

109TH CONGRESS
1ST SESSION

H. R. 1817

AN ACT

To authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Department of Home-
3 land Security Authorization Act for Fiscal Year 2006”.

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. Department of Homeland Security.
- Sec. 102. Customs and border protection; border patrol agents.
- Sec. 103. Departmental management and operations.
- Sec. 104. Critical infrastructure grants.
- Sec. 105. Research and development.
- Sec. 106. Border and transportation security.
- Sec. 107. State and local terrorism preparedness.
- Sec. 108. Immigration resources.
- Sec. 109. Authorization of appropriations for training of State and local personnel performing immigration functions.

TITLE II—TERRORISM PREVENTION, INFORMATION SHARING,
AND RISK ASSESSMENT

Subtitle A—Terrorism Prevention

- Sec. 201. Consolidated background check process.

Subtitle B—Homeland Security Information Sharing and Analysis
Enhancement

- Sec. 211. Short title.
- Sec. 212. Provision of terrorism-related information to private sector officials.
- Sec. 213. Analytic expertise on the threats from biological agents and nuclear weapons.
- Sec. 214. Alternative analysis of homeland security information.
- Sec. 215. Assignment of information analysis and infrastructure protection functions.
- Sec. 216. Coordination of homeland security threat analysis provided to non-Federal officials.
- Sec. 217. 9/11 Memorial Homeland Security Fellows Program.
- Sec. 218. Access to nuclear terrorism-related information.
- Sec. 219. Access of Assistant Secretary for Information Analysis to terrorism information.
- Sec. 220. Administration of the Homeland Security Information Network.
- Sec. 221. IAIP personnel recruitment.
- Sec. 222. Homeland Security Information Requirements.
- Sec. 223. Homeland Security Advisory System.
- Sec. 224. Use of open-source information.
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- Sec. 226. Coordination with the intelligence community.

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TITLE III—DOMESTIC PREPAREDNESS AND PROTECTION

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- Sec. 302. Technology development and transfer.
- Sec. 303. Review of antiterrorism acquisitions.
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- Sec. 310. Commercial Flights to and from Ronald Reagan Washington National Airport.
- Sec. 310A. Federal Flight Deck Officers.

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- Sec. 311. Short title.
- Sec. 312. Assistant Secretary for Cybersecurity.
- Sec. 313. Cybersecurity training programs and equipment.
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- Sec. 321. Security best practices.
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- Sec. 331. Critical infrastructure.
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- Sec. 401. Establishment and implementation of cost accounting system; reports.
- Sec. 402. Report relating to One Face at the Border Initiative.
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- Sec. 501. Border security and enforcement coordination and operations.
- Sec. 502. GAO report to Congress.
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- Sec. 504. Denial of transportation security card.

- Sec. 505. Transfer of existing Customs Patrol Officers unit and establishment of new CPO units in the Bureau of Immigration and Customs Enforcement.
- Sec. 506. Data collection on use of immigration consultants.
- Sec. 507. Office for State and local government coordination.
- Sec. 508. Study of modification of area of jurisdiction of Office of National Capital Region Coordination.
- Sec. 509. Authority of other Federal agencies unaffected.
- Sec. 510. Centers of excellence.
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- Sec. 513. Advanced technology norther border security pilot program.
- Sec. 514. GAO study of proposals to increase temporary protected status registration fee.
- Sec. 515. GAO study of consequences of expanding use of premium service for immigration benefit applications and petitions.
- Sec. 516. Buy American requirement for procurements of goods containing components.
- Sec. 517. Disaster assistance for funeral expenses.
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- Sec. 519. Prohibition against increase in security service fees.
- Sec. 520. Federal affirmation of assistance in immigration law enforcement by States and political subdivisions.
- Sec. 521. Training of State and local law enforcement personnel in enforcement of immigration laws.

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

3 **SEC. 101. DEPARTMENT OF HOMELAND SECURITY.**

4 There is authorized to be appropriated to the Sec-
 5 retary of Homeland Security for the necessary expenses
 6 of the Department of Homeland Security for fiscal year
 7 2006, \$34,152,143,000.

8 **SEC. 102. CUSTOMS AND BORDER PROTECTION; BORDER**
 9 **PATROL AGENTS.**

10 Of the amount authorized under section 101, there
 11 is authorized to be appropriated for U.S. Customs and
 12 Border Protection for fiscal year 2006, \$6,926,424,722,
 13 of which \$1,839,075,277 is authorized for border security

1 and control between ports of entry, including for the hiring
2 of 2,000 full-time active-duty border patrol agents above
3 the number of such positions for which funds were allotted
4 for fiscal year 2005 (excluding any supplemental appro-
5 priations).

6 **SEC. 103. DEPARTMENTAL MANAGEMENT AND OPER-**
7 **ATIONS.**

8 Of the amount authorized under section 101, there
9 is authorized to be appropriated for fiscal year 2006 for
10 departmental management and operations, \$649,672,000,
11 of which—

12 (1) \$44,895,000 is authorized for the Depart-
13 ment of Homeland Security Regions Initiative;

14 (2) \$4,459,000 is authorized for Operation In-
15 tegration Staff; and

16 (3) \$56,278,000 is authorized for Office of Se-
17 curity initiatives.

18 **SEC. 104. CRITICAL INFRASTRUCTURE GRANTS.**

19 Of the amount authorized under section 101, there
20 is authorized to be appropriated for fiscal year 2006 for
21 grants and other assistance to improve critical infrastruc-
22 ture protection, \$465,000,000.

23 **SEC. 105. RESEARCH AND DEVELOPMENT.**

24 Of the amount authorized under section 101, there
25 are authorized to be appropriated for fiscal year 2006—

1 (1) \$76,573,000 to support chemical counter-
2 measure development activities of the Directorate of
3 Science and Technology;

4 (2) \$195,014,000 to support a nuclear detec-
5 tion office and related activities;

6 (3) \$19,000,000 for cybersecurity-related re-
7 search and development activities;

8 (4) \$10,000,000 for research and development
9 of technologies capable of countering threats posed
10 by man-portable air defense systems, including loca-
11 tion-based technologies and noncommercial aircraft-
12 based technologies; and

13 (5) \$10,600,000 for the activities of such direc-
14 torate conducted pursuant to subtitle G of title VIII
15 of the Homeland Security Act of 2002 (6 U.S.C.
16 441 et seq.).

17 **SEC. 106. BORDER AND TRANSPORTATION SECURITY.**

18 Of the amount authorized under section 101, there
19 are authorized to be appropriated for fiscal year 2006—

20 (1) \$826,913,000 for expenses related to
21 Screening Coordination and Operations of the Direc-
22 torate of Border and Transportation Security;

23 (2) \$100,000,000 for weapons of mass destruc-
24 tion detection technology of such directorate; and

1 (3) \$133,800,000 for the Container Security
2 Initiative of such directorate.

3 **SEC. 107. STATE AND LOCAL TERRORISM PREPAREDNESS.**

4 Of the amount authorized under section 101, there
5 are authorized to be appropriated for fiscal year 2006—

6 (1) \$40,500,000 for the activities of the Office
7 for Interoperability and Compatibility within the Di-
8 rectorate of Science and Technology pursuant to sec-
9 tion 7303 of the Intelligence Reform and Terrorism
10 Prevention Act of 2004 (6 U.S.C 194); and

11 (2) \$2,000,000,000 for grants to State and
12 local governments for terrorism preparedness award-
13 ed by the Office of State and Local Government Co-
14 ordination and Preparedness.

15 **SEC. 108. IMMIGRATION RESOURCES.**

16 Of the amount authorized under section 101, there
17 is authorized to be appropriated for fiscal year 2006 the
18 following:

19 (1) For the Immigration and Customs Enforce-
20 ment Legal Program, \$159,514,000, including for
21 the hiring of an additional 300 attorneys above the
22 number of such positions for which funds were allot-
23 ted for fiscal year 2005, and related training and
24 support costs.

1 (2) Sufficient sums for the hiring of an addi-
2 tional 300 adjudicators above the number of such
3 positions for which funds were allotted for fiscal
4 year 2005 to carry out the functions stated in sec-
5 tion 451(b) of the Homeland Security Act of 2002
6 (6 U.S.C. 271(b)), and related training and support
7 costs. The fees provided for in section 286(m) of the
8 Immigration and Nationality Act (8 U.S.C.
9 1356(m)) shall be adjusted in order to provide suffi-
10 cient sums for the hiring of the additional adjudica-
11 tors and for the related training and support costs
12 provided for in this paragraph.

13 **SEC. 109. AUTHORIZATION OF APPROPRIATIONS FOR**
14 **TRAINING OF STATE AND LOCAL PERSONNEL**
15 **PERFORMING IMMIGRATION FUNCTIONS.**

16 (a) **IN GENERAL.**—To carry out subsection (b), from
17 amounts authorized under section 101, there are author-
18 ized to be appropriated \$40,000,000 for fiscal year 2006,
19 to remain available until September 30, 2007.

20 (b) **USE OF FUNDS.**—From amounts made available
21 under subsection (a), the Secretary of Homeland Security
22 may reimburse a State or political subdivision for the ex-
23 penses described in subsection (d).

1 (c) ELIGIBLE RECIPIENTS.—A State, or a political
2 subdivision of a State, is eligible for reimbursement under
3 subsection (b) if the State or political subdivision—

4 (1) has entered into a written agreement de-
5 scribed in section 287(g) of the Immigration and
6 Nationality Act (8 U.S.C. 1357(g)) under which cer-
7 tain officers or employees of the State or subdivision
8 may be authorized to perform certain functions of
9 an immigration officer; and

10 (2) desires such officers or employees to receive
11 training from the Department of Homeland Security
12 in relation to such functions.

13 (d) EXPENSES.—The expenses described in this sub-
14 section are actual and necessary expenses incurred by the
15 State or political subdivision in order to permit the train-
16 ing described in subsection (c)(2) to take place, including
17 expenses such as the following:

18 (1) Costs of travel and transportation to loca-
19 tions where training is provided, including mileage
20 and related allowances for the use of a privately
21 owned automobile.

22 (2) Subsistence consisting of lodging, meals,
23 and other necessary expenses for the personal suste-
24 nance and comfort of a person required to travel

1 away from the person's regular post of duty in order
2 to participate in the training.

3 (3) A per diem allowance paid instead of actual
4 expenses for subsistence and fees or tips to porters
5 and stewards.

6 (4) Costs of securing temporary replacements
7 for personnel traveling to, and participating in, the
8 training.

9 **TITLE II—TERRORISM PREVEN-**
10 **TION, INFORMATION SHAR-**
11 **ING, AND RISK ASSESSMENT**
12 **Subtitle A—Terrorism Prevention**

13 **SEC. 201. CONSOLIDATED BACKGROUND CHECK PROCESS.**

14 (a) REQUIREMENT.—The Secretary of Homeland Se-
15 curity, in consultation with the Attorney General, shall es-
16 tablish a single process for conducting the security screen-
17 ing and background checks on individuals participating in
18 any of the programs identified under subsection (b).

19 (b) INCLUDED PROGRAMS.—The process established
20 under subsection (a) shall apply to the following programs:

21 (1) The Transportation Worker Identification
22 Credential.

23 (2) The security risk determination and related
24 background checks under section 5103a of title 49,
25 United States Code, performed by the Transpor-

1 tation Security Administration as part of the De-
2 partment of Transportation Hazardous Materials
3 Endorsement credentialing program.

4 (3) The Free and Secure Trade program.

5 (4) The NEXUS and SENTRI border crossing
6 programs.

7 (5) The Registered Traveler program of the
8 Transportation Security Administration.

9 (c) FEATURES OF PROCESS.—The process estab-
10 lished under subsection (a) shall include the following:

11 (1) A single submission of security screening in-
12 formation, including personal data and biometric in-
13 formation as appropriate, necessary to meet the se-
14 curity requirements of all applicable departmental
15 programs.

16 (2) An ability to submit such security screening
17 information at any location or through any process
18 approved by the Secretary with respect to any of the
19 applicable departmental programs.

20 (3) Acceptance by the Department of a security
21 clearance or other credential issued by a Federal
22 agency, to the extent that the security clearance
23 process of the agency satisfies requirements that are
24 at least as stringent as those of the applicable de-
25 partmental programs under subsection (b).

1 (4) Appropriate standards and procedures for
2 protecting individual privacy, confidentiality, record
3 retention, and addressing other concerns relating to
4 information security.

5 (d) DEADLINES.—The Secretary of Homeland Secu-
6 rity shall—

7 (1) submit a description of the process devel-
8 oped under subsection (a) to the appropriate con-
9 gressional committees (as defined in section 2 of the
10 Homeland Security Act of 2002 (6 U.S.C. 101)) by
11 not later than 6 months after the date of the enact-
12 ment of this Act; and

13 (2) begin implementing such process by not
14 later than 12 months after the date of the enact-
15 ment of this Act.

16 (e) INCLUSION OF OTHER PROGRAMS.—The Sec-
17 retary of Homeland Security shall review other existing
18 or developing Department of Homeland Security programs
19 that include security screening or background checks for
20 participating individuals, and report to the appropriate
21 congressional committees (as defined in section 2 of the
22 Homeland Security Act of 2002 (6 U.S.C. 101)) any rec-
23 ommendations for inclusion of such additional programs
24 in the consolidated screening process established under
25 this section.

1 (f) RELATIONSHIP TO OTHER LAWS.—(1) Nothing in
2 this section affects any statutory or regulatory require-
3 ment relating to the operation or standards of the pro-
4 grams described in subsection (b).

5 (2) Nothing in this section affects any statutory re-
6 quirement relating to title III of the Intelligence Reform
7 and Terrorism Prevention Act of 2004 (50 U.S.C. 435b
8 et seq.).

9 **Subtitle B—Homeland Security In-**
10 **formation Sharing and Analysis**
11 **Enhancement**

12 **SEC. 211. SHORT TITLE.**

13 This subtitle may be cited as the “Homeland Security
14 Information Sharing and Analysis Enhancement Act of
15 2005”.

16 **SEC. 212. PROVISION OF TERRORISM-RELATED INFORMA-**
17 **TION TO PRIVATE SECTOR OFFICIALS.**

18 Section 201(d) of the Homeland Security Act of 2002
19 (6 U.S.C. 121(d)) is amended by adding at the end the
20 following:

21 “(20) To require, in consultation with the As-
22 sistant Secretary for Infrastructure Protection, the
23 creation and routine dissemination of analytic re-
24 ports and products designed to provide timely and
25 accurate information that has specific relevance to

1 each of the Nation’s private critical infrastructure
2 sectors (as identified in the national infrastructure
3 protection plan issued under paragraph (5)), to pri-
4 vate sector officials in each such sector who are re-
5 sponsible for protecting institutions within that sec-
6 tor from potential acts of terrorism and for miti-
7 gating the potential consequences of any such act.”.

8 **SEC. 213. ANALYTIC EXPERTISE ON THE THREATS FROM BI-**
9 **OLOGICAL AGENTS AND NUCLEAR WEAPONS.**

10 Section 201(d) of the Homeland Security Act of 2002
11 (6 U.S.C. 121(d)) is further amended by adding at the
12 end the following:

13 “(21) To ensure sufficient analytic expertise
14 within the Office of Information Analysis to create,
15 on an ongoing basis, products based on the analysis
16 of homeland security information, as defined in sec-
17 tion 892(f)(1), with specific reference to the threat
18 of terrorism involving the use of nuclear weapons
19 and biological agents to inflict mass casualties or
20 other catastrophic consequences on the population or
21 territory of the United States.”.

1 **SEC. 214. ALTERNATIVE ANALYSIS OF HOMELAND SECUR-**
2 **RITY INFORMATION.**

3 (a) REQUIREMENT.—Subtitle A of title II of the
4 Homeland Security Act of 2002 (6 U.S.C. 121 et seq.)
5 is amended by adding at the end the following:

6 **“SEC. 203. ALTERNATIVE ANALYSIS OF HOMELAND SECUR-**
7 **RITY INFORMATION.**

8 “The Secretary shall establish within the Department
9 a process and assign an individual or entity the responsi-
10 bility to ensure that, as appropriate, elements of the De-
11 partment conduct alternative analysis (commonly referred
12 to as ‘red-team analysis’) of homeland security informa-
13 tion, as that term is defined in section 892(f)(1), that re-
14 lates to potential acts of terrorism involving the use of
15 nuclear weapons or biological agents to inflict mass cas-
16 ualties or other catastrophic consequences on the popu-
17 lation or territory of the United States.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 in section 1(b) of such Act is amended by inserting after
20 the item relating to section 202 the following:

“Sec. 203. Alternative analysis of homeland security information.”.

21 **SEC. 215. ASSIGNMENT OF INFORMATION ANALYSIS AND**
22 **INFRASTRUCTURE PROTECTION FUNCTIONS.**

23 Section 201(b) of the Homeland Security Act of 2002
24 (6 U.S.C. 121(b)) is amended by adding at the end the
25 following:

1 “(4) ASSIGNMENT OF SPECIFIC FUNCTIONS.—
2 The Under Secretary for Information Analysis and
3 Infrastructure Protection—

4 “(A) shall assign to the Assistant Sec-
5 retary for Information Analysis the responsi-
6 bility for performing the functions described in
7 paragraphs (1), (4), (7) through (14), (16), and
8 (18) of subsection (d);

9 “(B) shall assign to the Assistant Sec-
10 retary for Infrastructure Protection the respon-
11 sibility for performing the functions described
12 in paragraphs (2), (5), and (6) of subsection
13 (d);

14 “(C) shall assign to the Assistant Sec-
15 retary for Cybersecurity the primary authority
16 within the Department over the National Cyber
17 Security Division and the National Communica-
18 tions System, and, in coordination with other
19 relevant Federal agencies, the cybersecurity-re-
20 lated aspects of paragraphs (2), (3), (5), (6),
21 (15), and (17) of subsection (d);

22 “(D) shall ensure that the Assistant Sec-
23 retary for Information Analysis and the Assist-
24 ant Secretary for Infrastructure Protection both

1 perform the functions described in paragraphs
2 (3), (15), and (17) of subsection (d); and

3 “(E) may assign to each such Assistant
4 Secretary such other duties relating to such re-
5 sponsibilities as the Under Secretary may pro-
6 vide.”.

7 **SEC. 216. COORDINATION OF HOMELAND SECURITY**
8 **THREAT ANALYSIS PROVIDED TO NON-FED-**
9 **ERAL OFFICIALS.**

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

13 **“SEC. 104. COORDINATION OF HOMELAND SECURITY**
14 **THREAT ANALYSIS PROVIDED TO NON-FED-**
15 **ERAL OFFICIALS.**

16 “(a) PRIMARY AUTHORITY.—Except as provided in
17 subsection (b), the Secretary shall be responsible for co-
18 ordinating all homeland security threat analysis to be pro-
19 vided to State and local government and tribal officials
20 and the private sector.

21 “(b) COORDINATION REQUIRED.—No Federal official
22 may disseminate any homeland security threat analysis to
23 State, local, tribal, or private sector officials without the
24 coordination of the Secretary or the Secretary’s designee
25 except—

1 “(1) in exigent circumstances under which it is
2 essential that the homeland security threat analysis
3 be communicated immediately; or

4 “(2) when such homeland security threat anal-
5 ysis is issued to State, local, or tribal law enforce-
6 ment officials for the purpose of assisting them in
7 any aspect of the administration of criminal justice.

8 “(c) DEFINITION.—(1) As used in this section, the
9 term ‘homeland security threat analysis’ means any infor-
10 mational product that is the result of evaluating informa-
11 tion, regardless of its source, in order to—

12 “(A) identify and assess the nature and scope
13 of terrorist threats to the homeland;

14 “(B) detect and identify threats of terrorism
15 against the United States; and

16 “(C) understand such threats in light of actual
17 and potential vulnerabilities of the territory of the
18 United States.

19 “(2) As defined in paragraph (1), the term ‘homeland
20 security threat analysis’ does not include—

21 “(A) any information that has not been proc-
22 essed, evaluated, or analyzed;

23 “(B) any information that is evaluated to create
24 any finished analytic product;

25 “(C) facts or summaries of facts;

1 “(D) reports of interviews; or

2 “(E) reports or other documents that merely
3 aggregate or summarize information derived from
4 multiple sources on the same or related topics.”.

5 (b) CLERICAL AMENDMENT.—The table of contents
6 in section 1(b) of such Act is amended by inserting after
7 the item relating to section 103 the following:

“Sec. 104. Coordination of homeland security threat analysis provided to non-Federal officials.”.

8 **SEC. 217. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS**
9 **PROGRAM.**

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

14 **“SEC. 204. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS**
15 **PROGRAM.**

16 “(a) ESTABLISHMENT.—

17 “(1) IN GENERAL.—The Secretary shall estab-
18 lish a fellowship program in accordance with this
19 section for the purpose of bringing State, local, trib-
20 al, and private sector officials to participate in the
21 work of the Homeland Security Operations Center in
22 order to become familiar with—

23 “(A) the mission and capabilities of that
24 Center; and

1 “(B) the role, programs, products, and
2 personnel of the Office of Information Analysis,
3 the Office of Infrastructure Protection, and
4 other elements of the Department responsible
5 for the integration, analysis, and dissemination
6 of homeland security information, as defined in
7 section 892(f)(1).

8 “(2) PROGRAM NAME.—The program under
9 this section shall be known as the 9/11 Memorial
10 Homeland Security Fellows Program.

11 “(b) ELIGIBILITY.—In order to be eligible for selec-
12 tion as a fellow under the program, an individual must—

13 “(1) have homeland security-related responsibil-
14 ities; and

15 “(2) possess an appropriate national security
16 clearance.

17 “(c) LIMITATIONS.—The Secretary—

18 “(1) may conduct up to 4 iterations of the pro-
19 gram each year, each of which shall be 90 days in
20 duration; and

21 “(2) shall ensure that the number of fellows se-
22 lected for each iteration does not impede the activi-
23 ties of the Center.

24 “(d) CONDITION.—As a condition of selecting an in-
25 dividual as a fellow under the program, the Secretary shall

1 require that the individual’s employer agree to continue
2 to pay the individual’s salary and benefits during the pe-
3 riod of the fellowship.

4 “(e) STIPEND.—During the period of the fellowship
5 of an individual under the program, the Secretary shall,
6 subject to the availability of appropriations, provide to the
7 individual a stipend to cover the individual’s reasonable
8 living expenses during the period of the fellowship.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 in section 1(b) of such Act is further amended by adding
11 at the end of the items relating to such subtitle the fol-
12 lowing:

“Sec. 204. 9/11 Memorial Homeland Security Fellows Program.”.

13 **SEC. 218. ACCESS TO NUCLEAR TERRORISM-RELATED IN-**
14 **FORMATION.**

15 Section 201(d) of the Homeland Security Act of 2002
16 (6 U.S.C. 121(d)) is further amended by adding at the
17 end the following:

18 “(22) To ensure that—

19 “(A) the Assistant Secretary for Informa-
20 tion Analysis receives promptly and without re-
21 quest all information obtained by any compo-
22 nent of the Department if that information re-
23 lates, directly or indirectly, to a threat of ter-
24 rorism involving the potential use of nuclear
25 weapons;

1 “(B) such information is—

2 “(i) integrated and analyzed com-
3 prehensively; and

4 “(ii) disseminated in a timely manner,
5 including to appropriately cleared Federal,
6 State, local, tribal, and private sector offi-
7 cials; and

8 “(C) such information is used to determine
9 what requests the Department should submit
10 for collection of additional information relating
11 to that threat.”.

12 **SEC. 219. ACCESS OF ASSISTANT SECRETARY FOR INFOR-**
13 **MATION ANALYSIS TO TERRORISM INFORMA-**
14 **TION.**

15 Section 201(d) of the Homeland Security Act of 2002
16 (6 U.S.C. 121(d)) is further amended by adding at the
17 end the following:

18 “(23) To ensure that the Assistant Secretary
19 for Information Analysis—

20 “(A) is routinely and without request given
21 prompt access to all terrorism-related informa-
22 tion collected by or otherwise in the possession
23 of any component of the Department, including
24 all homeland security information (as that term
25 is defined in section 892(f)(1)); and

1 “(B) to the extent technologically feasible
2 has direct access to all databases of any compo-
3 nent of the Department that may contain such
4 information.”.

5 **SEC. 220. ADMINISTRATION OF THE HOMELAND SECURITY**
6 **INFORMATION NETWORK.**

7 Section 201(d) of the Homeland Security Act of 2002
8 (6 U.S.C. 121(d)) is further amended by adding at the
9 end the following:

10 “(24) To administer the homeland security in-
11 formation network, including—

12 “(A) exercising primary responsibility for
13 establishing a secure nationwide real-time
14 homeland security information sharing network
15 for Federal, State, and local government agen-
16 cies and authorities, tribal officials, the private
17 sector, and other governmental and private en-
18 tities involved in receiving, analyzing, and dis-
19 tributing information related to threats to
20 homeland security;

21 “(B) ensuring that the information sharing
22 systems, developed in connection with the net-
23 work established under subparagraph (A), are
24 utilized and are compatible with, to the greatest
25 extent practicable, Federal, State, and local

1 government, tribal, and private sector
2 antiterrorism systems and protocols that have
3 been or are being developed; and

4 “(C) ensuring, to the greatest extent pos-
5 sible, that the homeland security information
6 network and information systems are integrated
7 and interoperable with existing private sector
8 technologies.”.

9 **SEC. 221. IAIP PERSONNEL RECRUITMENT.**

10 (a) IN GENERAL.—Chapter 97 of title 5, United
11 States Code, is amended by adding after section 9701 the
12 following:

13 **“§ 9702. Recruitment bonuses**

14 “(a) IN GENERAL.—Notwithstanding any provision
15 of chapter 57, the Secretary of Homeland Security, acting
16 through the Under Secretary for Information Analysis and
17 Infrastructure Protection, may pay a bonus to an indi-
18 vidual in order to recruit such individual for a position
19 that is primarily responsible for discharging the analytic
20 responsibilities specified in section 201(d) of the Home-
21 land Security Act of 2002 (6 U.S.C. 121(d)) and that—

22 “(1) is within the Directorate for Information
23 Analysis and Infrastructure Protection; and

24 “(2) would be difficult to fill in the absence of
25 such a bonus.

1 In determining which individuals are to receive bonuses
2 under this section, appropriate consideration shall be given
3 to the Directorate's critical need for linguists.

4 “(b) BONUS AMOUNT, FORM, ETC.—

5 “(1) IN GENERAL.—The amount of a bonus
6 under this section shall be determined under regula-
7 tions issued by the Secretary of Homeland Security,
8 with the concurrence of the Director of National In-
9 telligence, but may not exceed 50 percent of the an-
10 nual rate of basic pay of the position involved. The
11 Director of National Intelligence shall concur in
12 such regulations only if the amount of the bonus is
13 not disproportionate to recruitment bonuses offered
14 to intelligence analysts in other intelligence commu-
15 nity agencies.

16 “(2) FORM OF PAYMENT.—A bonus under this
17 section shall be paid in the form of a lump-sum pay-
18 ment and shall not be considered to be part of basic
19 pay.

20 “(3) COMPUTATION RULE.—For purposes of
21 paragraph (1), the annual rate of basic pay of a po-
22 sition does not include any comparability payment
23 under section 5304 or any similar authority.

24 “(c) SERVICE AGREEMENTS.—Payment of a bonus
25 under this section shall be contingent upon the employee

1 entering into a written service agreement with the Depart-
2 ment of Homeland Security. The agreement shall
3 include—

4 “(1) the period of service the individual shall be
5 required to complete in return for the bonus; and

6 “(2) the conditions under which the agreement
7 may be terminated before the agreed-upon service
8 period has been completed, and the effect of any
9 such termination.

10 “(d) ELIGIBILITY.—A bonus under this section may
11 not be paid to recruit an individual for—

12 “(1) a position to which an individual is ap-
13 pointed by the President, by and with the advice and
14 consent of the Senate;

15 “(2) a position in the Senior Executive Service
16 as a noncareer appointee (as defined under section
17 3132(a)); or

18 “(3) a position which has been excepted from
19 the competitive service by reason of its confidential,
20 policy-determining, policy-making, or policy-advo-
21 cating character.

22 “(e) TERMINATION.—The authority to pay bonuses
23 under this section shall terminate on September 30, 2008.

1 **“§ 9703. Reemployed annuitants**

2 “(a) IN GENERAL.—If an annuitant receiving an an-
3 nuity from the Civil Service Retirement and Disability
4 Fund becomes employed in a position within the Direc-
5 torate for Information Analysis and Infrastructure Protec-
6 tion of the Department of Homeland Security, the annu-
7 itant’s annuity shall continue. An annuitant so reemployed
8 shall not be considered an employee for the purposes of
9 chapter 83 or 84.

10 “(b) TERMINATION.—The exclusion pursuant to this
11 section of the Directorate for Information Analysis and
12 Infrastructure Protection from the reemployed annuitant
13 provisions of chapters 83 and 84 shall terminate 3 years
14 after the date of the enactment of this section, unless ex-
15 tended by the Secretary of Homeland Security. Any such
16 extension shall be for a period of 1 year and shall be re-
17 newable.

18 “(c) ANNUITANT DEFINED.—For purposes of this
19 section, the term ‘annuitant’ has the meaning given such
20 term under section 8331 or 8401, whichever is appro-
21 priate.

22 **“§ 9704. Regulations**

23 “The Secretary of Homeland Security, in consulta-
24 tion with the Director of the Office of Personnel Manage-
25 ment, may prescribe any regulations necessary to carry
26 out section 9702 or 9703.”.

1 (b) CLERICAL AMENDMENT.—The analysis for chap-
2 ter 97 of title 5, United States Code, is amended by add-
3 ing after the item relating to section 9701 the following:

“9702. Recruitment bonuses.

“9703. Reemployed annuitants.

“9704. Regulations.”.

4 **SEC. 222. HOMELAND SECURITY INFORMATION REQUIRE-**
5 **MENTS.**

6 (a) HOMELAND SECURITY INFORMATION REQUIRE-
7 MENTS.—The Joint Intelligence Community Council shall
8 advise the Director of National Intelligence with respect
9 to homeland security intelligence requirements.

10 (b) DESIGNATION OF MEMBERS.—The President
11 may designate officers of the United States Government
12 in addition to the members named in or designated under
13 section 101A(b) of the National Security Act to serve on
14 the Joint Intelligence Community Council in a capacity
15 limited to consideration of homeland security intelligence
16 requirements.

17 (c) PARTICIPATION IN NATIONAL INTELLIGENCE
18 COLLECTION REQUIREMENTS AND MANAGEMENT PROC-
19 ESSES.—The Secretary shall be a member of any Director
20 of National Intelligence-established interagency collection
21 and requirements management board that develops and
22 reviews national intelligence collection requirements in re-
23 sponse to Presidential intelligence guidelines.

1 **SEC. 223. HOMELAND SECURITY ADVISORY SYSTEM.**

2 (a) IN GENERAL.—Subtitle A of title II of the Home-
3 land Security Act of 2002 is further amended—

4 (1) in section 201(d)(7) (6 U.S.C. 121(d)(7))
5 by inserting “under section 205” after “System”;
6 and

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

8 **“SEC. 205. HOMELAND SECURITY ADVISORY SYSTEM.**

9 “(a) REQUIREMENT.—The Under Secretary for In-
10 formation Analysis and Infrastructure Protection shall im-
11 plement a Homeland Security Advisory System in accord-
12 ance with this section to provide public advisories and
13 alerts regarding threats to homeland security, including
14 national, regional, local, and economic sector advisories
15 and alerts, as appropriate.

16 “(b) REQUIRED ELEMENTS.—The Under Secretary,
17 under the System—

18 “(1) shall include, in each advisory and alert re-
19 garding a threat, information on appropriate protec-
20 tive measures and countermeasures that may be
21 taken in response to the threat;

22 “(2) shall, whenever possible, limit the scope of
23 each advisory and alert to a specific region, locality,
24 or economic sector believed to be at risk; and

25 “(3) shall not, in issuing any advisory or alert,
26 use color designations as the exclusive means of

1 specifying the homeland security threat conditions
2 that are the subject of the advisory or alert.

3 “(c) CONSULTATION.—In carrying out this section,
4 the Under Secretary shall consult with the Homeland Se-
5 curity Center of Excellence for Behavioral and Social Re-
6 search on Terrorism and Counter-Terrorism and with
7 such other academic research centers with expertise in risk
8 communications as the Under Secretary considers appro-
9 priate.”.

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

“Sec. 205. Homeland Security Advisory System.”.

14 **SEC. 224. USE OF OPEN-SOURCE INFORMATION.**

15 Section 201(d) of the Homeland Security Act of 2002
16 (6 U.S.C. 121(d)) is further amended by adding at the
17 end the following:

18 “(25) To ensure that, whenever possible—

19 “(A) the Assistant Secretary for Informa-
20 tion Analysis utilizes open-source information
21 and produces reports and analytic products
22 based on such information that do not require
23 a national security classification under applica-
24 ble law; and

1 “(B) such unclassified open-source reports
2 are produced, to the extent consistent with the
3 protection of intelligence sources and methods
4 from unauthorized disclosure, contempora-
5 neously with reports or analytic products con-
6 cerning the same or similar information that
7 the Assistant Secretary for Information Anal-
8 ysis produces in a classified format.”.

9 **SEC. 225. FULL AND EFFICIENT USE OF OPEN-SOURCE IN-**
10 **FORMATION.**

11 (a) REQUIREMENT.—Subtitle A of title II of the
12 Homeland Security Act of 2002 (6 U.S.C. 121 et seq.)
13 is further amended by adding at the end the following:

14 **“SEC. 206. FULL AND EFFICIENT USE OF OPEN-SOURCE IN-**
15 **FORMATION.**

16 “The Under Secretary shall ensure that, in meeting
17 their analytic responsibilities under section 201(d) and in
18 formulating requirements for collection of additional infor-
19 mation, the Assistant Secretary for Information Analysis
20 and the Assistant Secretary for Infrastructure Protection
21 make full and efficient use of open-source information
22 wherever possible.”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 in section 1(b) of such Act is further amended by inserting
25 after the item relating to section 205 the following:

“Sec. 206. Full and efficient use of open-source information.”.

1 **SEC. 226. COORDINATION WITH THE INTELLIGENCE COM-**
2 **MUNITY.**

3 Section 201 of the Homeland Security Act of 2002
4 (6 U.S.C. 121) is amended by adding at the end the fol-
5 lowing:

6 “(h) COORDINATION WITH THE INTELLIGENCE COM-
7 MUNITY.—The Under Secretary shall ensure that, as to
8 the responsibilities specified in subsection (d), the Assist-
9 ant Secretary for Information Analysis serves as the offi-
10 cial responsible for coordinating, as appropriate, with ele-
11 ments of the intelligence community.”.

12 **SEC. 227. CONSISTENCY WITH APPLICABLE FEDERAL LAWS.**

13 Unless otherwise expressly stated in this subtitle, the
14 Secretary of Homeland Security shall ensure that all ac-
15 tivities carried out under this subtitle are consistent with
16 any applicable Federal laws relating to information policy
17 of Federal agencies.

18 **TITLE III—DOMESTIC PRE-**
19 **PARAREDNESS AND PROTEC-**
20 **TION**

21 **Subtitle A—Preparedness and**
22 **Protection**

23 **SEC. 301. NATIONAL TERRORISM EXERCISE PROGRAM.**

24 (a) IN GENERAL.—Section 430(c) of the Homeland
25 Security Act of 2002 (6 U.S.C. 238) is amended by strik-
26 ing “and” after the semicolon at the end of paragraph

1 (8), by striking the period at the end of paragraph (9)
 2 and inserting “; and”, and by adding at the end the fol-
 3 lowing:

4 “(10) designing, developing, performing, and
 5 evaluating exercises at the national, State, terri-
 6 torial, regional, local, and tribal levels of government
 7 that incorporate government officials, emergency re-
 8 sponse providers, public safety agencies, the private
 9 sector, international governments and organizations,
 10 and other appropriate entities to test the Nation’s
 11 capability to prevent, prepare for, respond to, and
 12 recover from threatened or actual acts of ter-
 13 rorism.”.

14 (b) NATIONAL TERRORISM EXERCISE PROGRAM.—

15 (1) ESTABLISHMENT OF PROGRAM.—Title VIII
 16 of the Homeland Security Act of 2002 (Public Law
 17 107–296) is amended by adding at the end the fol-
 18 lowing new subtitle:

19 **“Subtitle J—Terrorism**
 20 **Preparedness Exercises**

21 **“SEC. 899a. NATIONAL TERRORISM EXERCISE PROGRAM.**

22 “(a) IN GENERAL.—The Secretary, through the Of-
 23 fice for Domestic Preparedness, shall establish a National
 24 Terrorism Exercise Program for the purpose of testing
 25 and evaluating the Nation’s capabilities to prevent, pre-

1 pare for, respond to, and recover from threatened or ac-
2 tual acts of terrorism that—

3 “(1) enhances coordination for terrorism pre-
4 paredness between all levels of government, emer-
5 gency response providers, international governments
6 and organizations, and the private sector;

7 “(2) is—

8 “(A) multidisciplinary in nature, including,
9 as appropriate, information analysis and
10 cybersecurity components;

11 “(B) as realistic as practicable and based
12 on current risk assessments, including credible
13 threats, vulnerabilities, and consequences;

14 “(C) carried out with the minimum degree
15 of notice to involved parties regarding the tim-
16 ing and details of such exercises, consistent
17 with safety considerations;

18 “(D) evaluated against performance meas-
19 ures and followed by corrective action to solve
20 identified deficiencies; and

21 “(E) assessed to learn best practices,
22 which shall be shared with appropriate Federal,
23 State, territorial, regional, local, and tribal per-
24 sonnel, authorities, and training institutions for
25 emergency response providers; and

1 “(3) assists State, territorial, local, and tribal
2 governments with the design, implementation, and
3 evaluation of exercises that—

4 “(A) conform to the requirements of para-
5 graph (2); and

6 “(B) are consistent with any applicable
7 State homeland security strategy or plan.

8 “(b) NATIONAL LEVEL EXERCISES.—The Secretary,
9 through the National Terrorism Exercise Program, shall
10 perform on a periodic basis national terrorism prepared-
11 ness exercises for the purposes of—

12 “(1) involving top officials from Federal, State,
13 territorial, local, tribal, and international govern-
14 ments, as the Secretary considers appropriate;

15 “(2) testing and evaluating, in coordination
16 with the Attorney General, the Nation’s capability to
17 detect, disrupt, and prevent threatened or actual
18 catastrophic acts of terrorism, especially those in-
19 volving weapons of mass destruction; and

20 “(3) testing and evaluating the Nation’s readi-
21 ness to respond to and recover from catastrophic
22 acts of terrorism, especially those involving weapons
23 of mass destruction.

24 “(c) CONSULTATION WITH FIRST RESPONDERS.—In
25 implementing the responsibilities described in subsections

1 (a) and (b), the Secretary shall consult with a geographic
2 (including urban and rural) and substantive cross section
3 of governmental and nongovernmental first responder dis-
4 ciplines, including as appropriate—

5 “(1) Federal, State, and local first responder
6 training institutions;

7 “(2) representatives of emergency response pro-
8 viders; and

9 “(3) State and local officials with an expertise
10 in terrorism preparedness.”.

11 (2) CLERICAL AMENDMENT.—The table of con-
12 tents in section 1(b) of such Act is amended by add-
13 ing at the end of the items relating to title VIII the
14 following:

“Subtitle J—Terrorism Preparedness Exercises

“Sec. 899a. National terrorism exercise program.”.

15 (c) TOPOFF PREVENTION EXERCISE.—No later
16 than one year after the date of enactment of this Act, the
17 Secretary of Homeland Security shall design and carry out
18 a national terrorism prevention exercise for the purposes
19 of—

20 (1) involving top officials from Federal, State,
21 territorial, local, tribal, and international govern-
22 ments as the Secretary considers appropriate; and

1 (2) testing and evaluating, in coordination with
2 the Attorney General, the Nation’s capability to de-
3 tect, disrupt, and prevent threatened or actual cata-
4 strophic acts of terrorism, especially those involving
5 weapons of mass destruction.

6 **SEC. 302. TECHNOLOGY DEVELOPMENT AND TRANSFER.**

7 (a) ESTABLISHMENT OF TECHNOLOGY CLEARING-
8 HOUSE.—Not later than 90 days after the date of enact-
9 ment of this Act, the Secretary shall complete the estab-
10 lishment of the Technology Clearinghouse under section
11 313 of the Homeland Security Act of 2002.

12 (b) TRANSFER PROGRAM.—Section 313 of the Home-
13 land Security Act of 2002 (6 U.S.C. 193) is amended—

14 (1) by adding at the end of subsection (b) the
15 following new paragraph:

16 “(6) The establishment of a homeland security
17 technology transfer program to facilitate the identi-
18 fication, modification, and commercialization of tech-
19 nology and equipment for use by Federal, State, and
20 local governmental agencies, emergency response
21 providers, and the private sector to prevent, prepare
22 for, or respond to acts of terrorism.”;

23 (2) by redesignating subsection (c) as sub-
24 section (e); and

1 (3) by inserting after subsection (b) the fol-
2 lowing new subsections:

3 “(c) ELEMENTS OF THE TECHNOLOGY TRANSFER
4 PROGRAM.—The activities of the program described in
5 subsection (b)(6) shall include—

6 “(1) identifying available technologies that have
7 been, or are in the process of being, developed, test-
8 ed, evaluated, or demonstrated by the Department,
9 other Federal agencies, the private sector, or foreign
10 governments and international organizations, and re-
11 viewing whether such technologies may be useful in
12 assisting Federal, State, and local governmental
13 agencies, emergency response providers, or the pri-
14 vate sector to prevent, prepare for, or respond to
15 acts of terrorism; and

16 “(2) communicating to Federal, State, and local
17 governmental agencies, emergency response pro-
18 viders, or the private sector the availability of such
19 technologies for antiterrorism use, as well as the
20 technology’s specifications, satisfaction of appro-
21 priate standards, and the appropriate grants avail-
22 able from the Department to purchase such tech-
23 nologies;

24 “(d) RESPONSIBILTIES OF UNDER SECRETARY FOR
25 SCIENCE AND TECHNOLOGY.—In support of the activities

1 described in subsection (c), the Under Secretary for
2 Science and Technology shall—

3 “(1) conduct or support, based on the Depart-
4 ment’s current risk assessments of terrorist threats,
5 research, development, demonstrations, tests, and
6 evaluations, as appropriate, of technologies identified
7 under subparagraph (c)(1), including of any nec-
8 essary modifications to such technologies for
9 antiterrorism use;

10 “(2) ensure that the technology transfer activi-
11 ties throughout the Directorate of Science and Tech-
12 nology are coordinated, including the technology
13 transfer aspects of projects and grants awarded to
14 the private sector and academia;

15 “(3) consult with the other Under Secretaries
16 of the Department and the Director of the Office for
17 Domestic Preparedness, on an ongoing basis;

18 “(4) consult with Federal, State, and local
19 emergency response providers;

20 “(5) consult with government agencies and
21 standards development organizations as appropriate;

22 “(6) enter into agreements and coordinate with
23 other Federal agencies, foreign governments, and
24 national and international organizations as the Sec-
25 retary determines appropriate, in order to maximize

1 the effectiveness of such technologies or to facilitate
2 commercialization of such technologies;

3 “(7) consult with existing technology transfer
4 programs and Federal and State training centers
5 that research, develop, test, evaluate, and transfer
6 military and other technologies for use by emergency
7 response providers; and

8 “(8) establish a working group in coordination
9 with the Secretary of Defense to advise and assist
10 the technology clearinghouse in the identification of
11 military technologies that are in the process of being
12 developed, or are developed, by the Department of
13 Defense or the private sector, which may include—

14 “(A) representatives from the Department
15 of Defense or retired military officers;

16 “(B) nongovernmental organizations or
17 private companies that are engaged in the re-
18 search, development, testing, or evaluation of
19 related technologies or that have demonstrated
20 prior experience and success in searching for
21 and identifying technologies for Federal agen-
22 cies;

23 “(C) Federal, State, and local emergency
24 response providers; and

1 “(D) to the extent the Secretary considers
2 appropriate, other organizations, other inter-
3 ested Federal, State, and local agencies, and
4 other interested persons.”.

5 (c) REPORT.—Not later than 1 year after the date
6 of enactment of this Act, the Under Secretary for Science
7 and Technology shall transmit to the appropriate congres-
8 sional committees a description of the progress the De-
9 partment has made in implementing the provisions of sec-
10 tion 313 of the Homeland Security Act of 2002, as amend-
11 ed by this Act, including a description of the process used
12 to review unsolicited proposals received as described in
13 subsection (b)(3) of such section.

14 (d) SAVINGS CLAUSE.—Nothing in this section (in-
15 cluding the amendments made by this section) shall be
16 construed to alter or diminish the effect of the limitation
17 on the authority of the Secretary of Homeland Security
18 under section 302(4) of the Homeland Security Act of
19 2002 (6 U.S.C. 182(4)) with respect to human health-re-
20 lated research and development activities.

21 **SEC. 303. REVIEW OF ANTITERRORISM ACQUISITIONS.**

22 (a) STUDY.—The Secretary of Homeland Security
23 shall conduct a study of all Department of Homeland Se-
24 curity procurements, including ongoing procurements and
25 anticipated procurements, to—

1 (1) identify those that involve any product,
2 equipment, service (including support services), de-
3 vice, or technology (including information tech-
4 nology) that is being designed, developed, modified,
5 or procured for the specific purpose of preventing,
6 detecting, identifying, or deterring acts of terrorism
7 or limiting the harm such acts might otherwise
8 cause; and

9 (2) assess whether such product, equipment,
10 service (including support services), device, or tech-
11 nology is an appropriate candidate for the litigation
12 and risk management protections of subtitle G of
13 title VIII of the Homeland Security Act of 2002.

14 (b) SUMMARY AND CLASSIFICATION REPORT.—Not
15 later than 180 days after the date of enactment of this
16 Act, the Secretary shall transmit to the Congress a
17 report—

18 (1) describing each product, equipment, service
19 (including support services), device, and technology
20 identified under subsection (a) that the Secretary
21 believes would be an appropriate candidate for the
22 litigation and risk management protections of sub-
23 title G of title VIII of the Homeland Security Act
24 of 2002;

1 (2) listing each such product, equipment, serv-
2 ice (including support services), device, and tech-
3 nology in order of priority for deployment in accord-
4 ance with current terrorism risk assessment infor-
5 mation; and

6 (3) setting forth specific actions taken, or to be
7 taken, to encourage or require persons or entities
8 that sell or otherwise provide such products, equip-
9 ment, services (including support services), devices,
10 and technologies to apply for the litigation and risk
11 management protections of subtitle G of title VIII of
12 the Homeland Security Act of 2002, and to ensure
13 prioritization of the Department's review of such
14 products, equipment, services, devices, and tech-
15 nologies under such Act in accordance with the
16 prioritization set forth in paragraph (2) of this sub-
17 section.

18 **SEC. 304. CENTER OF EXCELLENCE FOR BORDER SECU-**
19 **RITY.**

20 The Secretary of Homeland Security shall establish
21 a university-based Center of Excellence for Border Secu-
22 rity following the merit-review processes and procedures
23 and other limitations that have been established for select-
24 ing and supporting University Programs Centers of Excel-
25 lence. The Center shall prioritize its activities on the basis

1 of risk to address the most significant threats,
2 vulnerabilities, and consequences posed by the Nation's
3 borders and border control systems. The activities should
4 include the conduct of research, the examination of exist-
5 ing and emerging border security technology and systems,
6 and the provision of education, technical, and analytical
7 assistance for the Department of Homeland Security to
8 effectively secure the Nation's borders.

9 **SEC. 305. REQUIREMENTS RELATING TO THE CONTAINER**
10 **SECURITY INITIATIVE (CSI).**

11 (a) DESIGNATION OF NEW FOREIGN SEAPORTS.—
12 The Secretary of Homeland Security may designate a for-
13 eign seaport as a participating seaport in the Container
14 Security Initiative program on or after the date of the en-
15 actment of this Act if the Secretary—

16 (1) determines, based on a foreign port assess-
17 ment carried out under section 70108(a) of title 46,
18 United States Code, or such other risk assessment
19 that the Secretary may perform, and a cost-benefit
20 analysis, that the benefits of designating such sea-
21 port as a participating seaport outweigh the cost of
22 expanding the program to such seaport; and

23 (2) enters into an agreement with the foreign
24 government of such seaport, in consultation with the

1 Department of State and other appropriate Federal
2 agencies to—

3 (A) establish security criteria to identify
4 the potential compromise by terrorists or ter-
5 rorist weapons of maritime cargo containers
6 bound for the United States based on advance
7 information; and

8 (B) screen or inspect such maritime cargo
9 containers for potential compromise by terror-
10 ists or terrorist weapons prior to shipment to
11 the United States.

12 (b) DEPLOYMENT OF INSPECTION EQUIPMENT TO
13 NEW CSI PARTICIPATING SEAPORTS.—

14 (1) DEPLOYMENT.—The Secretary may—

15 (A) loan or otherwise provide nonintrusive
16 inspection equipment for maritime cargo con-
17 tainers, on a nonreimbursable basis, at a sea-
18 port designated under subsection(a); and

19 (B) provide training for personnel at a sea-
20 port designated under subsection (a) to operate
21 the nonintrusive inspection equipment.

22 (2) ADDITIONAL REQUIREMENTS.—

23 (A) CAPABILITY REQUIREMENTS AND OP-
24 ERATING PROCEDURES.—The Secretary shall
25 establish technical capability requirements and

1 standard operating procedures for nonintrusive
2 inspection equipment described in paragraph
3 (1), consistent with any standards established
4 by the Secretary under section 70116 of title 46
5 United States Code.

6 (B) AGREEMENT REQUIRED.—The Sec-
7 retary shall require each CSI port to agree to
8 operate such equipment in accordance with re-
9 quirements and procedures established under
10 subparagraph (A) as a condition for receiving
11 the equipment and training under paragraph
12 (1).

13 (c) DEPLOYMENT OF PERSONNEL TO NEW CSI
14 PORTS; REEVALUATION OF PERSONNEL AT ALL CSI
15 PORTS.—

16 (1) DEPLOYMENT.—The Secretary shall deploy
17 United States Customs and Border Protection per-
18 sonnel to each seaport designated under subsection
19 (a) with respect to which the Secretary determines
20 that the deployment is necessary to successfully im-
21 plement the requirements of CSI at the port.

22 (2) REEVALUATION.—The Secretary shall peri-
23 odically review relevant risk assessment information
24 with respect to each seaport at which personnel are
25 deployed under paragraph (1) to assess whether or

1 not continued deployment of such personnel, in
2 whole or in part, is necessary to success fully imple-
3 ment the requirements of CSI at the port.

4 (d) INSPECTION AND SCREENING AT UNITED
5 STATES PORTS OF ENTRY.—Cargo containers arriving at
6 a United States port of entry from a CSI port shall under-
7 go the same level of inspection and screening for potential
8 compromise by terrorists or terrorist weapons as cargo
9 containers arriving at a United States port of entry from
10 a foreign seaport that is not participating in CSI unless
11 the containers were initially inspected at the CSI port at
12 the request of personnel deployed under subsection (c) and
13 such personnel verify and electronically record that the in-
14 spection indicates that the containers have not been com-
15 promised by terrorists or terrorist weapons.

16 **SEC. 306. SECURITY OF MARITIME CARGO CONTAINERS.**

17 (a) STANDARDS AND REGULATIONS.—

18 (1) STANDARDS.—Not later than 180 days
19 after the date of the enactment of this Act, the Sec-
20 retary of Homeland Security shall establish stand-
21 ards and procedures for securing maritime cargo
22 containers relating to obligation to seal, recording of
23 seal changes, modal changes, seal placement, ocean
24 carrier seal verification, and addressing seal anoma-
25 lies. These standards shall include the standards for

1 seals and locks as required under paragraph (3) of
2 subsection (b) of section 70116 of title 46, United
3 States Code.

4 (2) REGULATIONS.—No later than 90 days
5 after completion of the requirements in subsection
6 (a), the Secretary of Homeland Security shall issue
7 regulations for the security of maritime cargo con-
8 tainers consistent with the standards developed in
9 subsection (a).

10 (b) INTERNATIONAL AGREEMENTS.—The Secretary,
11 in consultation with the Department of State, Department
12 of Commerce, Department of Treasury, Office of the
13 United States Trade Representative, and other appro-
14 priate Federal agencies, shall seek to enter into agree-
15 ments with foreign countries and international organiza-
16 tions to establish standards for the security of maritime
17 cargo containers moving within the intermodal transpor-
18 tation system that, to the maximum extent practicable,
19 meet the requirements of subsection (a).

20 (c) CONTAINER TARGETING STRATEGY.—The Sec-
21 retary shall develop a strategy to improve the ability of
22 the Department of Homeland Security to use advance
23 cargo information to identify anomalies in such informa-
24 tion to determine whether such cargo poses a security risk.
25 The strategy shall include a method of contacting shippers

1 to verify or explain any anomalies discovered in such infor-
2 mation.

3 (d) CONTAINER SECURITY DEMONSTRATION PRO-
4 GRAM.—

5 (1) PROGRAM.—The Secretary is authorized to
6 establish and carry out a demonstration program
7 that integrates radiation detection equipment with
8 other types of nonintrusive inspection equipment at
9 an appropriate United States seaport, as determined
10 by the Secretary.

11 (2) REQUIREMENT.—The demonstration pro-
12 gram shall also evaluate ways to strengthen the ca-
13 pability of Department of Homeland Security per-
14 sonnel to analyze cargo inspection data and ways to
15 improve the transmission of inspection data between
16 appropriate entities within the Department of
17 Homeland Security.

18 (e) COORDINATION AND CONSOLIDATION OF CON-
19 TAINER SECURITY PROGRAMS.—The Secretary shall co-
20 ordinate all programs that enhance the security of mari-
21 time cargo, and, to the extent practicable, consolidate Op-
22 eration Safe Commerce, the Smart Box Initiative, and
23 similar programs that evaluate security enhancements for
24 maritime cargo containers, to achieve enhanced coordina-
25 tion and efficiency. The Secretary shall report to the ap-

1 appropriate congressional committees (as that term is de-
2 fined in section 2 of the Homeland Security Act of 2002
3 (6 U.S.C. 101) before consolidating any program men-
4 tioned in this subsection.

5 **SEC. 307. SECURITY PLAN FOR GENERAL AVIATION AT**
6 **RONALD REAGAN WASHINGTON NATIONAL**
7 **AIRPORT.**

8 Not later than 60 days after the date of enactment
9 of this Act, the Secretary of Homeland Security shall im-
10 plement section 823(a) of the Vision 100—Century of
11 Aviation Reauthorization Act (49 U.S.C. 41718 note; 117
12 Stat. 2595).

13 **SEC. 308. INTEROPERABLE COMMUNICATIONS ASSIST-**
14 **ANCE.**

15 (a) FINDINGS.—The Congress finds the following:

16 (1) The 9/11 Commission determined that the
17 inability of first responders to communicate effec-
18 tively on September 11, 2001 was a critical obstacle
19 to an effective multi-jurisdictional response.

20 (2) Many jurisdictions across the country still
21 experience difficulties communicating that may con-
22 tribute to confusion, delays, or added risks when re-
23 sponding to an emergency.

24 (3) During fiscal year 2004, the Office for Do-
25 mestic Preparedness awarded over \$834,000,000 for

1 2,912 projects through Department of Homeland
2 Security grant programs for the purposes of improv-
3 ing communications interoperability.

4 (4) Interoperable communications systems are
5 most effective when designed to comprehensively ad-
6 dress, on a regional basis, the communications of all
7 types of public safety agencies, first responder dis-
8 ciplines, and State and local government facilities.

9 (5) Achieving communications interoperability
10 is complex due to the extensive training, system
11 modifications, and agreements among the different
12 jurisdictions that are necessary to implement effec-
13 tive communications systems.

14 (6) The Congress authorized the Department of
15 Homeland Security to create an Office for Interoper-
16 ability and Compatibility in the Intelligence Reform
17 and Terrorism Prevention Act of 2004 to, among
18 other things, establish a comprehensive national ap-
19 proach, coordinate federal activities, accelerate the
20 adoption of standards, and encourage research and
21 development to achieve interoperable communica-
22 tions for first responders.

23 (7) The Office for Interoperability and Compat-
24 ibility includes the SAFECOM Program that serves
25 as the umbrella program within the Federal govern-

1 ment to improve public safety communications inter-
2 operability, and has developed the RAPIDCOM pro-
3 gram, the Statewide Communications Interoper-
4 ability Planning Methodology, and a Statement of
5 Requirements to provide technical, planning, and
6 purchasing assistance for Federal departments and
7 agencies, State and local governments, and first re-
8 sponders.

9 (b) SENSE OF CONGRESS.—It is the sense of the
10 Congress that the Department of Homeland Security
11 should implement as expeditiously as possible the initia-
12 tives assigned to the Office for Interoperability and Com-
13 patibility under section 7303 of the Intelligence Reform
14 and Terrorism Prevention Act of 2004 (6 U.S.C. 194),
15 including specifically the following:

16 (1) Establishing a comprehensive national ap-
17 proach to achieving public safety interoperable com-
18 munications.

19 (2) Issuing letters of intent to commit future
20 funds for jurisdictions through existing homeland se-
21 curity grant programs to applicants as appropriate
22 to encourage long-term investments that may signifi-
23 cantly improve communications interoperability.

24 (3) Providing technical assistance to additional
25 urban and other high-risk areas to support the es-

1 tablishment of consistent, secure, and effective inter-
2 operable communications capabilities.

3 (4) Completing the report to the Congress on
4 the Department’s plans for accelerating the develop-
5 ment of national voluntary consensus standards for
6 public safety interoperable communications, a sched-
7 ule of milestones for such development, and achieve-
8 ments of such development, by no later than 30 days
9 after the date of enactment of this Act.

10 **SEC. 309. REPORT TO CONGRESS ON IMPLEMENTATION OF**
11 **RECOMMENDATIONS REGARDING PROTEC-**
12 **TION OF AGRICULTURE.**

13 The Secretary of Homeland Security shall report to
14 the appropriate congressional committees (as defined in
15 section 2 of the Homeland Security Act of 2002 (6 U.S.C.
16 101)) by no later than 120 days after the date of the en-
17 actment of this Act regarding how the Department of
18 Homeland Security will implement the applicable rec-
19 ommendations from the Government Accountability Office
20 report entitled “Homeland Security: Much is Being Done
21 to Protect Agriculture from a Terrorist Attack, but Impor-
22 tant Challenges Remain” (GAO–05–214).

1 **SEC. 310. COMMERCIAL FLIGHTS TO AND FROM RONALD**
2 **REAGAN WASHINGTON NATIONAL AIRPORT.**

3 (a) PASSENGER SEATING REQUIREMENTS.—Pas-
4 sengers on commercial flights arriving at and departing
5 from Ronald Reagan Washington National Airport shall
6 remain seated for 15 minutes after takeoff from and be-
7 fore touchdown at that airport.

8 (b) VIOLATIONS.—If a passenger violates the require-
9 ments of subsection (a), the captain of the aircraft shall
10 determine if the passenger’s actions present a security
11 threat to other passengers or the aircraft. Only if the cap-
12 tain determines that the passenger’s actions present such
13 a threat shall a flight be diverted to a destination other
14 than Ronald Reagan Washington National Airport.

15 (c) REGULATIONS.—Notwithstanding subsection (a),
16 the Secretary of Homeland Security may issue regulations
17 to decrease the time limit set forth in subsection (a).

18 **SEC. 310A. FEDERAL FLIGHT DECK OFFICERS.**

19 (a) TRAINING AND REQUALIFICATION TRAINING.—
20 Section 44921(c) of title 49, United States Code, is
21 amended by adding at the end the following:

22 “(3) LOCATION OF TRAINING.—

23 “(A) STUDY.—The Secretary shall conduct
24 a study of the feasibility of conducting Federal
25 flight deck officer initial training at facilities lo-
26 cated throughout the United States, including

1 an analysis of any associated programmatic im-
2 pacts to the Federal flight deck officer pro-
3 gram.

4 “(B) REPORT.—Not later than 180 days
5 after the date of enactment of this paragraph,
6 the Secretary shall transmit to Congress a re-
7 port on the results of the study.

8 “(4) DATES OF TRAINING.—The Secretary shall
9 ensure that a pilot who is eligible to receive Federal
10 flight deck officer training is offered, to the max-
11 imum extent practicable, a choice of training dates
12 and is provided at least 30 days advance notice of
13 the dates.

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

19 “(6) REQUALIFICATION AND RECURRENT
20 TRAINING.—

21 “(A) STANDARDS.—The Secretary shall es-
22 tablish qualification standards for facilities
23 where Federal flight deck officers can receive
24 requalification and recurrent training.

1 “(B) LOCATIONS.—The Secretary shall
2 provide for requalification and recurrent train-
3 ing at geographically diverse facilities, including
4 Federal, State, and local law enforcement and
5 government facilities, and private training fa-
6 cilities that meet the qualification standards es-
7 tablished under subparagraph (A).

8 “(7) COSTS OF TRAINING.—

9 “(A) IN GENERAL.—The Secretary shall
10 provide Federal flight deck officer training, re-
11 qualification training, and recurrent training to
12 eligible pilots at no cost to the pilots or the air
13 carriers that employ the pilots.

14 “(B) TRANSPORTATION AND EXPENSES.—
15 The Secretary may provide travel expenses to a
16 pilot receiving Federal flight deck officer train-
17 ing, requalification training, or recurrent train-
18 ing.

19 “(8) COMMUNICATIONS.—Not later than 180
20 days after the date of enactment of this paragraph,
21 the Secretary shall establish a secure means for per-
22 sonnel of the Transportation Security Administra-
23 tion to communicate with Federal flight deck offi-
24 cers, and for Federal flight deck officers to commu-
25 nicate with each other, in support of the mission of

1 such officers. Such means of communication may in-
2 clude a secure Internet website.

3 “(9) ISSUANCE OF BADGES.—Not later than
4 180 days after the date of enactment of this para-
5 graph, the Secretary shall issue badges to Federal
6 flight deck officers.”.

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

11 “(4) REVOCATION.—

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

19 “(B) HEARINGS.—An individual who is ad-
20 versely affected by an order of the Assistant
21 Secretary under subparagraph (A) is entitled to
22 a hearing on the record. When conducting a
23 hearing under this section, the administrative
24 law judge shall not be bound by findings of fact

1 or interpretations of laws and regulations of the
2 Assistant Secretary.

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

8 “(D) JUDICIAL REVIEW OF A FINAL
9 ORDER.—The determination and order of the
10 Secretary revoking the deputization of a Fed-
11 eral flight deck officer under this section shall
12 be final and conclusive unless the individual
13 against whom such an order is issued files an
14 application for judicial review under subchapter
15 II of chapter 5 of title 5 (popularly known as
16 the Administrative Procedure Act) within 60
17 days of entry of such order in the appropriate
18 United States court of appeals.”.

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

23 “(4) PILOT PROGRAM.—

24 “(A) IN GENERAL.—Not later than 90
25 days after the date of enactment of this para-

1 graph, the Secretary shall implement a pilot
2 program to allow pilots participating in the
3 Federal flight deck officer program to transport
4 their firearms on their persons. The Secretary
5 may prescribe any training, equipment, or pro-
6 cedures that the Secretary determines necessary
7 to ensure safety and maximize weapon reten-
8 tion.

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

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

1 (d) FEDERAL FLIGHT DECK OFFICERS ON INTER-
2 NATIONAL FLIGHTS.—

3 (1) AGREEMENTS WITH FOREIGN GOVERN-
4 MENTS.—The President is encouraged to pursue ag-
5 gressively agreements with foreign governments to
6 allow maximum deployment of Federal flight deck
7 officers on international flights.

8 (2) REPORT.—Not later than 180 days after
9 the date of enactment of this Act, the President (or
10 the President’s designee) shall submit to Congress a
11 report on the status of the President’s efforts to
12 allow maximum deployment of Federal flight deck
13 officers on international flights.

14 (e) REFERENCES TO UNDER SECRETARY.—Section
15 44921 of title 49, United States Code, is amended—

16 (1) in subsection (a) by striking “Under Sec-
17 retary of Transportation for Security” and inserting
18 “Secretary of Homeland Security”;

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

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

1 **Subtitle B—Department of Home-**
2 **land Security Cybersecurity En-**
3 **hancement**

4 **SEC. 311. SHORT TITLE.**

5 This subtitle may be cited as the “Department of
6 Homeland Security Cybersecurity Enhancement Act of
7 2005”.

8 **SEC. 312. ASSISTANT SECRETARY FOR CYBERSECURITY.**

9 Section 201(b) of the Homeland Security Act of 2002
10 (6 U.S.C. 121(b)) is amended—

11 (1) by redesignating paragraph (3) as para-
12 graph (4); and

13 (2) by inserting after paragraph (2) the fol-
14 lowing new paragraph:

15 “(3) ASSISTANT SECRETARY FOR
16 CYBERSECURITY.—There shall be in the Department
17 an Assistant Secretary for Cybersecurity, who shall
18 be appointed by the President.”; and

19 (3) in paragraph (4), as redesignated by sub-
20 paragraph (A) of this paragraph—

21 (A) by striking “Analysis and the” and in-
22 serting “Analysis, the”; and

23 (B) by striking “Protection shall” and in-
24 serting “Protection, and the Assistant Sec-
25 retary for Cybersecurity shall”.

1 **SEC. 313. CYBERSECURITY TRAINING PROGRAMS AND**
2 **EQUIPMENT.**

3 (a) IN GENERAL.—The Secretary of Homeland Secu-
4 rity, acting through the Assistant Secretary for
5 Cybersecurity, may establish, in conjunction with the Na-
6 tional Science Foundation, a program to award grants to
7 institutions of higher education (and consortia thereof)
8 for—

9 (1) the establishment or expansion of
10 cybersecurity professional development programs;

11 (2) the establishment or expansion of associate
12 degree programs in cybersecurity; and

13 (3) the purchase of equipment to provide train-
14 ing in cybersecurity for either professional develop-
15 ment programs or degree programs.

16 (b) ROLES.—

17 (1) DEPARTMENT OF HOMELAND SECURITY.—
18 The Secretary, acting through the Assistant Sec-
19 retary for Cybersecurity and in consultation with the
20 Director of the National Science Foundation, shall
21 establish the goals for the program established
22 under this section and the criteria for awarding
23 grants under the program.

24 (2) NATIONAL SCIENCE FOUNDATION.—The Di-
25 rector of the National Science Foundation shall op-
26 erate the program established under this section

1 consistent with the goals and criteria established
2 under paragraph (1), including soliciting applicants,
3 reviewing applications, and making and admin-
4 istering grant awards. The Director may consult
5 with the Assistant Secretary for Cybersecurity in se-
6 lecting awardees.

7 (3) FUNDING.—The Secretary shall transfer to
8 the National Science Foundation the funds nec-
9 essary to carry out this section.

10 (c) GRANT AWARDS.—

11 (1) PEER REVIEW.—All grant awards under
12 this section shall be made on a competitive, merit-
13 reviewed basis.

14 (2) FOCUS.—In making grant awards under
15 this section, the Director shall, to the extent prac-
16 ticable, ensure geographic diversity and the partici-
17 pation of women and underrepresented minorities.

18 (3) PREFERENCE.—In making grant awards
19 under this section, the Director shall give preference
20 to applications submitted by consortia of institutions
21 to encourage as many students and professionals as
22 possible to benefit from this program.

23 (d) AUTHORIZATION OF APPROPRIATIONS.—Of the
24 amount authorized under section 101, there is authorized

1 to be appropriated to the Secretary for carrying out this
2 section \$3,700,000 for fiscal year 2006.

3 (e) DEFINITIONS.—In this section, the term “institu-
4 tion of higher education” has the meaning given that term
5 in section 101(a) of the Higher Education Act of 1965
6 (20 U.S.C. 1001(a)).

7 **SEC. 314. CYBERSECURITY RESEARCH AND DEVELOPMENT.**

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

11 **“SEC. 314. CYBERSECURITY RESEARCH AND DEVELOP-**
12 **MENT.**

13 “(a) IN GENERAL.—The Under Secretary for Science
14 and Technology shall support research and development,
15 including fundamental, long-term research, in
16 cybersecurity to improve the ability of the United States
17 to prevent, protect against, detect, respond to, and recover
18 from cyber attacks, with emphasis on research and devel-
19 opment relevant to large-scale, high-impact attacks.

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

22 “(1) advance the development and accelerate
23 the deployment of more secure versions of funda-
24 mental Internet protocols and architectures, includ-

1 ing for the domain name system and routing proto-
2 cols;

3 “(2) improve and create technologies for detect-
4 ing attacks or intrusions, including monitoring tech-
5 nologies;

6 “(3) improve and create mitigation and recov-
7 ery methodologies, including techniques for contain-
8 ment of attacks and development of resilient net-
9 works and systems that degrade gracefully; and

10 “(4) develop and support infrastructure and
11 tools to support cybersecurity research and develop-
12 ment efforts, including modeling, testbeds, and data
13 sets for assessment of new cybersecurity tech-
14 nologies.

15 “(c) COORDINATION.—In carrying out this section,
16 the Under Secretary for Science and Technology shall co-
17 ordinate activities with—

18 “(1) the Assistant Secretary for Cybersecurity;
19 and

20 “(2) other Federal agencies, including the Na-
21 tional Science Foundation, the Defense Advanced
22 Research Projects Agency, the Information Assur-
23 ance Directorate of the National Security Agency,
24 and the National Institute of Standards and Tech-

1 nology, to identify unmet needs and cooperatively
2 support activities, as appropriate.

3 “(d) NATURE OF RESEARCH.—Activities under this
4 section shall be carried out in accordance with section
5 306(a) of this Act.”.

6 **Subtitle C—Security of Public** 7 **Transportation Systems**

8 **SEC. 321. SECURITY BEST PRACTICES.**

9 Not later than 120 days after the date of the enact-
10 ment of this Act, the Secretary of Homeland Security, in
11 coordination with the Secretary of Transportation, shall
12 issue a report containing best practices for the security
13 of public transportation systems related to the threats
14 from terrorism. Such report shall be developed in consulta-
15 tion with providers of public transportation, industry asso-
16 ciations, public transportation employee representatives,
17 first responders, and appropriate Federal, State, and local
18 officials. The Secretary of Transportation shall dissemi-
19 nate the report to providers of public transportation, in-
20 dustry associations, public transportation employee rep-
21 resentatives, and appropriate Federal, State, and local of-
22 ficials, the Committee on Homeland Security and the
23 Committee on Transportation and Infrastructure of the
24 House of Representatives, and any other appropriate enti-
25 ties.

1 **SEC. 322. PUBLIC AWARENESS.**

2 Not later than 90 days after the date of the enact-
3 ment of this Act, the Secretary of Transportation, after
4 consultation with the Secretary of Homeland Security,
5 shall develop a national plan to increase awareness of
6 measures that the general public, public transportation
7 passengers, and public transportation employees can take
8 to increase public transportation security related to the
9 threat of terrorism. Such plan shall also provide outreach
10 to providers and employees of public transportation sys-
11 tems on available transportation security technologies, on-
12 going research and development efforts, employee train-
13 ing, and available Federal funding sources to improve pub-
14 lic transportation security. Not later than 9 months after
15 the date of the enactment of this Act, the Secretary of
16 Transportation shall disseminate the plan to providers of
17 public transportation, industry associations, public trans-
18 portation employee representatives, appropriate Federal,
19 State, and local officials, and other appropriate entities.

20 **Subtitle D—Critical Infrastructure**
21 **Prioritization**

22 **SEC. 331. CRITICAL INFRASTRUCTURE.**

23 (a) **COMPLETION OF PRIORITIZATION.**—Not later
24 than 90 days after the date of the enactment of this Act,
25 the Secretary of Homeland Security shall complete the

1 prioritization of the Nation's critical infrastructure ac-
2 cording to all of the following criteria:

3 (1) The threat of terrorist attack, based on
4 threat information received and analyzed by the Of-
5 fice of Information Analysis of the Department re-
6 garding the intentions and capabilities of terrorist
7 groups and other potential threats to the Nation's
8 critical infrastructure.

9 (2) The likelihood that an attack would cause
10 the destruction or significant disruption of such in-
11 frastructure.

12 (3) The likelihood that an attack would result
13 in substantial numbers of deaths and serious bodily
14 injuries, a substantial adverse impact on the na-
15 tional economy, or a substantial adverse impact on
16 national security.

17 (b) COORDINATION AND COOPERATION.—

18 (1) COORDINATION.—The Secretary shall co-
19 ordinate the prioritization under this section with
20 other relevant Federal agencies.

21 (2) COOPERATION.—Such prioritization shall be
22 developed in cooperation with other relevant State,
23 local, and tribal governments, and the private sector,
24 as appropriate.

1 **SEC. 332. SECURITY REVIEW.**

2 (a) REQUIREMENT.—Not later than 9 months after
3 the date of the enactment of this Act, the Secretary of
4 Homeland Security shall—

5 (1) review existing Federal, State, local, tribal,
6 and private sector plans for securing the critical in-
7 frastructure included in the prioritization developed
8 under section 331;

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

12 (3) coordinate and contribute to protective ef-
13 forts of other Federal, State, local, and tribal agen-
14 cies and the private sector, as appropriate.

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

17 (1) protective measures to secure such infra-
18 structure, including milestones and timeframes for
19 implementation; and

20 (2) to the extent practicable, performance
21 metrics to evaluate the benefits to both national se-
22 curity and the Nation’s economy from the implemen-
23 tation of such protective measures.

24 (c) COORDINATION.—The Secretary shall coordinate
25 the security review and recommendations required by sub-
26 section (a) with other relevant Federal agencies.

1 **SEC. 333. IMPLEMENTATION REPORT.**

2 (a) IN GENERAL.—Not later than 15 months after
3 the date of the enactment of this Act, the Secretary of
4 Homeland Security shall submit a report to the appro-
5 priate congressional committees (as defined in section 2
6 of the Homeland Security Act of 2002 (6 U.S.C. 101))
7 on the implementation of section 332. Such report shall
8 detail—

9 (1) the Secretary’s review and coordination of
10 security plans under section 332; and

11 (2) the Secretary’s oversight of the execution
12 and effectiveness of such plans.

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

17 **SEC. 334. PROTECTION OF INFORMATION.**

18 (a) PROTECTION OF INFORMATION.—The informa-
19 tion set forth in subsection (b) that is generated, compiled,
20 or disseminated by the Department of Homeland Security
21 in carrying out this subtitle—

22 (1) is exempt from disclosure under section 552
23 of title 5, United States Code; and

24 (2) shall not, if provided by the Department to
25 a State or local government or government agency—

1 (A) be made available pursuant to any
2 State or local law requiring disclosure of infor-
3 mation or records;

4 (B) otherwise be disclosed or distributed to
5 any person by such State or local government
6 or government agency without the written con-
7 sent of the Secretary; or

8 (C) be used other than for the purpose of
9 protecting critical infrastructure or protected
10 systems, or in furtherance of an investigation or
11 the prosecution of a criminal act.

12 (b) INFORMATION COVERED.—Information referred
13 to in subsection (a) is the following:

14 (1) The Secretary’s prioritization of critical in-
15 frastructure pursuant to section 331, including any
16 information upon which such prioritization was
17 based;

18 (2) the Secretary’s review of existing security
19 plans for such infrastructure pursuant to section
20 332(a)(1).

21 (3) The Secretary’s recommendations for
22 changes to existing plans for securing such infra-
23 structure pursuant to section 332(a)(2).

1 (4) The nature and scope of protective efforts
2 with respect to such infrastructure under section
3 332(a)(3).

4 (5) The report and update prepared by the Sec-
5 retary pursuant to section 333, including any infor-
6 mation upon which such report and update are
7 based.

8 **TITLE IV—U.S. CUSTOMS AND**
9 **BORDER PROTECTION AND**
10 **U.S. IMMIGRATION AND CUS-**
11 **TOMS ENFORCEMENT**

12 **SEC. 401. ESTABLISHMENT AND IMPLEMENTATION OF**
13 **COST ACCOUNTING SYSTEM; REPORTS.**

14 Section 334 of the Customs and Border Security Act
15 of 2002 (19 U.S.C. 2082 note) is amended to read as fol-
16 lows:

17 **“SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF**
18 **COST ACCOUNTING SYSTEM; REPORTS.**

19 “(a) ESTABLISHMENT AND IMPLEMENTATION; CUS-
20 TOMS AND BORDER PROTECTION.—

21 “(1) IN GENERAL.—Not later than September
22 30, 2006, the Commissioner of U.S. Customs and
23 Border Protection shall, in accordance with the
24 audit of the Customs Service’s fiscal years 2000 and
25 1999 financial statements (as contained in the re-

1 port of the Office of Inspector General of the De-
2 partment of the Treasury issued on February 23,
3 2001), establish and implement a cost accounting
4 system—

5 “(A) for expenses incurred in both com-
6 mercial and noncommercial operations of U.S.
7 Customs and Border Protection of the Depart-
8 ment of Homeland Security, which system
9 should specifically identify and distinguish ex-
10 penses incurred in commercial operations and
11 expenses incurred in noncommercial operations;
12 and

13 “(B) for expenses incurred both in admin-
14 istering and enforcing the customs laws of the
15 United States and the Federal immigration
16 laws, which system should specifically identify
17 and distinguish expenses incurred in admin-
18 istering and enforcing the customs laws of the
19 United States and the expenses incurred in ad-
20 ministering and enforcing the Federal immigra-
21 tion laws.

22 “(2) ADDITIONAL REQUIREMENT.—The cost ac-
23 counting system described in paragraph (1) shall
24 provide for an identification of expenses based on
25 the type of operation, the port at which the oper-

1 ation took place, the amount of time spent on the
2 operation by personnel of U.S. Customs and Border
3 Protection, and an identification of expenses based
4 on any other appropriate classification necessary to
5 provide for an accurate and complete accounting of
6 expenses.

7 “(b) ESTABLISHMENT AND IMPLEMENTATION; IMMIGRATION AND CUSTOMS ENFORCEMENT.—

9 “(1) IN GENERAL.—Not later than September
10 30, 2006, the Assistant Secretary for U.S. Immigration and Customs Enforcement shall, in accordance
11 with the audit of the Customs Service’s fiscal years
12 2000 and 1999 financial statements (as contained in
13 the report of the Office of Inspector General of the
14 Department of the Treasury issued on February 23,
15 2001), establish and implement a cost accounting
16 system—

18 “(A) for expenses incurred in both commercial and noncommercial operations of U.S.
19 Immigration and Customs Enforcement of the
20 Department of Homeland Security, which system should specifically identify and distinguish
21 expenses incurred in commercial operations and
22 expenses incurred in noncommercial operations;
23 and
24 and
25

1 “(B) for expenses incurred both in admin-
2 istering and enforcing the customs laws of the
3 United States and the Federal immigration
4 laws, which system should specifically identify
5 and distinguish expenses incurred in admin-
6 istering and enforcing the customs laws of the
7 United States and the expenses incurred in ad-
8 ministering and enforcing the Federal immigra-
9 tion laws.

10 “(2) ADDITIONAL REQUIREMENT.—The cost ac-
11 counting system described in paragraph (1) shall
12 provide for an identification of expenses based on
13 the type of operation, the amount of time spent on
14 the operation by personnel of U.S. Immigration and
15 Customs Enforcement, and an identification of ex-
16 penses based on any other appropriate classification
17 necessary to provide for an accurate and complete
18 accounting of expenses.

19 “(c) REPORTS.—

20 “(1) DEVELOPMENT OF THE COST ACCOUNTING
21 SYSTEMS.—Beginning on the date of the enactment
22 of the Department of Homeland Security Authoriza-
23 tion Act for Fiscal Year 2006 and ending on the
24 date on which the cost accounting systems described
25 in subsections (a) and (b) are fully implemented, the

1 Commissioner of U.S. Customs and Border Protec-
2 tion and the Assistant Secretary for U.S. Immigra-
3 tion and Customs Enforcement, respectively, shall
4 prepare and submit to Congress on a quarterly basis
5 a report on the progress of implementing the cost
6 accounting systems pursuant to subsections (a) and
7 (b).

8 “(2) ANNUAL REPORTS.—Beginning one year
9 after the date on which the cost accounting systems
10 described in subsections (a) and (b) are fully imple-
11 mented, the Commissioner of U.S. Customs and
12 Border Protection and the Assistant Secretary for
13 U.S. Immigration and Customs Enforcement, re-
14 spectively, shall prepare and submit to Congress on
15 an annual basis a report itemizing the expenses
16 identified in subsections (a) and (b).

17 “(3) OFFICE OF THE INSPECTOR GENERAL.—
18 Not later than March 31, 2007, the Inspector Gen-
19 eral of the Department of Homeland Security shall
20 prepare and submit to Congress a report analyzing
21 the level of compliance with this section and detail-
22 ing any additional steps that should be taken to im-
23 prove compliance with this section.”.

1 **SEC. 402. REPORT RELATING TO ONE FACE AT THE BOR-**
2 **DER INITIATIVE.**

3 Not later than September 30 of each of the calendar
4 years 2006 and 2007, the Commissioner of U.S. Customs
5 and Border Protection of the Department of Homeland
6 Security shall prepare and submit to Congress a report—

7 (1) analyzing the effectiveness of the One Face
8 at the Border Initiative at enhancing security and
9 facilitating trade;

10 (2) providing a breakdown of the number of
11 personnel of U.S. Customs and Border Protection
12 that were personnel of the United States Customs
13 Service prior to the establishment of the Department
14 of Homeland Security, that were personnel of the
15 Immigration and Naturalization Service prior to the
16 establishment of the Department of Homeland Secu-
17 rity, and that were hired after the establishment of
18 the Department of Homeland Security;

19 (3) describing the training time provided to
20 each employee on an annual basis for the various
21 training components of the One Face at the Border
22 Initiative; and

23 (4) outlining the steps taken by U.S. Customs
24 and Border Protection to ensure that expertise is re-
25 tained with respect to customs, immigration, and ag-

1 riculture inspection functions under the One Face at
2 the Border Initiative.

3 **SEC. 403. CUSTOMS SERVICES.**

4 Section 13031(e)(1) of the Consolidated Omnibus
5 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1))
6 is amended—

7 (1) by striking “(1) Notwithstanding section
8 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or
9 any other provision of law (other than paragraph
10 (2)),” and inserting:

11 “(1) IN GENERAL.—

12 “(A) SCHEDULED FLIGHTS.—Notwith-
13 standing section 451 of the Tariff Act of 1930
14 (19 U.S.C. 1451) or any other provision of law
15 (other than subparagraph (B) and paragraph
16 (2)),”; and

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

18 “(B) CHARTER FLIGHTS.—If a charter air
19 carrier (as defined in section 40102(13) of title
20 49, United States Code) specifically requests
21 that customs border patrol services for pas-
22 sengers and their baggage be provided for a
23 charter flight arriving after normal operating
24 hours at a customs border patrol serviced air-
25 port and overtime funds for those services are

1 not available, the appropriate customs border
2 patrol officer may assign sufficient customs em-
3 ployees (if available) to perform any such serv-
4 ices, which could lawfully be performed during
5 regular hours of operation, and any overtime
6 fees incurred in connection with such service
7 shall be paid by the charter air carrier.”.

8 **SEC. 404. SENSE OF CONGRESS ON INTERPRETATION OF**
9 **TEXTILE AND APPAREL PROVISIONS.**

10 It is the sense of Congress that U.S. Customs and
11 Border Protection of the Department of Homeland Secu-
12 rity should interpret, implement, and enforce the provi-
13 sions of section 112 of the African Growth and Oppor-
14 tunity Act (19 U.S.C. 3721), section 204 of the Andean
15 Trade Preference Act (19 U.S.C. 3203), and section 213
16 of the Caribbean Basin Economic Recovery Act (19
17 U.S.C. 2703), relating to preferential treatment of textile
18 and apparel articles, broadly in order to expand trade by
19 maximizing opportunities for imports of such articles from
20 eligible beneficiary countries.

21 **SEC. 405. IMPROVING SENTRI, FAST, AND NEXUS PRE-EN-**
22 **ROLLMENT PROGRAMS.**

23 (a) CREATION OF REMOTE ENROLLMENT CEN-
24 TERS.—

1 (1) IN GENERAL.—The Secretary shall create a
2 minimum of 4 remote enrollment centers for the
3 programs described in paragraph (2). Such remote
4 enrollment centers shall be established away from
5 the borders of the United States and in population
6 centers where there is a demand for such a service.

7 (2) PROGRAMS.—The programs described in
8 paragraph (1) are the following:

9 (A) The Free and Secure Trade, or
10 “FAST”, program authorized under subpart B
11 of title IV of the Tariff Act of 1930 (19 U.S.C.
12 1411 et seq.).

13 (B) The Secure Electronic Network for
14 Travelers Rapid Inspection, or “SENTRI”, pro-
15 gram authorized under section 286(q) of the
16 Immigration and Nationality Act (8 U.S.C.
17 1356(q)).

18 (C) The “NEXUS” program authorized
19 under section 286(q) of the Immigration and
20 Nationality Act (8 U.S.C. 1356(q)).

21 (b) CUSTOMER SERVICE PHONE NUMBER.—The Sec-
22 retary shall create a customer service telephone number
23 for the programs described in subsection (a)(2).

24 (c) MERGING REQUIREMENTS OF NEXUS LAND
25 AND AIR CARDS.—The Secretary of Homeland Security

1 shall merge the requirements of the land and air cards
2 issued under the “NEXUS” program authorized under
3 section 286(q) of the Immigration and Nationality Act (8
4 U.S.C. 1356(q)) into one uniform card that will work for
5 land and air crossings.

6 **TITLE V—MISCELLANEOUS**

7 **SEC. 501. BORDER SECURITY AND ENFORCEMENT COORDI-** 8 **NATION AND OPERATIONS.**

9 (a) FINDINGS.—The Congress makes the following
10 findings:

11 (1) As part of the creation of the Department
12 of Homeland Security, section 442 of the Homeland
13 Security Act of 2002 (Public Law 107–273) estab-
14 lished a Bureau of Border Security and transferred
15 into it all of the functions, programs, personnel, as-
16 sets, and liabilities pertaining to the following pro-
17 grams: the Border Patrol; alien detention and re-
18 moval; immigration-related intelligence, investiga-
19 tions, and enforcement activities; and immigration
20 inspections at ports of entry.

21 (2) Title IV of the Homeland Security Act of
22 2002 (Public Law 107–273) also transferred to the
23 new Department the United States Customs Service,
24 as a distinct entity within the new Department, to
25 further the Department’s border integrity mission.

1 (3) Utilizing its reorganization authority pro-
2 vided in the Homeland Security Act of 2002, the
3 President submitted a reorganization plan for the
4 Department on January 30, 2003.

5 (4) This plan merged the customs and immigra-
6 tion border inspection and patrol functions, along
7 with agricultural inspections functions, into a new
8 entity called United States Customs and Border
9 Protection.

10 (5) The plan also combined the customs and
11 immigration enforcement agents, as well as the Of-
12 fice of Detention and Removal Operations, the Of-
13 fice of Federal Protective Service, the Office of Fed-
14 eral Air Marshal Service, and the Office of Intel-
15 ligence, into another new entity called United States
16 Immigration and Customs Enforcement.

17 (6) The President's January 30, 2003, reorga-
18 nization plan did not explain the reasons for sepa-
19 rating immigration inspection and border patrol
20 functions from other immigration-related enforce-
21 ment functions, or to combine immigration-related
22 enforcement functions with customs and other func-
23 tions, contrary to the design of the Bureau of Bor-
24 der Security as prescribed by the Congress in section
25 442 of the Homeland Security Act of 2002.

1 (7) United States Immigration and Customs
2 Enforcement has faced major budgetary challenges
3 that are, in part, attributable to the inexact division
4 of resources upon the separation of immigration
5 functions. These budget shortfalls have forced
6 United States Immigration and Customs Enforce-
7 ment to impose hiring freezes and to release aliens
8 that otherwise should be detained.

9 (b) REPORT.—

10 (1) IN GENERAL.—Not later than 30 days after
11 the date of the enactment of this Act, the Secretary
12 of Homeland Security shall review and evaluate the
13 current organizational structure of the Department
14 of Homeland Security established by the President’s
15 January 30, 2003, reorganization plan and submit a
16 report of findings and recommendations to the ap-
17 propriate congressional committees (as defined in
18 section 2 of the Homeland Security Act of 2002 (6
19 U.S.C. 101)).

20 (2) CONTENTS OF REPORT.—The report shall
21 include—

22 (A) a description of the rationale for, and
23 any benefits of, the current organizational divi-
24 sion of United States Immigration and Customs
25 Enforcement and United States Customs and

1 Border Protection, with respect to the Depart-
2 ment's immigration and customs missions;

3 (B) a description of the organization, mis-
4 sions, operations, and policies of United States
5 Customs and Border Protection and United
6 States Immigration and Customs Enforcement,
7 and areas of unnecessary overlap or operational
8 gaps among and between these missions;

9 (C) a description of the rationale for, and
10 any benefits of, the current organizational com-
11 bination of immigration-related enforcement
12 functions with customs and other functions;

13 (D) an analysis of alternative organiza-
14 tional structures that could provide a more ef-
15 fective way to deliver maximum efficiencies and
16 mission success;

17 (E) a description of the current role of the
18 Directorate of Border and Transportation Secu-
19 rity with respect to providing adequate direction
20 and oversight of the two agencies, and whether
21 this management structure is still necessary;

22 (F) an analysis of whether the Federal Air
23 Marshals and the Federal Protective Service are
24 properly located within the Department within

1 United States Immigration and Customs En-
2 forcement;

3 (G) the proper placement and functions of
4 a specialized investigative and patrol unit oper-
5 ating at the southwest border on the Tohono
6 O’odham Nation, known as the Shadow Wolves;

7 (H) the potential costs of reorganization,
8 including financial, programmatic, and other
9 costs, to the Department; and

10 (I) recommendations for correcting the
11 operational and administrative problems that
12 have been caused by the division of United
13 States Custom and Border Protection and
14 United States Immigration and Customs En-
15 forcement and by the combination of immigra-
16 tion-related enforcement functions with customs
17 and other functions in both entities, including
18 any appropriate reorganization plans.

19 **SEC. 502. GAO REPORT TO CONGRESS.**

20 (a) IN GENERAL.— Not later than 6 months after
21 the date of the enactment of this Act, the Comptroller
22 General of the United States shall submit to the appro-
23 priate congressional committees (as defined in section 2
24 of the Homeland Security Act of 2002 (6 U.S.C. 101))
25 a report that sets forth—

1 (1) an assessment of the effectiveness of the or-
2 ganizational and management structure of the De-
3 partment of Homeland Security in meeting the De-
4 partment's missions as set forth in section 101(b)(1)
5 of the Homeland Security Act of 2002 (6 U.S.C.
6 111(b)(1)); and

7 (2) recommendations to facilitate and improve
8 the organization and management of the Depart-
9 ment to best meet those missions.

10 (b) **CYBERSECURITY ASSESSMENT.**—Not later than
11 one year after the date of the enactment of this Act, the
12 Comptroller General shall submit a report to the appro-
13 priate congressional committees (as defined in section 2
14 of the Homeland Security Act of 2002 (6 U.S.C. 101))
15 that sets forth an assessment of the effectiveness of the
16 efforts of the Assistant Secretary for Cybersecurity to ful-
17 fill the statutory responsibilities of that office.

18 **SEC. 503. PLAN TO REDUCE WAIT TIMES.**

19 Not later than 180 days after the date of enactment
20 of this Act, the Secretary of Homeland Security shall de-
21 velop a plan—

22 (1) to improve the operational efficiency of se-
23 curity screening checkpoints at commercial service
24 airports so that average peak waiting periods at
25 such checkpoints do not exceed 20 minutes; and

1 (2) to ensure that there are no significant dis-
2 parities in immigration and customs passenger proc-
3 essing times among airports that serve as inter-
4 national gateways.

5 **SEC. 504. DENIAL OF TRANSPORTATION SECURITY CARD.**

6 Section 70105(c) of title 46, United States Code, is
7 amended—

8 (1) in paragraph (3) by inserting before the pe-
9 riod “before an administrative law judge”; and

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

11 “(5) In making a determination under paragraph
12 (1)(D) that an individual poses a terrorism security risk,
13 the Secretary shall not solely consider a felony conviction
14 if—

15 “(A) that felony occurred more than 7 years
16 prior to the date of the Secretary’s determination;
17 and

18 “(B) the felony was not related to terrorism (as
19 that term is defined in section 2 of the Homeland
20 Security Act of 2002 (6 U.S.C. 101)).”.

1 **SEC. 505. TRANSFER OF EXISTING CUSTOMS PATROL OFFI-**
2 **CERS UNIT AND ESTABLISHMENT OF NEW**
3 **CPO UNITS IN THE BUREAU OF IMMIGRATION**
4 **AND CUSTOMS ENFORCEMENT.**

5 (a) **TRANSFER OF EXISTING UNIT.**—Not later than
6 180 days after the date of the enactment of this Act, the
7 Secretary of Homeland Security shall transfer to the Bu-
8 reau of Immigration and Customs Enforcement all func-
9 tions (including the personnel, assets, and obligations held
10 by or available in connection with such functions) of the
11 Customs Patrol Officers unit of the Bureau of Customs
12 and Border Protection operating on the Tohono O’odham
13 Indian reservation (commonly known as the ‘Shadow
14 Wolves’ unit).

15 (b) **ESTABLISHMENT OF NEW UNITS.**—The Sec-
16 retary is authorized to establish within the Bureau of Im-
17 migration and Customs Enforcement additional units of
18 Customs Patrol Officers in accordance with this section.

19 (c) **DUTIES.**—The Customs Patrol Officer unit trans-
20 ferred pursuant to subsection (a) and the additional units
21 established pursuant to subsection (b) shall be responsible
22 for the prevention of the smuggling of narcotics, weapons
23 of mass destruction, and other contraband, and the illegal
24 trafficking of persons, on Indian lands.

25 (d) **BASIC PAY FOR JOURNEYMAN OFFICERS.**—A
26 Customs Patrol Officer in a unit described in this section

1 shall receive equivalent pay as a special agent with similar
2 competencies within the Bureau of Immigration and Customs
3 Enforcement pursuant to the Department of Homeland
4 Security's human resources management system established
5 under section 841 of the Homeland Security Act
6 (6 U.S.C. 411).

7 (e) SUPERVISORS.—Each unit described under this
8 section shall be supervised by a Chief Customs Patrol Officer,
9 who shall have the same rank as a resident agent-in-charge
10 of the Office of Investigations.

11 **SEC. 506. DATA COLLECTION ON USE OF IMMIGRATION**
12 **CONSULTANTS.**

13 The Secretary of Homeland Security shall establish
14 procedures to record information on applications for an
15 immigration benefit submitted by an alien with respect to
16 which—

17 (1) the alien states that the alien used the services
18 of an immigration consultant; or

19 (2) a Department employee or official investigating
20 facts alleged in the application, or adjudicating the
21 application, suspects that the alien used the services
22 of an immigration consultant.

23 **SEC. 507. OFFICE FOR STATE AND LOCAL GOVERNMENT**
24 **COORDINATION.**

25 The Homeland Security Act of 2002 is amended—

1 (1) in section 801—

2 (A) in the section heading, by striking
3 “**STATE AND LOCAL**” and inserting “**STATE,**
4 **LOCAL, AND TRIBAL**”;

5 (B) in subsection (a), by striking “State
6 and Local” and inserting “State, Local, and
7 Tribal”; and

8 (C) in subsection (b), by striking “State
9 and local” each place it appears and inserting
10 “State, local, and tribal”; and

11 (2) in section 1(b) in the table of contents by
12 striking the item relating to section 801 and insert-
13 ing the following:

“Sec. 801. Office for State, Local, and Tribal Government Coordination.”.

14 **SEC. 508. STUDY OF MODIFICATION OF AREA OF JURISDIC-**
15 **TION OF OFFICE OF NATIONAL CAPITAL RE-**
16 **GION COORDINATION.**

17 (a) **STUDY.**—The Secretary of Homeland Security,
18 acting through the Director of the Office of National Cap-
19 ital Region Coordination, shall conduct a study of the fea-
20 sibility and desirability of modifying the definition of “Na-
21 tional Capital Region” applicable under section 882 of the
22 Homeland Security Act of 2002 to update the geographic
23 area under the jurisdiction of the Office of National Cap-
24 ital Region Coordination.

1 (b) FACTORS.—In conducting the study under sub-
2 section (a), the Secretary shall analyze whether modifying
3 the geographic area under the jurisdiction of the Office
4 of National Region Coordination will—

5 (1) improve coordination among State and local
6 governments within the Region, including regional
7 governing bodies, and coordination of the efforts of
8 first responders; and

9 (2) enhance the ability of such State and local
10 governments and the Federal Government to prevent
11 and respond to a terrorist attack within the Region.

12 (c) REPORT.—Not later than 6 months after the date
13 of the enactment of this Act, the Secretary shall submit
14 a report to Congress on the study conducted under sub-
15 section (a), and shall include in the report such rec-
16 ommendations (including recommendations for legislation
17 to amend section 882 of the Homeland Security Act of
18 2002) as the Secretary considers appropriate.

19 **SEC. 509. AUTHORITY OF OTHER FEDERAL AGENCIES UN-**
20 **AFFECTED.**

21 Except to the extent explicitly provided in section
22 216, nothing in this Act shall affect the authority under
23 statute, regulation, or Executive order of other Federal
24 agencies than the Department of Homeland Security.

1 **SEC. 510. CENTERS OF EXCELLENCE.**

2 Section 308(b)(2) of the Homeland Security Act of
3 2002 (6 U.S.C. 188(b)(2)) is amended by adding at the
4 end the following new subparagraph:

5 “(F) A center under this paragraph may
6 include participation of a Department of En-
7 ergy laboratory, including in the preparation of
8 a proposal.”.

9 **SEC. 511. REPORT TO CONGRESS ON UNIFORM AND IDENTI-**
10 **FICATION SECURITY.**

11 (a) DEFINITION.—For the purpose of this section,
12 the term “forms of Homeland Security identification”
13 means any uniform, badge, identification card, or other
14 apparel or insignia of the design prescribed by the Depart-
15 ment of Homeland Security for use by any officer or em-
16 ployee of such Department.

17 (b) REPORT.—Not later than 6 months after the date
18 of the enactment of this Act, the Secretary of Homeland
19 Security shall prepare and submit to Congress a report—

20 (1) describing the efforts taken by the Depart-
21 ment of Homeland Security—

22 (A) to curtail the production of imitation
23 forms of Homeland Security identification, in-
24 cluding efforts to improve the design of the var-
25 ious forms of Homeland Security identification
26 to prevent unauthorized replication; and

1 (B) to increase public awareness of the ex-
2 istence of imitation forms of Homeland Security
3 identification, and educate the public about
4 means by which to identify bona fide forms of
5 Homeland Security identification;

6 (2) assessing the effectiveness of the efforts de-
7 scribed in paragraph (1); and

8 (3) recommending any legislation or adminis-
9 trative actions necessary to achieve the objectives de-
10 scribed in subparagraphs (A) and (B), respectively,
11 of paragraph (1).

12 **SEC. 512. BORDER SURVEILLANCE.**

13 (a) IN GENERAL.—Not later than 6 months after the
14 date of enactment of this Act, the Secretary of Homeland
15 Security shall submit to the President and the appropriate
16 committees of Congress a comprehensive plan for the sys-
17 tematic surveillance of the northern border of the United
18 States by remotely piloted aircraft.

19 (b) CONTENTS.—The plan submitted under sub-
20 section (a) shall include—

21 (1) recommendations for establishing command
22 and control centers, operations sites, infrastructure,
23 maintenance, and procurement;

24 (2) cost estimates for the implementation of the
25 plan and ongoing operations;

1 (3) recommendations for the appropriate agent
2 within the Department of Homeland Security to be
3 the executive agency for remotely piloted aircraft op-
4 erations;

5 (4) the number of remotely piloted aircraft re-
6 quired for the plan;

7 (5) the types of missions the plan would under-
8 take, including—

9 (A) protecting the lives of people seeking
10 illegal entry into the United States;

11 (B) interdicting illegal movement of people,
12 weapons, and other contraband across the bor-
13 der;

14 (C) providing investigative support to as-
15 sist in the dismantling of smuggling and crimi-
16 nal networks along the border;

17 (D) using remotely piloted aircraft to serve
18 as platforms for the collection of intelligence
19 against smugglers and criminal networks along
20 the border; and

21 (E) further validating and testing of re-
22 motely piloted aircraft for airspace security mis-
23 sions;

24 (6) the equipment necessary to carry out the
25 plan; and

1 (7) a recommendation regarding whether to ex-
 2 pand the pilot program along the entire northern
 3 border.

4 (c) IMPLEMENTATION.—The Secretary of Homeland
 5 Security shall implement the plan submitted under sub-
 6 section (a) as a pilot program as soon as sufficient funds
 7 are appropriated and available for this purpose.

8 **SEC. 513. ADVANCED TECHNOLOGY NORTHER BORDER SE-**
 9 **CURITY PILOT PROGRAM.**

10 Section 5101 of the Intelligence Reform and Ter-
 11 rorism Prevention Act of 2004 (8 U.S.C. 1712 note) is
 12 amended by striking “The Secretary of Homeland Secu-
 13 rity may carry out” and inserting “To the extent funds
 14 are provided in advance in appropriations Acts, the Sec-
 15 retary of Homeland Security shall carry out”.

16 **SEC. 514. GAO STUDY OF PROPOSALS TO INCREASE TEM-**
 17 **PORARY PROTECTED STATUS REGISTRATION**
 18 **FEE.**

19 (a) IN GENERAL.—Not later than 180 days after the
 20 date of the enactment of this Act, the Comptroller General
 21 shall complete a study of, and report to Congress on, the
 22 likely consequences of increasing the fee described in sec-
 23 tion 244(c)(1)(B) of the Immigration and Nationality Act
 24 (8 U.S.C. 1254(a)(c)(1)(B)).

1 (b) ELEMENTS OF STUDY.—The study described in
2 subsection (a) shall—

3 (1) calculate the number of applicants for relief
4 under section 244 of the Immigration and Nation-
5 ality Act (8 U.S.C. 1254(a)) who have sought a
6 waiver, been granted a waiver, or been denied a
7 waiver from such fees due to their inability to pay
8 such fees, since the enactment of such section;

9 (2) project the cost at which such fee would be
10 set if it were calculated consistent with the manner
11 in which the Department of Homeland Security cal-
12 culates fees under section 286(m) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1356(m));

14 (3) taking into account the countries of nation-
15 ality of the current population of beneficiaries of sec-
16 tion 244 and the lack of work authorization that
17 such beneficiaries have while awaiting the outcome
18 of an adjudication, assess the ability of the current
19 population of beneficiaries under section 244 to pay
20 such fee if it were increased to the level projected
21 pursuant to paragraph (2);

22 (4) estimate the number of requests for fee
23 waivers that would likely have to be adjudicated per
24 1,000 applications should such fee be increased to
25 the level projected pursuant to paragraph (2);

1 (5) estimate the cost and number of man hours
2 that would be required to be expended in order to
3 adjudicate the fee waiver requests described in such
4 paragraph; and

5 (6) estimate the cost differential between the
6 current cost of adjudicating applications and the
7 statutory fee, on a per-application and an aggregate
8 basis.

9 **SEC. 515. GAO STUDY OF CONSEQUENCES OF EXPANDING**
10 **USE OF PREMIUM SERVICE FOR IMMIGRA-**
11 **TION BENEFIT APPLICATIONS AND PETI-**
12 **TIONS.**

13 (a) **IN GENERAL.**—Not later than 180 days after the
14 date of the enactment of this Act, the Comptroller General
15 shall complete a study of, and report to Congress on, the
16 Department of Homeland Security’s proposal to expand
17 the use of premium fees for employment-based petitions
18 and applications under section 286(u) of the Immigration
19 and Nationality Act (8 U.S.C. 1356(u)) to other applica-
20 tions and petitions.

21 (b) **ELEMENTS OF STUDY.**—In performing the study
22 required under subsection (a), the Comptroller General—

23 (1) shall consider and assess—

24 (A) all factors that help quantify and as-
25 sess the current impact of premium processing

1 on immigration benefits adjudications of em-
2 ployment-based applications and petitions; and

3 (B) the degree to which the use of pre-
4 mium processing for employment-based applica-
5 tions and petitions has negatively or positively
6 impacted the length of time that it takes to ad-
7 judicate employment-based applications and pe-
8 titions that are eligible for treatment under sec-
9 tion 286(u) of the Immigration and Nationality
10 Act but for which no premium fee is paid; and
11 (2) shall assess—

12 (A) whether expansion of section 286(u) of
13 the Immigration and Nationality Act to family-
14 based immigration petitions and applications
15 would increase or decrease the length of time it
16 takes to adjudicate family-based petitions and
17 applications in cases where the applicant cannot
18 afford to make use of the premium service;

19 (B) all other likely future impacts of an ex-
20 pansion of premium processing to family-based
21 immigration benefits applications and petitions;

22 (C) the number of additional adjudicators
23 needed to process premium processing applica-
24 tions;

1 (D) the impact of premium processing on
2 the number and assignment of adjudicators;
3 and

4 (E) the number of individual applicants
5 who would opt to use premium processing
6 under this expanded program annually.

7 **SEC. 516. BUY AMERICAN REQUIREMENT FOR PROCURE-**
8 **MENTS OF GOODS CONTAINING COMPO-**
9 **NENTS.**

10 (a) REQUIREMENT.—Notwithstanding any agree-
11 ment described in subsection (b), more than 50 percent
12 of the components in any end product procured by the De-
13 partment of Homeland Security that contains components
14 shall be mined, produced, or manufactured inside the
15 United States.

16 (b) AGREEMENTS DESCRIBED.—An agreement re-
17 ferred to in subsection (a) is any of the following:

18 (1) Any reciprocal procurement memorandum
19 of understanding between the United States and a
20 foreign country pursuant to which the Secretary of
21 Homeland Security has prospectively waived the Buy
22 American Act (41 U.S.C. 10a et seq.) for certain
23 products in that country.

24 (2) Any international agreement to which the
25 United States is a party.

1 **SEC. 517. DISASTER ASSISTANCE FOR FUNERAL EXPENSES.**

2 Not later than 90 days after the enactment of this
3 Act, the Director of the Federal Emergency Management
4 Agency shall—

5 (1) develop criteria and guidelines for deter-
6 mining if a death is disaster-related; and

7 (2) require staff to provide for analysis of each
8 request for funeral expense assistance in order to
9 support approval or disapproval of such assistance.

10 **SEC. 518. EXTENSION OF AUTHORIZATION OF APPROPRIA-**
11 **TIONS FOR OFFICE OF COUNTERNARCOTICS**
12 **ENFORCEMENT AT DEPARTMENT OF HOME-**
13 **LAND SECURITY.**

14 Section 7407(c) of the Intelligence Reform and Ter-
15 rorism Prevention Act of 2004 (Public Law 108–458; 118
16 Stat. 3853) is amended by striking “2005, there is author-
17 ized up to \$6,000,000” and inserting “2005 or 2006,
18 there is authorized up to \$6,000,000 for each such fiscal
19 year”.

20 **SEC. 519. PROHIBITION AGAINST INCREASE IN SECURITY**
21 **SERVICE FEES.**

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

1 **SEC. 520. FEDERAL AFFIRMATION OF ASSISTANCE IN IMMI-**
2 **GRATION LAW ENFORCEMENT BY STATES**
3 **AND POLITICAL SUBDIVISIONS.**

4 Notwithstanding any other provision of law and re-
5 affirming the existing general authority, law enforcement
6 personnel of a State or a political subdivision of a State
7 are fully authorized to apprehend, detain, or remove aliens
8 in the United States (including the transportation of such
9 aliens across State lines to detention centers), for the pur-
10 poses of assisting in the enforcement of the immigration
11 laws of the United States in the course of carrying out
12 routine duties. This State authority has never been dis-
13 placed or preempted by the Congress.

14 **SEC. 521. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
15 **MENT PERSONNEL IN ENFORCEMENT OF IM-**
16 **MIGRATION LAWS.**

17 (a) TRAINING AND POCKET GUIDE.—

18 (1) ESTABLISHMENT.—Not later than 180 days
19 after the date of enactment of this Act, the Sec-
20 retary of Homeland Security shall establish—

21 (A) a training manual for law enforcement
22 personnel of a State or political subdivision of
23 a State to train such personnel in the investiga-
24 tion, identification, apprehension, arrest, deten-
25 tion, and transfer to Federal custody of aliens
26 in the United States (including the transpor-

1 tation of such aliens across State lines to deten-
2 tion centers and identification of fraudulent
3 documents); and

4 (B) an immigration enforcement pocket
5 guide for law enforcement personnel of a State
6 or political subdivision of a State to provide a
7 quick reference for such personnel in the course
8 of duty.

9 (2) AVAILABILITY.—The training manual and
10 pocket guide established in accordance with para-
11 graph (1) shall be made available to all State and
12 local law enforcement personnel.

13 (3) APPLICABILITY.—Nothing in this sub-
14 section shall be construed to require State or local
15 law enforcement personnel to carry the training
16 manual or pocket guide established in accordance
17 with paragraph (1) with them while on duty.

18 (4) COSTS.—The Department of Homeland Se-
19 curity shall be responsible for any costs incurred in
20 establishing the training manual and pocket guide
21 under this subsection.

22 (b) TRAINING FLEXIBILITY.—

23 (1) IN GENERAL.—The Department of Home-
24 land Security shall make training of State and local
25 law enforcement officers available through as many

1 means as possible, including residential training at
2 Federal facilities, onsite training held at State or
3 local police agencies or facilities, online training
4 courses by computer, teleconferencing, and video-
5 tape, or the digital video display (DVD) of a train-
6 ing course or courses.

7 (2) FEDERAL PERSONNEL TRAINING.—The
8 training of State and local law enforcement per-
9 sonnel under this section shall not displace or other-
10 wise adversely affect the training of Federal per-
11 sonnel.

12 (c) CLARIFICATION.—Nothing in this Act or any
13 other provision of law shall be construed as making any
14 immigration-related training a requirement for, or pre-
15 requisite to, any State or local law enforcement officer ex-
16 ercising that officer’s inherent authority to assist in the
17 apprehension, arrest, detention, or transfer to Federal
18 custody illegal aliens during the normal course of carrying
19 out their law enforcement duties.

20 (d) TRAINING LIMITATION.—Section 287(g) of the
21 Immigration and Nationality Act (8 U.S.C. 1357(g)) is
22 amended—

23 (1) by striking ‘Attorney General’ each place
24 that term appears and inserting “Secretary of
25 Homeland Security”; and

1 (2) in paragraph (2), by adding at the end the
2 following: “Such training shall not exceed 14 days or
3 80 hours, whichever is longer.”.

Passed the House of Representatives May 18, 2005.

Attest:

Clerk.

109TH CONGRESS
1ST SESSION

H. R. 1817

AN ACT

To authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes.