a substantial adverse impact on
22 national security.

23 (b) **COOPERATION.**—Such prioritization shall be de-
24 veloped in cooperation with other relevant Federal agen-



1 cies, State, local, and tribal governments, and the private
2 sector, as appropriate.

3 **SEC. 702. SECURITY REVIEW.**

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

9 (1) review existing Federal, State, local, tribal,
10 and private sector plans for securing the critical in-
11 frastructure included in the prioritization developed
12 under section 701;

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

16 (3) coordinate and contribute to protective ef-
17 forts of other Federal, State, local, and tribal agen-
18 cies and the private sector, as appropriate, as di-
19 rected in Homeland Security Presidential Directive
20 7.

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

23 (1) necessary protective measures to secure
24 such infrastructure, including milestones and time-
25 frames for implementation; and



1 (2) to the extent practicable, performance
2 metrics to evaluate the benefits to both national se-
3 curity and the Nation's economy from the implemen-
4 tation of such protective measures.

5 **SEC. 703. IMPLEMENTATION REPORT.**

6 (a) **IN GENERAL.**—Not later than 15 months after
7 the date of the enactment of this Act, the Secretary shall
8 submit a report to the Committee on Homeland Security
9 of the House of Representatives and the Committee on
10 Homeland Security and Governmental Affairs of the Sen-
11 ate on the implementation of section 702. Such report
12 shall detail—

13 (1) the Secretary's review and coordination of
14 security plans under section 702; and

15 (2) the Secretary's oversight of the execution
16 and effectiveness of such plans.

17 (b) **UPDATE.**—Not later than 1 year after the sub-
18 mission of the report under subsection (a), the Secretary
19 shall provide an update of such report to the congressional
20 committees described in subsection (a).



1 **TITLE VIII—PREVENTING A**
2 **BIOLOGICAL ATTACK**

3 **SEC. 801. GAO REPORT OF DEPARTMENT BIOLOGICAL TER-**
4 **RORISM PROGRAMS.**

5 (a) **IN GENERAL.**—Not later than 90 days after the
6 date of enactment of this Act, the Comptroller General
7 of the United States shall submit a report to the Com-
8 mittee on Homeland Security of the House of Representa-
9 tives and the Committee on Homeland Security and Gov-
10 ernmental Affairs of the Senate assessing the full history
11 of Department of Homeland Security activities with re-
12 gard to biological terrorism and recommending which De-
13 partment of the Government should administer such ac-
14 tivities.

15 (b) **INCLUDED CONTENTS.**—The report shall con-
16 sider and discuss—

17 (1) progress made in implementing the Bio-
18 Shield program;

19 (2) how effectively the Department of Health
20 and Human Services is administering the BioShield
21 program;

22 (3) whether the Department of Health and
23 Human Services has the administrative capability
24 necessary to fully implement the BioShield program;
25 and



1 (4) the legislative history of the BioShield pro-
2 gram, including the legislation that established the
3 program as it was introduced in the Congress and
4 considered and reported by the Select Committee on
5 Homeland Security of the House of Representatives.

6 **SEC. 802. REPORT ON BIO-COUNTERMEASURES.**

7 Not later than 12 months after the date of enactment
8 of this Act, the Secretary of Homeland Security in con-
9 sultation with the Secretary of Health and Human Serv-
10 ices shall transmit to the Congress a report with rec-
11 ommendations, on—

12 (1) the feasibility of supplying first responders,
13 not limited to law enforcement, firefighters and
14 emergency medical service personnel, with biological
15 and chemical agent countermeasures or vaccinations
16 when necessary;

17 (2) the appropriate levels and types of biological
18 and chemical agents, industrial materials and other
19 hazardous substances that first responders should be
20 protected against; and

21 (3) the system and appropriate means of ac-
22 cessing, delivering, storing and dispersing counter-
23 measures to first responder personnel.



1 **TITLE IX—PROTECTION OF**
2 **AGRICULTURE**

3 **SEC. 901. REPORT TO CONGRESS ON IMPLEMENTATION OF**
4 **RECOMMENDATIONS REGARDING PROTEC-**
5 **TION OF AGRICULTURE.**

6 The Secretary of Homeland Security shall report to
7 the Committee on Homeland Security of the House of
8 Representatives and the Committee on Homeland Security
9 and Governmental Affairs of the Senate by no later than
10 120 days after the date of the enactment of this Act re-
11 garding how the Department of Homeland Security will
12 implement the applicable recommendations from the Gov-
13 ernment Accountability Office report entitled “Homeland
14 Security: Much is Being Done to Protect Agriculture from
15 a Terrorist Attack, but Important Challenges Remain”
16 (GAO-05-214).

17 **TITLE X—OPTIMIZING OUR**
18 **SCREENING CAPABILITIES**
19 **Subtitle A—U.S. Visitor and Immi-**
20 **grant Status Indicator Tech-**
21 **nology Database**

22 **SEC. 1001. INTEROPERABILITY OF DATA FOR UNITED**
23 **STATES VISITOR AND IMMIGRANT STATUS IN-**
24 **DICATOR TECHNOLOGY.**

25 (a) **FINDINGS.**—The Congress finds as follows:



1 (1) The Congress is troubled by the security
2 gap on the Nation's borders caused by delays in
3 linking fingerprint data in IDENT with criminal
4 history data contained in IAFIS.

5 (2) The Congress expected that, by the end of
6 2004, such interoperability would be in place at air-
7 ports, seaports, and the largest and busiest Border
8 Patrol stations and land border ports of entry, but
9 this will not be completed until December 31, 2005.

10 (3) With implementation of a new visa tracking
11 system, and enrollment of millions of visitors in US-
12 VISIT, it is essential that the Directorate of Border
13 and Transportation Security collaborate with the
14 Federal Bureau of Investigations to ensure that
15 IDENT can retrieve, in real time, biometric infor-
16 mation containing in IAFIS, and that IAFIS can re-
17 trieve, in real time, biometric information contained
18 in IDENT.

19 (b) REPORT.—Not later than 90 days after the date
20 of the enactment of this Act, the Secretary of Homeland
21 Security shall prepare, and submit to the Committee on
22 Homeland Security of the United States House of Rep-
23 resentatives, a report that details the status of the effort
24 to achieve real-time interoperability of IAFIS and
25 IDENT, including the following:



1 (1) The steps the Department will take to
2 achieve this goal, the funds needed to achieve this
3 goal, and a timetable to achieve this goal.

4 (2) A description of the effort being made to
5 address the recommendations in the March, 2004,
6 Department of Justice Inspector General report and
7 subsequent December, 2004, report, which docu-
8 mented the need to integrate existing biometric
9 databases; and

10 (3) The plan for maintaining the interoper-
11 ability of IAFIS and IDENT, once achieved.

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

13 (1) The term “IAFIS” means the Integrated
14 Automated Fingerprint Identification System main-
15 tained by the Federal Bureau of Investigation of the
16 Department of Justice.

17 (2) The term “IDENT” means the Automated
18 Biometrics Identification System maintained by the
19 Bureau of Customs and Border Protection of the
20 Department of Homeland Security.

21 (3) The term “US-VISIT” means the United
22 States Visitor and Immigrant Status Indicator Tech-
23 nology maintained by the Bureau of Customs and
24 Border Protection of the Department of Homeland
25 Security.



1 **Subtitle B—Studies to Improve**
2 **Border Management and Immi-**
3 **gration Security**

4 **SEC. 1011. STUDY ON BIOMETRICS.**

5 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
6 rity, in consultation with the Director of the National In-
7 stitute of Standards and Technology, shall conduct a com-
8 prehensive study of all biometric identifiers that might be
9 collected for purposes of processing and adjudicating ap-
10 plications and petitions for immigration benefits, and shall
11 determine which among these identifiers would be most
12 appropriate for the purposes described in subsection (b).
13 The Secretary shall provide the resources necessary to
14 properly conduct the study.

15 (b) **USES.**—In carrying out subsection (a), the Sec-
16 retary shall consider the use of a biometric identifier—

17 (1) to register or catalogue a petition or appli-
18 cation for an immigration benefit upon submission
19 to the appropriate Federal agency;

20 (2) to check the petitioner or applicant against
21 watch lists;

22 (3) as part of the integrated entry and exit data
23 system required under section 110 of the Illegal Im-
24 migration Reform and Immigrant Responsibility Act
25 of 1996 (8 U.S.C. 1365a); and



1 (4) to conduct background checks with Federal
2 intelligence agencies.

3 (c) FACTORS.—The Secretary shall consider the fol-
4 lowing factors in making the determination under sub-
5 section (a):

6 (1) Accuracy

7 (2) The technology available.

8 (3) Economic considerations.

9 (4) Storage.

10 (5) Efficiency.

11 (6) Feasibility.

12 (d) SUBMISSION.—The study should be completed
13 not later than January 1, 2006, and shall be submitted
14 to the Committee on Homeland Security of the United
15 States House of Representatives.

16 **SEC. 1012. STUDY ON DIGITIZING IMMIGRATION BENEFIT**
17 **APPLICATIONS.**

18 (a) IN GENERAL.—The Secretary of Homeland Secu-
19 rity shall conduct a comprehensive study on digitizing all
20 applications and petitions for an immigration benefit, in-
21 cluding digital storage, cataloguing, and the ability to
22 apply for all types of immigration benefits through digital
23 means. The study should consider costs for both the Fed-
24 eral Government and the applicant or petitioner, as well



1 as the feasibility for all types of persons to apply by digital
2 means.

3 (b) SUBMISSION.—The study should be completed
4 not later than January 1, 2006, and shall be submitted
5 to the Committee on Homeland Security of the United
6 States House of Representatives.

7 **SEC. 1013. STUDY ON ELIMINATION OF ARRIVAL/DEPAR-**
8 **TURE PAPER FORMS.**

9 (a) IN GENERAL.—The Secretary of Homeland Secu-
10 rity shall conduct a comprehensive study on replacing De-
11 partment of Homeland Security paper Form Number I-
12 94 (Arrival/Departure Record) and Form Number I-94W
13 (NIV Waiver Arrival/Departure Record) with procedures
14 that ensure that the functions served by such forms are
15 being carried out by electronic or digitized means. The
16 study should consider the costs and savings to the Federal
17 Government of such replacement.

18 (b) SUBMISSION.—The study should be completed
19 not later than January 1, 2006, and shall be submitted
20 to the Committee on Homeland Security of the United
21 States House of Representatives.

22 **SEC. 1014. CATALOGUING IMMIGRATION APPLICATIONS BY**
23 **BIOMETRIC.**

24 (a) IN GENERAL.—The Secretary of Homeland Secu-
25 rity shall conduct a comprehensive study on whether all



1 applications and petitions for an immigration benefit shall
2 be registered or catalogued by the receiving agency using
3 a biometric identifier. The Secretary of Homeland Secu-
4 rity shall study one or more alternative biometric identi-
5 fiers to be used for such purposes.

6 (b) SUBMISSION.—The study should be completed
7 not later than January 1, 2006, and shall be submitted
8 to the Committee on Homeland Security of the United
9 States House of Representatives. It shall include rec-
10 ommendations for resource allocation.

11 **TITLE XI—SECURING CYBER-**
12 **SPACE AND HARNESSING**
13 **TECHNOLOGY TO PREVENT**
14 **DISASTER**

15 **Subtitle A—Department of Home-**
16 **land Security Cybersecurity En-**
17 **hancement**

18 **SEC. 1101. SHORT TITLE.**

19 This subtitle may be cited as the “Department of
20 Homeland Security Cybersecurity Enhancement Act of
21 2005”.

22 **SEC. 1102. ASSISTANT SECRETARY FOR CYBERSECURITY.**

23 Section 201(b) of the Homeland Security Act of 2002
24 (6 U.S.C. 121(b)) is amended—



1 (1) by redesignating paragraph (3) as para-
2 graph (4); and

3 (2) by inserting after paragraph (2) the fol-
4 lowing new paragraph:

5 “(3) ASSISTANT SECRETARY FOR
6 CYBERSECURITY.—There shall be in the Department
7 an Assistant Secretary for Cybersecurity, who shall
8 be appointed by the President.”; and

9 (3) in paragraph (4), as redesignated by sub-
10 paragraph (A) of this paragraph—

11 (A) by striking “Analysis and the” and in-
12 serting “Analysis, the”; and

13 (B) by striking “Protection shall” and in-
14 serting “Protection, and the Assistant Sec-
15 retary for Cybersecurity shall”.

16 **SEC. 1103. CYBERSECURITY TRAINING PROGRAMS AND**
17 **EQUIPMENT.**

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

24 (1) the establishment or expansion of
25 cybersecurity professional development programs;



1 (2) the establishment or expansion of associate
2 degree programs in cybersecurity; and

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

6 (b) ROLES.—

7 (1) DEPARTMENT OF HOMELAND SECURITY.—

8 The Secretary, acting through the Assistant Sec-
9 retary for Cybersecurity and in consultation with the
10 Director of the National Science Foundation, shall
11 establish the goals for the program established
12 under this section and the criteria for awarding
13 grants under the program.

14 (2) NATIONAL SCIENCE FOUNDATION.—The Di-
15 rector of the National Science Foundation shall op-
16 erate the program established under this section
17 consistent with the goals and criteria established
18 under paragraph (1), including soliciting applicants,
19 reviewing applications, and making and admin-
20 istering grant awards. The Director may consult
21 with the Assistant Secretary for Cybersecurity in se-
22 lecting awardees.

23 (3) FUNDING.—The Secretary shall transfer to
24 the National Science Foundation the funds nec-
25 essary to carry out this section.



1 (c) GRANT AWARDS.—

2 (1) PEER REVIEW.—All grant awards under
3 this section shall be made on a competitive, merit-
4 reviewed basis.

5 (2) FOCUS.—In making grant awards under
6 this section, the Director shall, to the extent prac-
7 ticable, ensure geographic diversity and the partici-
8 pation of women and underrepresented minorities.

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

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

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



1 **SEC. 1104. CYBERSECURITY RESEARCH AND DEVELOP-**
2 **MENT.**

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

6 **“SEC. 314. CYBERSECURITY RESEARCH AND DEVELOP-**
7 **MENT.**

8 “(a) **IN GENERAL.**—The Under Secretary for Science
9 and Technology shall support research and development,
10 including fundamental, long-term research, in
11 cybersecurity to improve the ability of the United States
12 to prevent, protect against, detect, respond to, and recover
13 from cyber attacks, with emphasis on research and devel-
14 opment relevant to large-scale, high-impact attacks.

15 “(b) **ACTIVITIES.**—The research and development
16 supported under subsection (a), shall include work to—

17 “(1) advance the development and accelerate
18 the deployment of more secure versions of funda-
19 mental Internet protocols and architectures, includ-
20 ing for the domain name system and routing proto-
21 cols;

22 “(2) improve and create technologies for detect-
23 ing attacks or intrusions, including monitoring tech-
24 nologies;

25 “(3) improve and create mitigation and recov-
26 ery methodologies, including techniques for contain-



1 ment of attacks and development of resilient net-
2 works and systems that degrade gracefully; and

3 “(4) develop and support infrastructure and
4 tools to support cybersecurity research and develop-
5 ment efforts, including modeling, testbeds, and data
6 sets for assessment of new cybersecurity tech-
7 nologies.

8 “(c) COORDINATION.—In carrying out this section,
9 the Under Secretary for Science and Technology shall co-
10 ordinate activities with—

11 “(1) the Assistant Secretary for Cybersecurity;
12 and

13 “(2) other Federal agencies, including the Na-
14 tional Science Foundation, the Defense Advanced
15 Research Projects Agency, and the National Insti-
16 tute of Standards and Technology, to identify unmet
17 needs and cooperatively support activities, as appro-
18 priate.

19 “(d) NATURE OF RESEARCH.—Activities under this
20 section shall be carried out in accordance with section
21 306(a) of this Act.”.



1 **Subtitle B—Coordination With**
2 **National Intelligence Director**

3 **SEC. 1111. IDENTIFICATION AND IMPLEMENTATION OF**
4 **TECHNOLOGIES THAT IMPROVE SHARING OF**
5 **INFORMATION WITH THE NATIONAL INTEL-**
6 **LIGENCE DIRECTOR.**

7 Section 201(d)(8) of the Homeland Security Act of
8 2002 (6 U.S.C. 121(d)) is amended by inserting “, includ-
9 ing identifying and implementing technologies that im-
10 prove sharing of information with the National Intel-
11 ligence Director,” after “within the Federal Government”.

12 **Subtitle C—Cybersecurity**
13 **Research**

14 **SEC. 1121. SUPPORT OF BASIC CYBERSECURITY RESEARCH.**

15 (a) IN GENERAL.—Title III of the Homeland Secu-
16 rity Act of 2002 (Public Law 107–296; 6 U.S.C. 121 et
17 seq.) is amended by adding the following:

18 **“SEC. 314. SUPPORT OF BASIC CYBERSECURITY RESEARCH.**

19 “The Secretary, through the Directorate of the De-
20 partment of Science and Technology and subject to the
21 availability of appropriations, shall fund basic
22 cybersecurity research, including the following:

23 “(1) Development of information technology de-
24 sign protocols, methodologies, and applications to
25 improve the integration of security control and pro-



1 tocols into next-generation-networks, mobile and
2 wireless networks, and computing devices and appli-
3 cations.

4 “(2) Development of network-based control
5 mechanisms for improving the capability of opera-
6 tors and service providers to disable malicious action
7 by hostile actors.

8 “(3) Development of mechanisms for improving
9 international network responsiveness to cybersecurity
10 threats, including predictive modeling, communica-
11 tion mechanisms and information sharing systems.

12 “(4) Modeling of the cyber vulnerabilities of the
13 Nation’s critical infrastructures, including Super-
14 visory Control and Data Acquisition (SCADA) and
15 Digital Control Systems (DCS).

16 “(5) Mapping of key interdependences, choke-
17 points, and single points-of-failure within the Na-
18 tion’s cyber critical infrastructure and the develop-
19 ment of remediation programs.

20 “(6) Development of technologies, methodolo-
21 gies, and applications to mitigate the most common
22 cyber vulnerabilities affecting networks, including vi-
23 ruses, worms, and denial-of-service attacks.



1 (1) DEPARTMENT OF HOMELAND SECURITY.—
2 The Secretary, acting through the Assistant Sec-
3 retary for Cybersecurity and in consultation with the
4 Director of the National Science Foundation, shall
5 establish the goals for the program established
6 under this section and the criteria for awarding
7 grants under the program.

8 (2) NATIONAL SCIENCE FOUNDATION.—The Di-
9 rector of the National Science Foundation shall op-
10 erate the program established under this section
11 consistent with the goals and criteria established
12 under paragraph (1), including soliciting applicants,
13 reviewing applications, and making and admin-
14 istering grant awards. The Director may consult
15 with the Assistant Secretary for Cybersecurity in se-
16 lecting awardees.

17 (3) FUNDING.—The Secretary shall transfer to
18 the National Science Foundation the funds nec-
19 essary to carry out this section.

20 (c) GRANT AWARDS.—

21 (1) PEER REVIEW.—All grant awards under
22 this section shall be made on a competitive, merit-
23 reviewed basis.

24 (2) FOCUS.—In making grant awards under
25 this section, the Director shall, to the extent prac-



1 ticable, ensure geographic diversity and the partici-
2 pation of women and underrepresented minorities.

3 (3) PREFERENCE.—In making grant awards
4 under this section, the Director shall give preference
5 to applications submitted by consortia of institutions
6 to encourage as many students and professionals as
7 possible to benefit from this program.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
9 authorized to be appropriated to the Secretary for car-
10 rying out this section \$3,700,000 for fiscal year 2006.

11 (e) DEFINITIONS.—In this section, the term “institu-
12 tion of higher education” has the meaning given that term
13 in section 101(a) of the Higher Education Act of 1965
14 (20 U.S.C. 1001(a)).

15 **TITLE XII—HELPING FIRST RE-**
16 **SPONDERS GET THEIR JOB**
17 **DONE**

18 **Subtitle A—Communications**
19 **Interoperability**

20 **SEC. 1201. INTEROPERABLE COMMUNICATIONS TECH-**
21 **NOLOGY GRANT PROGRAM.**

22 Section 430 of the Homeland Security Act of 2002
23 (6 U.S.C. 238) is amended by adding at the end the fol-
24 lowing:

25 “(e) INTEROPERABLE COMMUNICATIONS GRANTS.—



1 “(1) DEFINITIONS.—In this subsection, the fol-
2 lowing definitions shall apply:

3 “(A) COMMUNICATIONS INTEROPER-
4 ABILITY.—The term ‘communications interoper-
5 ability’ means the ability of public safety service
6 and support providers, including emergency re-
7 sponse providers, to communicate with other re-
8 sponding agencies and Federal agencies if nec-
9 essary, through information technology systems
10 and radio communications systems, and to ex-
11 change voice, data, or video with one another on
12 demand, in real time, as necessary.

13 “(B) ELIGIBLE STATE.—The term ‘eligible
14 State’ means a State that—

15 “(i) has submitted a plan under para-
16 graph (4); and

17 “(ii) the Secretary determines has not
18 achieved adequate statewide communica-
19 tions interoperability.

20 “(C) PUBLIC SAFETY AGENCIES.—The
21 term ‘public safety agencies’ includes emergency
22 response providers and any other persons that
23 the Secretary determines must communicate ef-
24 fectively with one another to respond to emer-
25 gencies.



1 “(2) IN GENERAL.—The Secretary shall—

2 “(A) make grants on a competitive basis
3 directly to local governments (including a con-
4 sortium of local governments) and public safety
5 agencies within eligible States, in consultation
6 with the chief executives of the State or States,
7 for the purpose of assisting in the development
8 of interoperable communications systems at any
9 stage, including—

10 “(i) planning, system design, and en-
11 gineering;

12 “(ii) procurement and installation of
13 equipment;

14 “(iii) operations and maintenance of
15 equipment; and

16 “(iv) testing and technology develop-
17 ment; and

18 “(B) make grants to eligible States for ini-
19 tiatives necessary to achieve communications
20 interoperability within each State, including—

21 “(i) statewide communications plan-
22 ning;

23 “(ii) system design and engineering;

24 “(iii) procurement and installation of
25 equipment;



1 “(iv) operations and maintenance of
2 equipment; and

3 “(v) testing and technology develop-
4 ment initiatives.

5 “(3) COORDINATION.—

6 “(A) IN GENERAL.—The Secretary shall
7 ensure that grants administered under this sub-
8 section are coordinated with the activities of
9 other entities of the Department and other Fed-
10 eral entities so that grants awarded under this
11 subsection, and other grant programs related to
12 homeland security, facilitate the achievement of
13 the strategy developed under section 6 of the
14 Faster and Smarter Funding for First Re-
15 sponders Act of 2005.

16 “(B) RELATIONSHIP TO EXISTING GRANT
17 PROGRAMS.—Nothing in this Act shall provide
18 for the combination of grant funds among the
19 grant program established under this subsection
20 and any other grant programs administered by
21 the Department of Homeland Security, includ-
22 ing the State Homeland Security Grant Pro-
23 gram of the Department, or any successor to
24 such grant program, and the Urban Area Secu-



1 rity Initiative of the Department, or any suc-
2 cessor to such grant program.

3 “(4) ELIGIBILITY.—

4 “(A) SUBMISSION OF PLAN.—To be eligi-
5 ble to receive a grant under this subsection,
6 each eligible State, or local governments or pub-
7 lic safety agencies within an eligible State or
8 States, shall submit a communications inter-
9 operability plan to the Secretary that—

10 “(i) addresses any stage of the devel-
11 opment of interoperable communications
12 systems, including planning, system design
13 and engineering, procurement and installa-
14 tion, operations and maintenance, and test-
15 ing and technology development;

16 “(ii) if the applicant is not a State,
17 includes a description of how the applicant
18 addresses the goals specified in any appli-
19 cable State plan or plans submitted under
20 this section; and

21 “(iii) is approved by the Secretary.

22 “(B) INCORPORATION AND CONSIST-
23 ENCY.—A plan submitted under subparagraph
24 (A) may be part of, and shall be consistent
25 with, any other homeland security plans re-



1 quired of the submitting party by the Depart-
2 ment.

3 “(5) AWARD OF GRANTS.—

4 “(A) CONSIDERATIONS.—In approving
5 plans and awarding grants under this sub-
6 section, the Secretary shall consider—

7 “(i) the nature of the threat to the eli-
8 gible State or local jurisdiction;

9 “(ii) the location, risk, or vulnerability
10 of critical infrastructure and key national
11 assets;

12 “(iii) the number, as well as the den-
13 sity, of persons who will be served by inter-
14 operable communications systems;

15 “(iv) the extent of the partnerships,
16 existing or planned, established between
17 local jurisdictions and agencies partici-
18 pating in the development of interoperable
19 communications systems, and their coordi-
20 nation with Federal and State agencies;

21 “(v) the level of communications
22 interoperability already achieved by the ju-
23 risdictions;

24 “(vi) the extent to which the commu-
25 nications interoperability plan submitted

1 under paragraph (4) adequately addresses
2 steps necessary to implement short-term or
3 long-term solutions to communications
4 interoperability;

5 “(vii) the extent to which eligible
6 States and local governments, in light of
7 their financial capability, demonstrate their
8 commitment to expeditiously achieving
9 communications interoperability by
10 supplementing Federal funds with non-
11 Federal funds;

12 “(viii) the extent to which grants will
13 expedite the achievement of interoperability
14 in the relevant jurisdiction with Federal,
15 State, and local agencies; and

16 “(ix) the extent to which grants will
17 be utilized to implement advanced commu-
18 nications technologies to promote inter-
19 operability.

20 “(B) COST SHARING.—

21 “(i) IN GENERAL.—The Federal share
22 of the costs of an activity carried out with
23 a grant to an applicant awarded under this
24 section shall not exceed 75 percent.



1 “(ii) IN-KIND MATCHING.—Each re-
2 cipient of a covered grant may meet the
3 matching requirement under clause (i) by
4 making in-kind contributions of goods or
5 services that are directly linked with the
6 purpose for which the grant is made, in-
7 cluding personnel overtime, contractor
8 services, administrative costs, equipment
9 fuel and maintenance, and rental space.

10 “(6) REIMBURSEMENT.—

11 “(A) IN GENERAL.—Unless otherwise re-
12 quested by the recipient of a grant under this
13 subsection, grants shall not be awarded to reim-
14 burse the recipient for prior expenditures re-
15 lated to achieving communications interoper-
16 ability.

17 “(B) EXCEPTION.—The Secretary shall re-
18 imburse public safety agencies directly for costs
19 incurred for expenditures related to achieving
20 communications interoperability, if—

21 “(i) the public safety agency expended
22 funds after September 11, 2001, and be-
23 fore the date of enactment of this sub-
24 section; and



1 ucts to be reverse engineered, so that interoperability can
2 be assured regardless of manufacturer.

3 (b) REPORT.—The Secretary shall submit to the Con-
4 gress a report on the findings, conclusions, and rec-
5 ommendation of the study by not later than 6 months
6 after the date of the enactment of this Act.

7 **SEC. 1203. PREVENTION OF DELAY IN REASSIGNMENT OF**
8 **DEDICATED SPECTRUM FOR PUBLIC SAFETY**
9 **PURPOSES.**

10 It is the sense of Congress that—

11 (1) communications interoperability is a critical
12 problem faced by our Nation's first responders;

13 (2) permanently correcting this problem re-
14 quires broadcast spectrum dedicated for use by first
15 responders; and

16 (3) Congress supports prompt action to make
17 certain dedicated spectrum is available for use by
18 first responders.

19 **Subtitle B—Homeland Security**
20 **Terrorism Exercises**

21 **SEC. 1211. SHORT TITLE.**

22 This subtitle may be cited as the "Homeland Security
23 Terrorism Exercises Act of 2005."



1 **SEC. 1212. NATIONAL TERRORISM EXERCISE PROGRAM.**

2 (a) IN GENERAL.—Section 430 of the Homeland Se-
3 curity Act of 2002 (6 U.S.C. 238) is amended by striking
4 “and” after the semicolon at the end of paragraph (8),
5 by striking the period at the end of paragraph (9) and
6 inserting “; and”, and by adding at the end the following:

7 “(10) designing, developing, performing, and
8 evaluating exercises at the National, State, terri-
9 torial, regional, local, and tribal levels of government
10 that incorporate government officials, emergency re-
11 sponse providers, public safety agencies, the private
12 sector, international governments and organizations,
13 and other appropriate entities to test the Nation’s
14 capability to prevent, prepare for, respond to, and
15 recover from threatened or actual acts of ter-
16 rorism.”.

17 (b) NATIONAL TERRORISM EXERCISE PROGRAM.—

18 (1) ESTABLISHMENT OF PROGRAM.—Title VIII
19 of the Homeland Security Act of 2002 (Public Law
20 107–296) is amended by adding at the end the fol-
21 lowing new subtitle:

22 **“Subtitle J—Terrorism**
23 **Preparedness Exercises**

24 **“SEC. 899a. NATIONAL TERRORISM EXERCISE PROGRAM.**

25 “(a) IN GENERAL.—The Secretary, through the Of-
26 fice for Domestic Preparedness, shall establish a National



1 Terrorism Exercise Program for the purpose of testing
2 and evaluating the Nation's capabilities to prevent, pre-
3 pare for, respond to, and recover from threatened or ac-
4 tual acts of terrorism that—

5 “(1) enhances coordination for terrorism pre-
6 paredness between all levels of government, emer-
7 gency response providers, international governments
8 and organizations, and the private sector;

9 “(2) is—

10 “(A) multidisciplinary in nature, including,
11 as appropriate, information analysis and
12 cybersecurity components;

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

16 “(C) carried out with the minimum degree
17 of notice to involved parties regarding the tim-
18 ing and details of such exercises, consistent
19 with safety considerations;

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

23 “(E) assessed to learn best practices,
24 which shall be shared with appropriate Federal,
25 State, territorial, regional, local, and tribal per-



1 sonnel, authorities, and training institutions for
2 emergency response providers; and

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

6 “(A) conform to the requirements of para-
7 graph (2); and

8 “(B) are consistent with any applicable
9 State homeland security strategy or plan.

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

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

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

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



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

 “Subtitle J—Terrorism Preparedness Exercises

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

5 **Subtitle C—Citizenship**
6 **Preparedness**

7 **SEC. 1221. FINDINGS.**

8 The Congress finds that individual citizens must be
9 a significant part of our overall approach to the Nation’s
10 security because—

11 (1) September 11, 2001, confirmed that all
12 Americans have responsibility for homeland security;

13 (2) the United States will not be secure until
14 the hometown is secure and the “publicity and the
15 vigilance of ordinary Americans make a difference”
16 in their communities’ abilities to prepare for, to
17 train for, and to respond to disasters of all kinds;
18 and

19 (3) emergency responders can become over-
20 whelmed in a catastrophic event and citizens must
21 be prepared and trained to take care of themselves
22 and others.



1 **SEC. 1222. PURPOSES.**

2 The purpose of this title is to to provide an orderly
3 and continuing means of assistance by the Federal Gov-
4 ernment to State, local, and tribal governments in car-
5 rying out their responsibilities to engage all Americans in
6 homeland security to provide an orderly and continuing
7 means of assistance by the Federal Government to State,
8 local, and tribal governments in carrying out their respon-
9 sibilities to engage all Americans in homeland security
10 by—

11 (1) achieving greater coordination among citi-
12 zens, the private sector, non-governmental organiza-
13 tions, and all emergency responder disciplines
14 through Citizen Corps Councils;

15 (2) encouraging individuals and communities to
16 prepare for all hazards and threats;

17 (3) providing Federal assistance to establish, to
18 build, and to sustain Citizen Corps Councils, which
19 foster a comprehensive partnership among all emer-
20 gency responder disciplines, government officials, the
21 private sector, community and faith-based organiza-
22 tions to develop a local, risk-based strategy plan to
23 engage citizens in hometown security through accu-
24 rate preparedness information through public edu-
25 cation and outreach; timely event-based information,
26 including alerts and warnings; training in prepared-



1 by the Executive Director of the Office of State and Local
2 Government Coordination and Preparedness under the su-
3 pervision and direction of the Secretary.

4 “(b) EXECUTIVE DIRECTOR.—The Executive Direc-
5 tor—

6 “(1) shall serve as Chair of the National Citizen
7 Corps Council;

8 “(2) shall convene meetings of the National Cit-
9 izen Corps Council at his own discretion or at the
10 direction of the Secretary;

11 “(3) shall coordinate with State, local, and trib-
12 al government personnel, agencies, and authorities,
13 and with the private sector, to ensure adequate plan-
14 ning, equipment, training, and exercise activities to
15 fulfill the mission of engaging citizens in homeland
16 security; and

17 “(4) shall provide periodic reports on the status
18 of Citizen Corps and citizen preparedness to the
19 Homeland Security Council through the Secretary.

20 “(c) USES OF FUNDS.—Funds made available under
21 this title shall be used for the following:

22 “(1) Activities related to the component pro-
23 grams of Citizen Corps, including but not limited to
24 Community Emergency Response Teams, Fire



1 Corps, Volunteers in Police Service, USA on Watch,
2 and Medical Reserve Corps.

3 “(2) To provide funding to States in accordance
4 with Public Law 107–296, except that States must
5 pass through at least 80 percent of funds received
6 under this title to local Citizen Corps Councils.

7 “(3) State and local Citizen Corps councils may
8 purchase educational materials for use in elementary
9 and secondary schools for emergency preparedness
10 education programs.

11 “(d) COORDINATION WITH OTHER FEDERAL ENTI-
12 TIES.—The Executive Director—

13 “(1) shall support the coordination among all
14 Federal entities to develop and sustain Citizen Corps
15 and citizen preparedness and participation, espe-
16 cially the Departments of Health and Human Serv-
17 ices, Justice, Commerce, Education, the Environ-
18 mental Protection Agency, and Corporation for Na-
19 tional and Community Service; and

20 “(2) shall have the authority to make contracts,
21 grants, and cooperative agreements, and to enter
22 into agreements with other executive agencies, as
23 may be necessary and proper to carry out the Exec-
24 utive Director’s responsibilities under this title or
25 otherwise provided by law.



1 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to carry out the provisions of this title—

4 “(1) for fiscal year 2006, \$50 million;

5 “(2) for fiscal year 2007, \$55 million;

6 “(3) for fiscal year 2008, \$60 million;

7 “(4) for fiscal year 2009, \$65 million; and

8 “(5) for fiscal year 2010, \$70 million.

9 **“SEC. 105. PRIVATE SECTOR EMERGENCY PREPAREDNESS**
10 **PROGRAM.**

11 “(a) PREPAREDNESS PROGRAM.—Not later than 90
12 days after the date of the enactment of this title, the Sec-
13 retary shall develop and implement a program to enhance
14 private sector preparedness for emergencies and disasters,
15 including emergencies resulting from acts of terrorism.

16 “(b) PROGRAM ELEMENTS.—In carrying out the pro-
17 gram, the Secretary shall develop guidance and identify
18 best practices to assist or foster action by the private sec-
19 tor in—

20 “(1) identifying hazards and assessing risks
21 and impacts;

22 “(2) mitigating the impacts of a wide variety of
23 hazards, including weapons of mass destruction;

24 “(3) managing necessary emergency prepared-
25 ness and response resources;



1 “(4) developing mutual aid agreements;

2 “(5) developing and maintaining emergency
3 preparedness and response plans, as well as associ-
4 ated operational procedures;

5 “(6) developing and maintaining communica-
6 tions and warning systems;

7 “(7) developing and conducting training and ex-
8 ercises to support and evaluate emergency prepared-
9 ness and response plans and operational procedures;

10 “(8) developing and conducting training pro-
11 grams for security guards to implement emergency
12 preparedness and response plans and operations pro-
13 cedures; and

14 “(9) developing procedures to respond to exter-
15 nal requests for information from the media and the
16 public.

17 “(c) STANDARDS.—

18 “(1) IN GENERAL.— The Secretary shall sup-
19 port the development of, promulgate, and regularly
20 update as necessary national voluntary consensus
21 standards for private sector emergency preparedness
22 that will enable private sector organizations to
23 achieve optimal levels of emergency preparedness as
24 soon as practicable. Such standards include the Na-
25 tional Fire Protection Association 1600 Standard on



1 Disaster/Emergency Management and Business Con-
2 tinuity Programs.

3 “(2) CONSULTATION.—The Secretary shall
4 carry out paragraph (1) in consultation with the
5 Under Secretary for Emergency Preparedness and
6 Response, the Under Secretary for Science and
7 Technology, the Under Secretary for Information
8 Analysis and Infrastructure Protection, and the Spe-
9 cial Assistant to the Secretary for the Private Sec-
10 tor.

11 “(d) COORDINATION.—The Secretary shall coordi-
12 nate the program with, and utilize to the maximum extent
13 practicable—

14 “(1) the voluntary standards for disaster and
15 emergency management and business continuity pro-
16 grams developed by the American National Stand-
17 ards Institute and the National Fire Protection As-
18 sociation; and

19 “(2) any existing private sector emergency pre-
20 paredness guidance or best practices developed by
21 private sector industry associations or other organi-
22 zations.”.



1 “(4) conduct periodic assessments into the
2 needs and capabilities of emergency medical services
3 providers, including governmental and nongovern-
4 mental providers;

5 “(5) conduct periodic research into the number
6 of emergency medical services personnel, including
7 governmental and nongovernmental emergency med-
8 ical services, as well emergency medical services pro-
9 viders that are associated with fire departments or
10 hospital-based.

11 “(e) **NATIONWIDE NEEDS ASSESSMENT.**—The head
12 of the Emergency Medical Services Administration shall
13 conduct nationwide needs assessment of emergency med-
14 ical services capabilities and needs related to equipment,
15 training, and personnel.”.

16 “(b) **CLERICAL AMENDMENT.**—The table of contents
17 in section 1(b) of such Act is amended by adding at the
18 end of the items related to title V the following:

“Sec. 510. Emergency Medical Services Administration.”.

19 **SEC. 1232. SENSE OF CONGRESS.**

20 The Secretary of the Department of Homeland Secu-
21 rity should review the current system for distributing
22 Emergency Management Performance Grants and con-
23 sider distributing grant funds to State emergency man-
24 agers rather than to State homeland security directors.



1 **Subtitle E—Lessons Learned**
2 **Information Sharing System**

3 **SEC. 1241. LESSONS LEARNED, BEST PRACTICES, AND COR-**
4 **RECTIVE ACTION.**

5 (a) **IN GENERAL.**—In conjunction with the National
6 Memorial Institute for the Prevention of Terrorism
7 (MIPT) in Oklahoma City, Oklahoma, the Secretary shall
8 support the continued growth and operation of the Les-
9 sons Learned Information Sharing (LLIS.gov) system to
10 promote the generation and dissemination of peer-vali-
11 dated lessons learned, best practices, and corrective ac-
12 tions across the entire range of emergency response and
13 homeland security disciplines for all local, state, tribal,
14 and national jurisdictions. Lessons Learned Information
15 Sharing is the recognized national collaborative network
16 to enhance preparedness and prevention capabilities
17 throughout the country. In supporting Lessons Learned
18 Information Sharing, the Secretary shall ensure the fol-
19 lowing:

20 (1) that the National Memorial Institute for the
21 Prevention Terrorism (MIPT), in its unique role as
22 an independent and honest broker of lessons learned,
23 best practices, and corrective action, remain the De-
24 partment's official steward of Lessons Learned In-
25 formation Sharing;



1 (2) that the Lessons Learned Information
2 Sharing system be expanded to include research and
3 analysis on all primary, secondary, and tertiary
4 emergency response and homeland security dis-
5 ciplines;

6 (3) that the successful model of the Lessons
7 Learned Information Sharing system be applied to
8 address the lessons learned and best practices needs
9 of both the private sector and the American public
10 at large;

11 (4) that the Lessons Learned Information
12 Sharing system be expanded and made available to
13 the emergency responders and domestic security offi-
14 cials of our international allies, as deemed appro-
15 priate by the Secretary, to include the collection and
16 accommodation of international lessons learned and
17 best practices;

18 (5) that the Lessons Learned Information
19 Sharing system serve as the host platform and par-
20 ent system for the Department's Corrective Action
21 and Improvement Program that supports the Home-
22 land Security National Exercise Program, Senior Of-
23 ficials Exercises, and Top Officials (TopOff) exer-
24 cises, in accordance with the Department's Home-



1 land Security Exercise and Evaluation Program
2 (HSEEP);

3 (6) that the Lessons Learned Information
4 Sharing system support the continued analysis and
5 implementation of the National Preparedness Goal
6 and National Preparedness Guidance as required by
7 Homeland Security Presidential Decision Directive
8 Eight;

9 (7) that the Lessons Learned Information
10 Sharing System shall study the feasibility of devel-
11 oping a non-secure section for non-confidential and
12 non-sensitive information;

13 (b) AUTHORIZATION OF APPROPRIATIONS.—The Sec-
14 retary is authorized to be appropriated \$17,000,000 for
15 the fiscal year 2006 to carry out the above requirements.

16 **Subtitle F—Technology Transfer**
17 **Clearinghouse**

18 **SEC. 1251. SHORT TITLE.**

19 This subtitle may be cited as the “Department of
20 Homeland Security Technology Development and Trans-
21 fer Act of 2005”.

22 **SEC. 1252. TECHNOLOGY DEVELOPMENT AND TRANSFER.**

23 (a) ESTABLISHMENT OF TECHNOLOGY CLEARING-
24 HOUSE.—Not later than 90 days after the date of enact-
25 ment of this Act, the Secretary shall complete the estab-



1 lishment of the Technology Clearinghouse under Section
2 313 of the Homeland Security Act of 2002.

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

5 (1) by adding at the end of subsection (b) the
6 following new paragraph:

7 “(6) The establishment of a homeland security
8 technology transfer program to facilitate the identi-
9 fication, modification, and commercialization of tech-
10 nology and equipment for use by Federal, State, and
11 local governmental agencies, emergency response
12 providers, and the private sector to prevent, prepare
13 for, or respond to acts of terrorism.”;

14 (2) by redesignating subsection (c) as sub-
15 section (d); and

16 (3) by inserting after subsection (b) the fol-
17 lowing new subsection:

18 “(c) TECHNOLOGY TRANSFER PROGRAM.—In devel-
19 oping the program described in subsection (b)(6), the Sec-
20 retary, acting through the Under Secretary for Science
21 and Technology, shall—

22 “(1) in consultation with the other Undersecre-
23 taries of the Department and the Director of the Of-
24 fice for Domestic Preparedness, on an ongoing
25 basis—



1 “(A) conduct surveys and reviews of avail-
2 able appropriate technologies that have been, or
3 are in the process of being developed or dem-
4 onstrated by the Department, other Federal
5 agencies, or the private sector or foreign gov-
6 ernments and international organizations and
7 that may be useful in assisting Federal, State,
8 and local governmental agencies, emergency re-
9 sponse providers, or the private sector to pre-
10 vent, prepare for, or respond to acts of ter-
11 rorism;

12 “(B) conduct or support research and de-
13 velopment as appropriate of technologies identi-
14 fied under subparagraph (A), including any
15 necessary modifications to such technologies for
16 anti-terrorism use;

17 “(C) communicate to Federal, State, and
18 local governmental agencies, emergency re-
19 sponse providers, or the private sector the avail-
20 ability of such technologies for anti-terrorism
21 use, as well as the technology’s specifications,
22 satisfaction of appropriate standards; and the
23 appropriate grants available from the Depart-
24 ment to purchase such technologies;



1 “(D) coordinate the selection and adminis-
2 tration of all technology transfer activities of
3 the Science and Technology Directorate, includ-
4 ing projects and grants awarded to the private
5 sector and academia; and

6 “(E) identify priorities based on current
7 risk assessments within the Department of
8 Homeland Security for identifying, researching,
9 developing, modifying, and fielding existing
10 technologies for anti-terrorism purposes; and

11 “(2) in support of the activities described in
12 paragraph (1)—

13 “(A) consult with Federal, State, and local
14 emergency response providers;

15 “(B) consult with government and nation-
16 ally recognized standards organizations as ap-
17 propriate;

18 “(C) enter into agreements and coordinate
19 with other Federal agencies and foreign govern-
20 ments and international organizations as the
21 Secretary determines appropriate, in order to
22 maximize the effectiveness of such technologies
23 or to facilitate commercialization of such tech-
24 nologies; and



1 “(D) consult with existing technology
2 transfer programs and Federal and State train-
3 ing centers that research, develop, and transfer
4 military and other technologies for use by emer-
5 gency response providers.”.

6 (c) REPORT.—Not later than one year after the date
7 of enactment of this Act, the Under Secretary for Science
8 and Technology shall transmit to the Congress a descrip-
9 tion of the progress the Department has made in imple-
10 menting the provisions of section 313 of the Homeland
11 Security Act of 2002, as amended by this Act, including
12 a description of the process used to review unsolicited pro-
13 posals received as described in subsection (b)(3) of such
14 section.

15 (d) SAVINGS CLAUSE.—Nothing in this section (in-
16 cluding the amendments made by this section) shall be
17 construed to alter or diminish the effect of the limitation
18 on the authority of the Secretary of Homeland Security
19 under section 302(4) of the Homeland Security Act of
20 2002 (6 U.S.C. 182(4)) with respect to human health-re-
21 lated research and development activities.



1 **Subtitle G—Metropolitan Medical**
2 **Response System**

3 **SEC. 1261. METROPOLITAN MEDICAL RESPONSE SYSTEM;**
4 **AUTHORIZATION OF APPROPRIATIONS.**

5 (a) **AUTHORIZATIONS OF APPROPRIATIONS.**—For the
6 Metropolitan Medical Response System within the Depart-
7 ment of Homeland Security, there is authorized to be ap-
8 propriated \$50,000,000 for each of the fiscal years 2006
9 through 2008.

10 (b) **RESERVATION OF AMOUNTS FOR LOCAL RESPON-**
11 **SIBILITIES.**—Of the amounts appropriated under sub-
12 section (a) for a fiscal year, the Secretary of Homeland
13 Security shall reserve not less than 90 percent to provide
14 funds to the appropriate local entities for carrying out
15 local responsibilities with respect to the Metropolitan Med-
16 ical Response System.

17 **TITLE XIII—FIGHTING**
18 **DOMESTIC TERRORISM**

19 **SEC. 1301. ADVISORY COMMITTEE ON DOMESTIC TER-**
20 **RORIST ORGANIZATIONS.**

21 (a) **REQUIREMENT TO ESTABLISH.**—Title I of the
22 Homeland Security Act of 2002 (Public Law 107–296)
23 is amended by adding at the end the following:



1 **“SEC. 104. ADVISORY COMMITTEE ON DOMESTIC TER-**
2 **RORIST ORGANIZATIONS.**

3 “(a) ESTABLISHMENT.—To assist the Secretary in
4 identifying the threat posed by domestic terrorist organi-
5 zations, the Secretary shall establish an advisory body pur-
6 suant to section 871(a) by not later than 60 days after
7 the date of the enactment of this section, which shall be
8 known as the Advisory Committee on Domestic Terrorist
9 Organizations.

10 “(b) REPORT.—The advisory committee shall submit
11 to the Secretary, by not later than 6 months after its es-
12 tablishment by the Secretary under subsection (a) and not
13 later than every 1 year thereafter, a report on the threat
14 posed by domestic terrorist organizations. Each report
15 shall—

16 “(1) include an assessment of the nature and
17 scope of domestic terrorist organization threats to
18 the homeland;

19 “(2) detect and identify threats of domestic ter-
20 rorist organizations against the United States;

21 “(3) assess the Department’s performance in
22 detecting, identifying, and countering domestic ter-
23 rorist organizations and their threat to the home-
24 land; and

25 “(4) suggest improvements in the Department’s
26 efforts to detect, identify, and counter domestic ter-



1 rorist organizations and their threat to the home-
2 land.

3 “(c) ADVISE ON PARTICULAR THREATS.—At the Sec-
4 retary’s discretion, the Advisory Committee may also ad-
5 vise the Secretary on particular threats posed by domestic
6 terrorist organizations.

7 “(d) MEMBERSHIP.—

8 “(1) IN GENERAL.—The Advisory Committee
9 shall consist of representatives of 15 organizations
10 that have long-standing experience in monitoring do-
11 mestic terrorist organizations and assessing their
12 danger, and shall include a representative of each
13 of—

14 “(A) the Southern Poverty Law Center;

15 “(B) the Simon Wiesenthal Center;

16 “(C) the Anti-Defamation League;

17 “(D) the National Association for the Ad-
18 vancement of Colored People;

19 “(E) the Arab American Institute;

20 “(F) the American-Arab Anti-Discrimina-
21 tion Committee;

22 “(G) the National Coalition of Anti-Vio-
23 lence Programs; and

24 “(H) the National Abortion Federation.



1 “(2) EX OFFICIO MEMBERS.—The Secretary
 2 shall designate one or more officers of the Depart-
 3 ment to serve as ex officio members of the Advisory
 4 Committee. One of such ex officio members from the
 5 Department shall be the designated officer of the
 6 Federal Government for purposes of subsection (e)
 7 of section 10 of the Federal Advisory Committee Act
 8 (5 App. U.S.C.).

9 “(e) APPLICABILITY OF FEDERAL ADVISORY COM-
 10 MITTEE ACT.—Notwithstanding section 871(a), the Fed-
 11 eral Advisory Committee Act (5 App. U.S.C.), including
 12 subsections (a), (b), and (d) of section 10 of such Act,
 13 and section 552b(c) of title 5, United States Code, shall
 14 apply to the Task Force.

15 “(f) TERRORIST ORGANIZATION DEFINED.—In this
 16 section, the term ‘domestic terrorist organization’ means
 17 an organization that is based primarily in the United
 18 States and that engages in domestic terrorism (as that
 19 term is defined in section 2331 of title 18, United States
 20 Code) or that has the capability and intent to engage in
 21 domestic terrorism.”.

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

“Sec. 104. Advisory Committee on Domestic Terrorist Organizations.”.



1 **TITLE XIV—CREATING A DI-**
2 **VERSE AND MANAGEABLE DE-**
3 **PARTMENT OF HOMELAND**
4 **SECURITY**

5 **Subtitle A—Authorities of Privacy**
6 **Officer**

7 **SEC. 1401. AUTHORITIES OF PRIVACY OFFICER.**

8 Section 222 of the Homeland Security Act of 2002
9 (6 U.S.C. 142) is amended—

10 (1) by inserting before the first sentence the
11 following: “(a) APPOINTMENT AND RESPONSIBIL-
12 ITIES.—”;

13 (2) in subsection (a) (as designated by the
14 amendment made by paragraph (1) of this section)
15 by striking “to assume” and inserting “as the Pri-
16 vacy Officer of the Department. The Privacy Officer
17 shall have”; and

18 (3) by adding at the end the following:

19 “(b) AUTHORITY TO INVESTIGATE.—The Privacy Of-
20 ficer shall have the same authority as the Inspector Gen-
21 eral of the Department to require employees of the De-
22 partment to produce documents and answer questions,
23 with respect to any matter within the authority of the sen-
24 ior official under subsection (a).



1 “(c) **TERM OF OFFICE.**—The term of appointment of
2 an individual as Privacy Officer shall be 5 years.

3 “(d) **REPORTS TO CONGRESS.**—The Privacy Officer
4 shall submit reports directly to the Congress regarding
5 any matter within the authority of the Privacy Officer
6 under this section, without any prior comment or amend-
7 ment from the Secretary, Deputy Secretary, or any other
8 officer or employee of the Department or the Office of
9 Management and Budget.”.

10 **Subtitle B—Ensuring Diversity in**
11 **Department of Homeland Secu-**
12 **rity Programs**

13 **SEC. 1411. ANNUAL REPORTS RELATING TO EMPLOYMENT**
14 **OF COVERED PERSONS.**

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

16 (1) the term “Secretary” means the Secretary
17 of Homeland Security;

18 (2) the term “Department” means the Depart-
19 ment of Homeland Security;

20 (3) the term “covered persons” means—

21 (A) racial and ethnic minorities;

22 (B) women; and

23 (C) individuals with disabilities;

24 (4) the term “category”, as used with respect
25 to covered persons, refers to the categories of per-



1 sons identified in subparagraphs (A), (B), and (C),
2 respectively, of paragraph (3); and

3 (5) the term "element", as used with respect to
4 the Department, means a directorate of the Depart-
5 ment and the office of the Secretary.

6 (b) ANNUAL REPORTS.—Not later than February 1
7 of each year, the Secretary shall prepare and transmit to
8 each House of Congress a report on the employment of
9 covered persons by the Department during the preceding
10 fiscal year. Each such report shall include, for each ele-
11 ment of the Department, the following:

12 (1) The total number of individuals holding po-
13 sitions within such element as of the end of such fis-
14 cal year and, of that number, the percentage (in the
15 aggregate and by category) that covered persons
16 comprised.

17 (2) For each pay grade, pay band, or other pay
18 classification of each pay schedule and for every
19 other rate of pay—

20 (A) the total number of individuals holding
21 positions within such element as of the end of
22 such fiscal year who were subject to each such
23 pay classification or rate; and

24 (B) of the respective numbers under sub-
25 paragraph (A), the percentage (in the aggregate



1 and by category) that covered persons com-
2 prised.

3 (3) The total number of individuals appointed
4 to positions within such element during such fiscal
5 year and, of that number, the percentage (in the ag-
6 gregate and by category) that covered persons com-
7 prised.

8 (c) UNCLASSIFIED FORM.—Each report under this
9 section shall be submitted in unclassified form, but may
10 include a classified annex if the Secretary considers one
11 to be necessary.

12 **SEC. 1412. PROCUREMENT.**

13 (a) REPORT.—Not later than 360 days after the date
14 of the enactment of this Act, the Chief Procurement Offi-
15 cer of the Department of Homeland Security shall submit
16 to the Secretary of Homeland Security, the Committee on
17 Homeland Security of the House of Representatives, and
18 the Committee on Homeland Security and Governmental
19 Affairs of the Senate a report that—

20 (1) identifies each program of the Department
21 for which the aggregate value of contracts awarded
22 in fiscal year 2005 under the program to persons
23 that are small disadvantaged business, women-owned
24 small businesses, or historically underutilized busi-
25 ness zones (popularly known as “HUBZones”) was



1 less than 5 percent of the total value of all contracts
2 awarded under the program in that fiscal year; and

3 (2) identifies and describes any barriers to
4 achieving a goal of awarding to such persons each
5 fiscal year contracts having an aggregate value of at
6 least 5 percent of the total value of all contracts
7 awarded under the program in the fiscal year.

8 (b) ACTION PLAN.—

9 (1) ACTION PLAN REQUIRED.—Not later than
10 90 days after the date of the submission of the re-
11 port required under subsection (a), the Chief Pro-
12 curement Officer, in consultation with Office of
13 Small and Disadvantaged Businesses Utilization of
14 the Department, shall develop , submit to the Com-
15 mittees referred to in subsection (a), and begin im-
16 plementing for each program identified under sub-
17 section (a)(1) an action plan for achieving the goal
18 described in subsection (a)(2).

19 (2) PERFORMANCE MEASURES AND TIME-
20 TABLE.—Each action plan shall include performance
21 measures and a timetable for compliance and
22 achievement of the goal described in subsection
23 (a)(2).



1 **SEC. 1413. CENTERS OF EXCELLENCE PROGRAM.**

2 In selecting the first institution of higher education
3 selected after the date of the enactment of this Act under
4 the Department of Homeland Security Centers of Excel-
5 lence program, the Secretary of Homeland Security shall
6 select an otherwise eligible applicant that is an historically
7 black college or university that receives assistance under
8 part B of title III of the Higher Education Act of 1965
9 (20 U.S.C 106 et seq), an hispanic-serving institution (as
10 that term is defined in section 502 of the Higher Edu-
11 cation Act of 1965 (20 U.S.C. 1101a), or a tribally con-
12 trolled college or university (as that term is defined in sec-
13 tion 2 of the Tribally Controlled College or University As-
14 sistance Act of 1978 (25 U.S.C. 1801).

15 **Subtitle C—Protection of Certain**
16 **Employee Rights**

17 **SEC. 1421. PROVISIONS TO PROTECT CERTAIN EMPLOYEE**
18 **RIGHTS.**

19 (a) COLLECTIVE BARGAINING; APPEALS, ETC.—

20 (1) IN GENERAL.—Section 9701(c) of title 5,
21 United States Code, is amended—

22 (A) in paragraph (1), by inserting “(F),”
23 after “(E),”; and

24 (B) in paragraph (2), by striking “59, 72,
25 73, and 79,” and inserting “and 59,”.



1 (2) CONFORMING AMENDMENT.—Section
2 9701(f) of title 5, United States Code, is repealed.

3 (b) RATES OF PAY.—Section 9701(d) of title 5,
4 United States Code, is amended—

5 (1) in paragraph (2), by striking “or” after the
6 semicolon;

7 (2) in paragraph (3), by striking the period and
8 inserting “; or”; and

9 (3) by inserting after paragraph (3) the fol-
10 lowing:

11 “(4) to fix the pay for any position at a rate
12 that is less than—

13 “(A) in the case of a position that (if this
14 chapter had not been enacted) would have been
15 subject to the provisions of this title relating to
16 the General Schedule, the rate determined
17 under such provisions; or

18 “(B) in the case of any other position, the
19 rate determined under such provisions for the
20 position that is most similar in its duties and
21 responsibilities to those of such other position
22 (as determined under regulations) and that is
23 subject to such provisions.”.

24 (c) EFFECTIVE DATES.—



1 (1) SUBSECTION (a).—The amendments made
2 by subsection (a) shall take effect as if included in
3 the enactment of the Homeland Security Act of
4 2002 (Public Law 107–296; 6 U.S.C. 101 note).

5 (2) SUBSECTION (b).—The amendments made
6 by subsection (b) shall take effect on the date of the
7 enactment of this Act and shall apply with respect
8 to pay for service performed in any pay period be-
9 ginning on or after such date.

10 **Subtitle D—Whistleblower** 11 **Protections**

12 **SEC. 1431. WHISTLEBLOWER PROTECTIONS.**

13 (a) IN GENERAL.—No covered individual may be dis-
14 charged, demoted, suspended, threatened, harassed, rep-
15 rimanded, investigated, or in any other manner discrimi-
16 nated against (including by a denial, suspension, or rev-
17 ocation of a security clearance or by any other security
18 access determination) if such discrimination is due, in
19 whole or in part, to any lawful act done, perceived to have
20 been done, or intended to be done by the covered
21 individual—

22 (1) to provide information, cause information to
23 be provided, or otherwise assist in an investigation
24 regarding any conduct which the covered individual
25 reasonably believes constitutes a violation of any



1 law, rule or regulation relating to national or home-
2 land security, which the covered individual reason-
3 ably believes constitutes a threat to national or
4 homeland security, or which the covered individual
5 reasonably believes constitutes fraud, waste or mis-
6 management of Government funds intended to be
7 used for national or homeland security, when the in-
8 formation or assistance is provided to or the inves-
9 tigation is conducted by—

10 (A) a Federal, State or local regulatory or
11 law enforcement agency (including an office of
12 Inspector General under the Inspector General
13 Act of 1978);

14 (B) any Member of Congress, any com-
15 mittee of Congress, or the Government Ac-
16 countability Office; or

17 (C) a person with supervisory authority
18 over the covered individual (or such other per-
19 son who has the authority to investigate, dis-
20 cover, or terminate misconduct);

21 (2) to file, cause to be filed, testify, participate
22 in, or otherwise assist in a proceeding or action filed
23 or about to be filed relating to an alleged violation
24 of any law, rule or regulation relating to national or
25 homeland security; or



1 (3) to refuse to violate or assist in the violation
2 of any law, rule, or regulation relating to national or
3 homeland security.

4 (b) ENFORCEMENT ACTION.—

5 (1) IN GENERAL.—A covered individual who al-
6 leges discharge or other discrimination by any per-
7 son in violation of subsection (a) may seek relief
8 under subsection (c) by—

9 (A) filing a complaint with the Secretary of
10 Labor; or

11 (B) if the Secretary has not issued a final
12 decision within 180 days after the filing of the
13 complaint and there is no showing that such
14 delay is due to the bad faith of the claimant,
15 bringing an action at law or equity for de novo
16 review in the appropriate district court of the
17 United States, which shall have jurisdiction
18 over such an action without regard to the
19 amount in controversy.

20 (2) PROCEDURE.—

21 (A) IN GENERAL.—An action under para-
22 graph (1)(A) shall be governed under the rules
23 and procedures set forth in section 42121(b) of
24 title 49, United States Code.



1 (B) EXCEPTION.—Notification made under
2 section 42121(b)(1) of title 49, United States
3 Code, shall be made to the person named in the
4 complaint and to the person's employer.

5 (C) BURDENS OF PROOF.—An action
6 brought under paragraph (1)(B) shall be gov-
7 erned by the legal burdens of proof set forth in
8 section 42121(b) of title 49, United States
9 Code.

10 (D) STATUTE OF LIMITATIONS.—An action
11 under paragraph (1) shall be commenced not
12 later than 1 year after the date on which the
13 violation occurs.

14 (c) REMEDIES.—

15 (1) IN GENERAL.—A covered individual pre-
16 vailing in any action under subsection (b)(1) shall be
17 entitled to all relief necessary to make the covered
18 individual whole.

19 (2) DAMAGES.—Relief for any action under
20 paragraph (1) shall include—

21 (A) reinstatement with the same seniority
22 status that the covered individual would have
23 had, but for the discrimination;

24 (B) the amount of any back pay, with in-
25 terest;



1 (C) compensation for any special damages
2 sustained as a result of the discrimination, in-
3 cluding litigation costs, expert witness fees, and
4 reasonable attorney fees; and

5 (D) punitive damages in an amount not to
6 exceed the greater of 3 times the amount of any
7 compensatory damages awarded under this sec-
8 tion or \$5,000,000.

9 (d) STATE SECRETS PRIVILEGE.—If, in any action
10 brought under subsection (b)(1)(B), the Government as-
11 serts as a defense the privilege commonly referred to as
12 the “state secrets privilege” and the assertion of such
13 privilege prevents the plaintiff from establishing a prima
14 facie case in support of the plaintiff’s claim, the court shall
15 enter judgment for the plaintiff and shall determine the
16 relief to be granted.

17 (e) CRIMINAL PENALTIES.—

18 (1) IN GENERAL.—It shall be unlawful for any
19 person employing a covered individual to commit an
20 act prohibited by subsection (a). Any person vio-
21 lating this paragraph shall be fined under title 18 of
22 the United States Code, imprisoned not more than
23 10 years, or both.

24 (2) REPORTING REQUIREMENT.—The Depart-
25 ment of Justice shall submit to Congress an annual



1 report on the enforcement of paragraph (1). Each
2 such report shall (A) identify each case in which for-
3 mal charges under paragraph (1) were brought, (B)
4 describe the status or disposition of each such case,
5 and (C) in any actions under subsection (b)(1)(B) in
6 which the covered individual was the prevailing party
7 or the substantially prevailing party, indicate wheth-
8 er or not any formal charges under paragraph (1)
9 have been brought and, if not, the reasons therefor.

10 (f) RIGHTS RETAINED BY COVERED INDIVIDUAL.—

11 Nothing in this section shall be deemed to diminish the
12 rights, privileges, or remedies of any covered individual
13 under any Federal or State law, or under any collective
14 bargaining agreement. The rights and remedies in this
15 section may not be waived by any agreement, policy, form,
16 or condition of employment.

17 (g) DEFINITIONS.—For purposes of this section—

18 (1) the term “covered individual” means an em-
19 ployee of—

20 (A) the Department of Homeland Security
21 (which, for purposes of this section, includes the
22 Transportation Security Administration);

23 (B) a Federal contractor or subcontractor;

24 and



1 (C) an employer within the meaning of sec-
2 tion 701(b) of the Civil Rights Act of 1964 (42
3 U.S.C. 2000e(b));

4 (2) the term “lawful” means not specifically
5 prohibited by law, except that, in the case of any in-
6 formation the disclosure of which is specifically pro-
7 hibited by law or specifically required by Executive
8 order to be kept secret in the interest of national de-
9 fense or the conduct of foreign affairs, any disclo-
10 sure of such information to any Member of Con-
11 gress, committee of Congress, or other recipient au-
12 thorized to receive such information, shall be deemed
13 lawful;

14 (3) the term “Federal contractor” means a per-
15 son who has entered into a contract with the De-
16 partment of Homeland Security;

17 (4) the term “employee” means—

18 (A) with respect to an employer referred to
19 in paragraph (1)(A), an employee as defined by
20 section 2105 of title 5, United States Code; and

21 (B) with respect to an employer referred to
22 in subparagraph (A) or (B) of paragraph (1),
23 any officer, partner, employee, or agent;

24 (5) the term “subcontractor”—



1 (A) means any person, other than the Fed-
2 eral contractor, who offers to furnish or fur-
3 nishes any supplies, materials, equipment, or
4 services of any kind under a contract with the
5 Department of Homeland Security or a sub-
6 contract entered into in connection with such a
7 contract; and

8 (B) includes any person who offers to fur-
9 nish or furnishes general supplies to the Fed-
10 eral contractor or a higher tier subcontractor;
11 and

12 (6) the term "person" means a corporation,
13 partnership, State entity, business association of any
14 kind, trust, joint-stock company, or individual.

15 (h) AUTHORIZATION OF FUNDS.—Of the amounts
16 authorized under section 101, there is authorized to be
17 appropriated amounts necessary for carrying out this sec-
18 tion. Except as provided in the preceding sentence, this
19 section shall have no force or effect.

20 **Subtitle E—Authority of Chief**
21 **Information Officer**

22 **SEC. 1441. AUTHORITY OF CHIEF INFORMATION OFFICER.**

23 Section 703 of the Department of Homeland Security
24 Act of 2002 (6 U.S.C. 343) is amended by inserting "(a)



1 IN GENERAL.—” before the first sentence, and by adding
2 at the end the following:

3 “(b) LINE AUTHORITY.—The Secretary shall dele-
4 gate to the Chief Information Officer direct line authority
5 to oversee all chief information officers of the agencies of
6 the Department, and other key information technology
7 personnel of the Department, with respect to their respon-
8 sibilities to oversee, integrate, and protect information
9 technology systems of the Department. The Chief Infor-
10 mation Officer shall report directly to the Secretary.”.

11 **Subtitle F—Authorization for** 12 **Office of Inspector General**

13 **SEC. 1451. AUTHORIZATION FOR OFFICE OF INSPECTOR**
14 **GENERAL.**

15 In lieu of any amount otherwise authorized for the
16 Office of the Inspector General of the Department of
17 Homeland Security, there is authorized to be appropriated
18 for such office \$200,000,000 for fiscal year 2006.

19 **Subtitle G—Regional Office**

20 **SEC. 1461. COLOCATED REGIONAL OFFICES.**

21 Not later than 45 days after the date of the enact-
22 ment of this Act, the Secretary of Homeland Security shall
23 develop and implement a plan for establishing consolidated
24 and colocated regional offices for the Department of
25 Homeland Security in accordance with section 706 of the



1 Homeland Security Act of 2002 (6 U.S.C. 346), that
2 will—

3 (1) enable a rapid, robust, and coordinated
4 Federal response to threats and incidents;

5 (2) enhance all-hazards preparedness across the
6 United States with respect to terrorism, natural dis-
7 asters, other emergencies;

8 (3) provide integrated capabilities among the
9 Department of Homeland Security, other Federal
10 agencies, and State and local governments; and

11 (4) maximize cost savings and efficiencies
12 through establishment of regional offices at current
13 DHS agency regional structures with contiguous
14 multi-State operations.

15 **Subtitle H—DHS Terrorism** 16 **Prevention Plan**

17 **SEC. 1471. SHORT TITLE.**

18 This subtitle may be cited as the “Department of
19 Homeland Security Terrorism Prevention Plan Act of
20 2005”.

21 **SEC. 1472. DEPARTMENT OF HOMELAND SECURITY TER-**
22 **RORISM PREVENTION PLAN.**

23 (a) **REQUIREMENTS.**—Not later than one year after
24 the date of enactment of the Act, and on a regular basis
25 thereafter, the Secretary of Homeland Security shall pre-



1 pare and submit to the Committee on Homeland Security
2 of the House of Representatives and the Committee on
3 Homeland Security and Governmental Affairs of the Sen-
4 ate a Department of Homeland Security Terrorism Pre-
5 vention Plan. The Plan shall be a comprehensive and inte-
6 grated plan that includes the goals, objectives, milestones,
7 and key initiatives of the Department of Homeland Secu-
8 rity to prevent acts of terrorism on the United States, in-
9 cluding its territories and interests.

10 (b) CONTENTS.—The Secretary shall include in the
11 Plan the following elements:

12 (1) Identification and prioritization of groups
13 and subgroups that pose the most significant threat
14 of committing acts of terrorism on the United States
15 and its interests.

16 (2) Identification of the most significant cur-
17 rent, evolving, and long term terrorist threats to the
18 United States and its interests, including an evalua-
19 tion of—

20 (A) the materials that may be used to
21 carry out a potential attack;

22 (B) the methods that may be used to carry
23 out a potential attack; and

24 (C) the outcome the perpetrators of acts of
25 terrorism aim to achieve.



1 (3) A prioritization of the threats identified
2 under paragraph (2), based on an assessment of
3 probability and consequence of such attacks.

4 (4) A description of processes and procedures
5 that the Secretary shall establish to institutionalize
6 close coordination between the Department of
7 Homeland Security and the National Counter Ter-
8 rorism Center and other appropriate United States
9 intelligence agencies.

10 (5) The policies and procedures the Secretary
11 shall establish to ensure the Department gathers
12 real time information from the National Counter
13 Terrorism Center; disseminates this information
14 throughout the Department, as appropriate; utilizes
15 this information to support the Department's
16 counter terrorism responsibilities; integrates the De-
17 partments information collection and analysis func-
18 tions; and disseminates this information to its oper-
19 ational units, as appropriate.

20 (6) A description of the specific actions the Sec-
21 retary shall take to identify threats of terrorism on
22 the United States and its interests, and to coordi-
23 nate activities within the Department to prevent acts
24 of terrorism, with special emphasis on prevention of



1 terrorist access to and use of weapons of mass de-
2 struction.

3 (7) A description of initiatives the Secretary
4 shall take to share critical terrorism prevention in-
5 formation with, and provide terrorism prevention
6 support to, State and local governments and the pri-
7 vate sector.

8 (8) A timeline, with goals and milestones, for
9 implementing the Homeland Security Information
10 Network, the Homeland Security Secure Data Net-
11 work, and other departmental information initiatives
12 to prevent acts of terrorism on the United States
13 and its interests, including integration of these ini-
14 tiatives in the operations of the Homeland Security
15 Operations Center.

16 (9) Such other terrorism prevention-related ele-
17 ments as the Secretary considers appropriate.

18 (c) CONSULTATION.—In formulating the Plan the
19 Secretary shall consult with—

20 (1) the Director of National Intelligence;

21 (2) the Director of the National Counter Ter-
22 rorism Center;

23 (3) the Attorney General;

24 (4) the Director of the Federal Bureau of In-
25 vestigation;



- 1 (5) the Secretary of Defense;
2 (6) the Secretary of State;
3 (7) the Secretary of Energy;
4 (8) the Secretary of the Treasury; and
5 (9) the heads of other Federal agencies and
6 State, county, and local law enforcement agencies as
7 the Secretary considers appropriate.

8 (d) CLASSIFICATION.—The Secretary shall prepare
9 the Plan in both classified and nonclassified forms.

10 **SEC. 1473. ANNUAL CROSSCUTTING ANALYSIS OF PRO-**
11 **POSED FUNDING FOR DEPARTMENT OF**
12 **HOMELAND SECURITY PROGRAMS.**

13 (a) REQUIREMENT TO SUBMIT ANALYSIS.—The Sec-
14 retary of Homeland Security shall submit to the Congress,
15 concurrently with the submission of the President's budget
16 for each fiscal year, a detailed, crosscutting analysis of the
17 budget proposed for the Department of Homeland Secu-
18 rity, by budget function, by agency, and by initiative area,
19 identifying the requested amounts of gross and net appro-
20 priations or obligational authority and outlays for pro-
21 grams and activities of the Department for each of the
22 following mission areas:

- 23 (1) To prevent terrorist attacks within the
24 United States.



1 (2) To reduce the vulnerability of the United
2 States to terrorism.

3 (3) To minimize the damage, and assist in the
4 recovery, from terrorist attacks that do occur within
5 the United States.

6 (4) To carry out all functions of the agencies
7 and subdivisions within the Department that are not
8 related directly to homeland security.

9 (b) FUNDING ANALYSIS OF MULTIPURPOSE FUNC-
10 TIONS.—The analysis required under subsection (a) for
11 functions that are both related directly and not related
12 directly to homeland security shall include a detailed allo-
13 cation of funding for each specific mission area within
14 those functions, including an allocation of funding among
15 mission support functions, such as agency overhead, cap-
16 ital assets, and human capital.

17 (c) INCLUDED TERRORISM PREVENTION ACTIVI-
18 TIES.—The analysis required under subsection (a)(1) shall
19 include the following activities (among others) of the De-
20 partment:

21 (1) Collection and effective use of intelligence
22 and law enforcement operations that screen for and
23 target individuals who plan or intend to carry out
24 acts of terrorism.



1 (2) Investigative, intelligence, and law enforce-
2 ment operations that identify and disrupt plans for
3 acts of terrorism or reduce the ability of groups or
4 individuals to commit acts of terrorism.

5 (3) Investigative activities and intelligence oper-
6 ations to detect and prevent the introduction of
7 weapons of mass destruction into the United States.

8 (4) Initiatives to detect potential, or the early
9 stages of actual, biological, chemical, radiological, or
10 nuclear attacks.

11 (5) Screening passengers against terrorist
12 watch lists.

13 (6) Screening cargo to identify and segregate
14 high-risk shipments.

15 (7) Specific utilization of information sharing
16 and intelligence, both horizontally (within the Fed-
17 eral Government) and vertically (among Federal,
18 State, and local governments), to detect or prevent
19 acts of terrorism.

20 (8) Initiatives, including law enforcement and
21 intelligence operations, to preempt, disrupt, and
22 deter acts of terrorism overseas intended to strike
23 the United States.

24 (9) Investments in technology, research and de-
25 velopment, training, and communications systems



1 that are designed to improve the performance of the
2 Department and its agencies with respect to each of
3 the activities listed in paragraphs (1) through (8).

4 (d) SEPARATE DISPLAYS FOR MANDATORY AND DIS-
5 CRETIONARY AMOUNTS.—Each analysis under subsection
6 (a) shall include separate displays for proposed mandatory
7 appropriations and proposed discretionary appropriations.

8 **Subtitle I—Tribal Security**

9 **SEC. 1481. OFFICE OF TRIBAL SECURITY.**

10 The Homeland Security Act of 2002 (Public Law
11 107-296) is amended—

12 (1) by inserting after section 801 the following
13 new section:

14 **“SEC. 802. OFFICE OF TRIBAL SECURITY.**

15 “(a) SHORT TITLE.—This section may be cited as the
16 ‘Tribal Homeland Security Act’.

17 “(b) ESTABLISHMENT.—There is established within
18 the Department of Homeland Security the Office of Tribal
19 Security.

20 “(c) DIRECTOR.—The Office of Tribal Security shall
21 be administered by a Director, who shall be appointed by
22 the President and confirmed by the Senate. The Director
23 shall report to the Secretary of Homeland Security.

24 “(d) DUTIES.—The Director shall be responsible for
25 coordinating relations between the Federal Government



1 and federally recognized Indian tribes on issues relating
2 to homeland security, which shall include the following du-
3 ties:

4 “(1) Providing a point of contact within De-
5 partment of Homeland Security which shall be re-
6 sponsible for—

7 “(A) meeting the broad and complex Fed-
8 eral responsibilities owed to federally recognized
9 Indian tribes by the Department of Homeland
10 Security; and

11 “(B) soliciting and, where appropriate, ad-
12 dressing the homeland security concerns of fed-
13 erally recognized Indian tribes and other parties
14 interested in Indian affairs.

15 “(2) Communicating relevant policies of the De-
16 partment of Homeland Security to federally recog-
17 nized Indian tribes and the public.

18 “(3) Promoting internal uniformity of Depart-
19 ment of Homeland Security policies relating to In-
20 dian country (as defined in section 1151 of title 18,
21 United States Code).

22 “(4) Coordinating with the Directorate of Bor-
23 der and Transportation Security and tribal govern-
24 ments to develop a comprehensive border security
25 policy that addresses law enforcement, personnel,



1 and funding issues in Indian country (as defined in
2 section 1151 of title 18, United States Code) on the
3 United States borders with Canada and with Mexico.

4 “(5) Coordinating with the Directorate for In-
5 formation Analysis and Infrastructure Protection
6 and tribal governments to develop appropriate poli-
7 cies for infrastructure protection on Indian lands, as
8 well as information sharing mechanisms with tribal
9 governments.

10 “(6) Coordinating with the Directorate of
11 Emergency Preparedness and Response and the Of-
12 fice of State and Local Government Coordination
13 and Preparedness to help ensure that tribal govern-
14 ments are fully informed of, have access to, and may
15 apply for all Department of Homeland Security
16 grant opportunities for emergency response pro-
17 viders, and to develop and achieve preparedness
18 goals for tribal governments that are consistent with
19 national goals for terrorism preparedness, as deter-
20 mined by the Department.

21 “(7) Coordinating with the Director of Science
22 and Technology to identify opportunities to conduct
23 research and development of homeland security tech-
24 nologies or scientific understanding for tribal univer-
25 sities or private sector entities.



1 “(8) Coordinating with the Office of Citizenship
2 and Immigration Services and other relevant offices
3 within the Department of Homeland Security with
4 immigration service and enforcement related func-
5 tions to develop policies on issues related to citizen-
6 ship and the movement of members of federally rec-
7 ognized Indian tribes across the United States bor-
8 der, taking into consideration the unique character-
9 istics of certain federally recognized Indian tribes
10 with jurisdiction over lands adjacent to the Canadian
11 and Mexican borders.

12 “(9) Coordinating with other offices within the
13 Department of Homeland Security to develop and
14 implement sound policies regarding Indian country
15 (as defined in section 1151 of title 18, United States
16 Code) and tribal governments.”; and

17 (2) in the table of sections, by inserting after
18 the item relating to section 801 the following new
19 item:

“Sec. 802. Office of Tribal Security.”.

20 **TITLE XV—SECURING OUR**
21 **PORTS AND COASTLINES**
22 **FROM TERRORIST ATTACK**

23 **SEC. 1501. SECURITY OF MARITIME CARGO CONTAINERS.**

24 (a) REGULATIONS.—



1 (1) IN GENERAL.—Not later than 180 days
2 after the date of the enactment of this Act, the Sec-
3 retary of Homeland Security shall issue regulations
4 for the security of maritime cargo containers moving
5 within the intermodal transportation system in ac-
6 cordance with the requirements of paragraph (2).

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

16 (b) INTERNATIONAL AGREEMENTS.—The Secretary
17 shall seek to enter into agreements with foreign countries
18 and international organizations to establish standards for
19 the security of maritime cargo containers moving within
20 the intermodal transportation system that, to the max-
21 imum extent practicable, meet the requirements of sub-
22 section (a)(2).

23 (c) CONTAINER TARGETING STRATEGY.—

24 (1) STRATEGY.—The Secretary shall develop a
25 strategy to improve the ability of the Department of



1 Homeland Security to use information contained in
2 shipping bills of lading to identify and provide addi-
3 tional review of anomalies in such bills of lading.
4 The strategy shall include a method of contacting
5 shippers in a timely fashion to verify or explain any
6 anomalies in shipping bills of lading.

7 (2) REPORT.—Not later than 90 days after the
8 date of the enactment of this Act, the Secretary
9 shall submit to the appropriate congressional com-
10 mittees a report on the implementation of this sub-
11 section, including information on any data searching
12 technologies that will be used to implement the
13 strategy.

14 (d) CONTAINER SECURITY DEMONSTRATION PRO-
15 GRAM.—

16 (1) PROGRAM.—The Secretary is authorized to
17 establish and carry out a demonstration program
18 that integrates non-intrusive inspection equipment,
19 including radiation detection equipment and gamma
20 ray inspection equipment, at an appropriate United
21 States seaport, as determined by the Secretary.

22 (2) REQUIREMENT.—The demonstration pro-
23 gram shall also evaluate automatic identification
24 methods for containers and vehicles and a data shar-
25 ing network capable of transmitting inspection data



1 between ports and appropriate entities within the
2 Department of Homeland Security.

3 (3) REPORT.—Upon completion of the dem-
4 onstration program, the Secretary shall submit to
5 the appropriate congressional committees a report
6 on the implementation of this subsection.

7 (e) CONSOLIDATION OF CONTAINER SECURITY PRO-
8 GRAMS.—The Secretary shall consolidate all programs of
9 the Department of Homeland Security relating to the se-
10 curity of maritime cargo containers, including the dem-
11 onstration program established pursuant to subsection
12 (d), to achieve enhanced coordination and efficiency.

13 (f) PORT SECURITY GRANT FUNDING.—Section
14 70107(h) of title 46, United States Code, is amended to
15 read as follows:

16 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
17 is authorized to be appropriated to the Secretary to carry
18 out subsections (a) through (g) \$400,000,000 for fiscal
19 years 2006 through 2012.”.

20 (g) DEFINITION.—In this section, the term “appro-
21 priate congressional committees” means—

22 (1) the Committee on Homeland Security of the
23 House of Representatives; and

24 (2) the Committee on Homeland Security and
25 Governmental Affairs of the Senate.



1 **SEC. 1502. STUDY ON PORT RISKS.**

2 The Secretary of Homeland Security shall complete
3 a study evaluating the terrorism risk factors associated
4 with the port of Miami and ports along the Gulf of Mexico
5 and in the Carribean, including the United States Virgin
6 Islands. This study should include: whether these ports
7 are more at risk of terrorist attack considering the larger
8 trade volume with Central American countries than other
9 coastal ports, whether these ports are currently receiving
10 the grants that are needed to ensure their safety, consid-
11 ering the studied risks and what are the vulnerabilities
12 of these Gulf ports.

13 **TITLE XVI—AUTHORITY OF**
14 **OTHER FEDERAL AGENCIES**

15 **SEC. 1601. AUTHORITY OF OTHER FEDERAL AGENCIES UN-**
16 **AFFECTED.**

17 Nothing in this Act affects the authority under stat-
18 ute, regulation, or Executive order of other Federal agen-
19 cies than the Department of Homeland Security.

