

111TH CONGRESS
2^D SESSION

H. R. 5590

To strengthen measures to protect the United States from terrorist attacks and to authorize appropriations for the Department of Homeland Security for fiscal year 2011, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2010

Mr. KING of New York (for himself, Mr. DANIEL E. LUNGREN of California, Mr. ROGERS of Alabama, Mr. MCCAUL, Mr. DENT, Mr. BILIRAKIS, Mr. BROUN of Georgia, Mrs. MILLER of Michigan, Mr. OLSON, Mr. CAO, and Mr. AUSTRIA) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Armed Services, Rules, the Judiciary, Energy and Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To strengthen measures to protect the United States from terrorist attacks and to authorize appropriations for the Department of Homeland Security for fiscal year 2011, 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 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Counterterrorism Enhancement and Department of
 4 Homeland Security Authorization Act of 2010”.

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

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1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) CYBER.—The term “cyber” means—

4 (A) any process, program, or protocol re-
 5 lating to the use of the Internet or an Intranet,
 6 automatic data processing or transmission, or
 7 telecommunication via the Internet or an
 8 Intranet; and

9 (B) any matter relating to, or involving the
 10 use of, computers or computer networks.

11 (2) CYBER ATTACK.—The term “cyber attack”
 12 means any unauthorized access or use of a cyber
 13 system or network, whether or not directed against
 14 a specific entity or entities, that—

15 (A) alters, copies, misappropriates, cor-
 16 rupts, destroys, disrupts, deletes, damages, pre-
 17 vents, restricts, or hinders access to a cyber
 18 system or network;

1 (B) results in the disclosure of private or
2 confidential information stored on a cyber sys-
3 tem or network;

4 (C) results in the disclosure of private or
5 confidential information stored on a cyber sys-
6 tem or network; or

7 (D) results in theft of data or information.

8 (3) DEPARTMENT.—The term “Department”
9 means the Department of Homeland Security.

10 (4) INTERNATIONAL BORDERS.—The term
11 “international borders” means the international
12 boundary lines on both the northern and southern
13 borders of the United States.

14 (5) INTERNET.—The term “Internet” has the
15 meaning given that term by section 4(4) of the High
16 Performance Computing Act of 1991 (15 U.S.C.
17 5503(4)).

18 (6) NATIONAL CRITICAL INFORMATION SYS-
19 TEMS AND NETWORK.—The term “national critical
20 infrastructure information systems and networks”
21 means—

22 (A) Federal Government information sys-
23 tems and networks; and

24 (B) any State, local, or nongovernmental
25 information systems and networks in the

1 United States that is designated by the Presi-
2 dent as national critical infrastructure informa-
3 tion systems and networks.

4 (7) NATIONAL INCIDENT.—The term “national
5 incident” means an occurrence that actually or po-
6 tentially jeopardizes national critical infrastructure
7 information systems and networks or the informa-
8 tion processed, stored, or transmitted by those sys-
9 tems and networks.

10 (8) NETWORK.—The term “network” has the
11 meaning given that term by section 4(5) of the High
12 Performance Computing Act of 1991 (15 U.S.C.
13 5503(5)).

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

16 **TITLE I—COUNTERTERRORISM,**
17 **INTELLIGENCE, AND INFOR-**
18 **MATION SHARING**

19 **SEC. 101. PROHIBITION ON USE OF DEPARTMENT OF JUS-**
20 **TICE FUNDS TO PROSECUTE INDIVIDUALS**
21 **DETAINED AT NAVAL STATION, GUANTANAMO**
22 **BAY, CUBA, IN THE UNITED STATES.**

23 None of the funds made available to the Department
24 of Justice may be used to prosecute an individual who was
25 detained at Naval Station, Guantanamo Bay, Cuba, on or

1 after January 22, 2009, in a criminal court located in the
2 United States or in any territory or possession of the
3 United States.

4 **SEC. 102. PRESIDENTIAL CERTIFICATION.**

5 (a) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that individuals currently detained at Guantanamo
7 should not be transferred or released into the sovereign
8 territory of the United States.

9 (b) REQUIREMENTS RELATING TO THE TRANSFER
10 OR RELEASE OF INDIVIDUALS CURRENTLY DETAINED AT
11 GUANTANAMO TO SOVEREIGN TERRITORY OF UNITED
12 STATES.—

13 (1) PROHIBITION.—The President or the Presi-
14 dent’s designee may not transfer or release an indi-
15 vidual currently detained at Guantanamo to any
16 State unless 60 days prior to the transfer or release
17 the President or the President’s designee completes
18 the requirements in paragraphs (2) and (3).

19 (2) GOVERNOR AND STATE LEGISLATURE AP-
20 PROVAL.—The requirement under this paragraph is
21 that—

22 (A) the President or the President’s des-
23 ignee submits to the Governor and legislature of
24 the State to which the President intends to
25 transfer or release an individual currently de-

1 tained at Guantanamo certification in writing
2 (together with supporting documentation and
3 justification) that the individual does not pose
4 a security risk to the United States; and

5 (B) after receiving the certification pursu-
6 ant to subparagraph (A), the Governor and
7 State legislature of that State consent to the
8 transfer or release of the individual covered
9 under this section.

10 (3) PRESIDENTIAL NOTIFICATION AND CERTIFI-
11 CATION REQUIREMENT.—The requirement under
12 this paragraph is that the President submits to Con-
13 gress, in writing, the following information:

14 (A) The name of any individual to be
15 transferred or released.

16 (B) The location and the installation in the
17 United States where the individual will be
18 transferred or released.

19 (C) A justification for why that location
20 was selected.

21 (D) The findings of an analysis carried out
22 by the President describing any risk to the na-
23 tional security of the United States or the resi-
24 dents of the United States that is posed by the
25 transfer or release.

1 (E) A certification that the President has
2 mitigated any risk described in subparagraph
3 (D).

4 (F) A certification that the President has
5 completed the requirements of paragraph (2).

6 (G) A certification that the President's
7 transfer or release under paragraph (1) of an
8 individual covered by this section will not ad-
9 versely affect the Federal Government's ability
10 to prosecute individuals covered under this sub-
11 section.

12 (H) The findings of an analysis carried out
13 by the President describing any adverse effect
14 such transfer or release will have on the ability
15 of the Federal Government to prosecute individ-
16 uals covered under this subsection.

17 (I) A certification that the President's
18 transfer or release under paragraph (1) of an
19 individual covered by this subsection will not
20 adversely affect the Federal Government's abil-
21 ity to detain individuals covered under this sub-
22 section.

23 (J) The findings of an analysis carried out
24 by the President describing any adverse affect
25 such transfer or release will have on the ability

1 of the Federal Government to detain individuals
2 covered under this subsection.

3 (K) A certification that the President's
4 transfer or release under paragraph (1) of an
5 individual covered by this subsection will not re-
6 sult in the release of individuals covered under
7 this subsection into the United States.

8 (L) The findings of an analysis carried out
9 by the President describing how the Federal
10 Government will ensure the transfer or release
11 described in subparagraph (K) will not result in
12 the release of individuals covered under this
13 subsection into the United States.

14 (c) DEFINITIONS.—For purposes of this section, the
15 terms “individual currently detained at Guantanamo” and
16 “individual covered by this subsection” have the meaning
17 given such terms under section 1(c) of Executive Order
18 13492.

19 **SEC. 103. PROVISION OF CLASSIFIED FILES.**

20 (a) IN GENERAL.—The President shall submit to the
21 Committee on Homeland Security of the House of Rep-
22 resentatives copies of all classified files related to, in whole
23 or in part, every detainee transferred from the detention
24 center at United States Naval Station, Guantanamo Bay,

1 Cuba, to the United States or to a foreign country on or
2 after January 20, 2009.

3 (b) TIMEFRAME.—

4 (1) DETAINEES TRANSFERRED BEFORE DATE
5 OF ENACTMENT.—Information required to be sub-
6 mitted under subsection (a) that is related to detain-
7 ees transferred during the period beginning on Jan-
8 uary 20, 2009, and ending on the date of the enact-
9 ment of this Act shall be submitted to the Com-
10 mittee on Homeland Security of the House of Rep-
11 resentatives by not later than 60 days after such
12 date of enactment.

13 (2) DETAINEES TRANSFERRED AFTER DATE OF
14 ENACTMENT.—Information required to be submitted
15 under subsection (a) that is related to detainees
16 transferred after the date of the enactment of this
17 Act shall be submitted to the Committee on Home-
18 land Security of the House of Representatives every
19 90 days after the initial submission of information
20 under paragraph (1).

21 (c) SUNSET.—The requirements of this section shall
22 terminate on the date that is 180 days after the date on
23 which the last individual detained at the detention center
24 United States Naval Station, Guantanamo Bay, Cuba, is
25 transferred to any location outside of such Naval Station.

1 **SEC. 104. ENSURING THE COLLECTION OF CRITICAL INTEL-**
2 **LIGENCE.**

3 (a) REQUIREMENT FOR CONSULTATION.—

4 (1) IN GENERAL.—

5 (A) PROSECUTION.—Before any officer or
6 employee of the Department of Justice insti-
7 tutes any prosecution of an alien in a United
8 States district court for a terrorist offense, the
9 Attorney General, Deputy Attorney General, or
10 Assistant Attorney General for the Criminal Di-
11 vision, shall consult with the Director of Na-
12 tional Intelligence and the Secretary of Defense
13 about whether the prosecution should take place
14 in a United States district court or before a
15 military commission under chapter 47A of title
16 10, United States Code.

17 (B) INTERROGATION.—Before any officer
18 or employee of the Department of Justice en-
19 gages in any interrogation of an alien in a
20 criminal investigation or prosecution of a ter-
21 rorist offense, the Attorney General, Deputy At-
22 torney General, or Assistant Attorney General
23 for the Criminal Division, shall consult with the
24 Director of National Intelligence, the Director
25 of the Central Intelligence Agency, the Sec-
26 retary of Homeland Security, and the Secretary

1 of Defense about how to proceed in that inter-
2 rogation so as to enable each such official to
3 carry out that official's responsibilities in a
4 manner consistent with national security.

5 (2) DEFINITIONS.—In this subsection—

6 (A) the term “terrorist offense” means any
7 offense for which the defendant could be tried
8 by a military commission under chapter 47A of
9 title 10, United States Code; and

10 (B) the term “alien” means any person
11 who is not a citizen of the United States.

12 **SEC. 105. REPORT ON THE HIGH VALUE DETAINEE INTER-**
13 **ROGATION GROUP.**

14 (a) REPORT.—The Attorney General, in consultation
15 with the Director of the Central Intelligence Agency, the
16 Director of National Intelligence, the Secretary of De-
17 fense, and the Secretary of Homeland Security, shall sub-
18 mit to the Chairman and Ranking Minority Member of
19 the Committee on Homeland Security of the House of
20 Representatives regular classified reports on the High
21 Value Detainee Interrogation Group.

22 (b) CONTENTS.—The report required under sub-
23 section (a) shall include—

1 (1) the number of occasions on which and the
2 locations where the High Value Detainee Interroga-
3 tion Group was deployed;

4 (2) the interrogation tactics and procedures
5 used by the High Value Detainee Interrogation
6 Group; and

7 (3) a description of any analytical intelligence
8 products produced as a result of the intelligence col-
9 lected during the interrogations and operations of
10 the High Value Interrogation Group.

11 (c) TIMEFRAME.—The reports required under sub-
12 section (a) shall be submitted not later than 6 months
13 after the date of enactment of this Act and every 6 months
14 thereafter until December 31, 2016.

15 **SEC. 106. COVERT AGENT IDENTITY PROTECTION.**

16 (a) INVESTIGATION.—The Inspectors General of the
17 Department of Defense and the Central Intelligence Agen-
18 cy shall conduct an investigation into possible violations
19 of title VI of the National Security Act of 1947 (50 U.S.C.
20 421 et seq.) at the Detention Center at United States
21 Naval Station, Guantanamo Bay, Cuba. The investigation
22 shall be completed not later than one year after the date
23 of the enactment of this Act

24 (b) REPORT.—Not later than 30 days after the com-
25 pletion of the investigation under subsection (a), the In-

1 spectors General of the Department of Defense and the
2 Central Intelligence Agency shall submit to Congress a re-
3 port on the findings of the investigation. The report shall
4 be in unclassified form, but may contain a classified
5 annex.

6 **SEC. 107. SPECIAL INTERAGENCY TASK FORCE ON DE-**
7 **TAINEE DISPOSITION.**

8 The Secretary of Homeland Security shall submit to
9 the Committee on Homeland Security of the House of
10 Representatives all documents and correspondence, includ-
11 ing electronic correspondence, related to the Secretary's
12 role in the President's Special Interagency Task Force on
13 Detainee Disposition established pursuant to Executive
14 Order 13493.

15 **SEC. 108. THREAT ASSESSMENT RELATING TO TRANSFER**
16 **OF GUANTANAMO DETAINEES TO THE**
17 **UNITED STATES OR ITS TERRITORIES.**

18 (a) THREAT ASSESSMENT.—The Secretary of Home-
19 land Security, in coordination with the heads of related
20 Federal agencies and in consultation with relevant State,
21 local, and tribal law enforcement agencies, shall conduct
22 a terrorist threat assessment on the risk posed by the
23 transfer of any individual who is detained, as of the date
24 of the enactment of this Act, at the detention center at

1 United States Naval Station, Guantanamo Bay, Cuba, to
2 the United States or its territories.

3 (b) CONTENTS.—The assessment required under sub-
4 section (a) shall include—

5 (1) an assessment of the effect on homeland se-
6 curity of such a transfer of any such individual, in-
7 cluding whether the risk of a terrorist attack against
8 a facility or location housing detainees or hosting ci-
9 vilian trials or military commissions in the United
10 States or its territories would increase; and

11 (2) a determination of the monetary costs asso-
12 ciated with the transfer, detention, and civilian trial
13 or military commission of any such individual to the
14 United States or its territories.

15 (c) COMPLETION AND SUBMISSION.—The assessment
16 required under subsection (a) shall be completed and sub-
17 mitted to the Committee on Homeland Security of the
18 House of Representatives not later than 60 days after the
19 date of the enactment of this Act.

20 **SEC. 109. HABEAS CORPUS.**

21 Section 2241(e)(1) of title 28, United States Code,
22 is amended by inserting after “detained by the United
23 States” the following: “outside the territory of the United
24 States or of United States Naval Station, Guantanamo
25 Bay, Cuba, and”.

1 **SEC. 110. VIOLENT RADICALIZATION AND HOMEGROWN**
2 **TERRORISM PREVENTION.**

3 (a) PREVENTION OF VIOLENT RADICALIZATION AND
4 HOMEGROWN TERRORISM.—

5 (1) IN GENERAL.—Title VIII of the Homeland
6 Security Act of 2002 (6 U.S.C. 361 et seq.) is
7 amended by adding at the end the following new
8 subtitle:

9 **“Subtitle J—Prevention of Violent**
10 **Radicalization and Homegrown**
11 **Terrorism**

12 **“SEC. 899A. DEFINITIONS.**

13 “For purposes of this subtitle:

14 “(1) COMMISSION.—The term ‘Commission’
15 means the National Commission on the Prevention
16 of Violent Radicalization and Homegrown Terrorism
17 established under section 899C.

18 “(2) VIOLENT RADICALIZATION.—The term
19 ‘violent radicalization’ means the process of adopting
20 or promoting an extremist belief system for the pur-
21 pose of facilitating ideologically based violence to ad-
22 vance political, religious, or social change.

23 “(3) HOMEGROWN TERRORISM.—The term
24 ‘homegrown terrorism’ means the use, planned use,
25 or threatened use, of force or violence by a group or
26 individual born, raised, or based and operating pri-

1 marily within the United States or any possession of
2 the United States to intimidate or coerce the United
3 States Government, the civilian population of the
4 United States, or any segment thereof, in further-
5 ance of political or social objectives.

6 “(4) IDEOLOGICALLY BASED VIOLENCE.—The
7 term ‘ideologically based violence’ means the use,
8 planned use, or threatened use of force or violence
9 by a group or individual to promote the group or in-
10 dividual’s political, religious, or social beliefs.

11 **“SEC. 899B. FINDINGS.**

12 “The Congress finds the following:

13 “(1) The development and implementation of
14 methods and processes that can be utilized to pre-
15 vent violent radicalization, homegrown terrorism,
16 and ideologically based violence in the United States
17 is critical to combating domestic terrorism.

18 “(2) The promotion of violent radicalization,
19 homegrown terrorism, and ideologically based vio-
20 lence exists in the United States and poses a threat
21 to homeland security.

22 “(3) The Internet has aided in facilitating vio-
23 lent radicalization, ideologically based violence, and
24 the homegrown terrorism process in the United
25 States by providing access to broad and constant

1 streams of terrorist-related propaganda to United
2 States citizens.

3 “(4) While the United States must continue its
4 vigilant efforts to combat international terrorism, it
5 must also strengthen efforts to combat the threat
6 posed by homegrown terrorists based and operating
7 within the United States.

8 “(5) Understanding the motivational factors
9 that lead to violent radicalization, homegrown ter-
10 rorism, and ideologically based violence is a vital
11 step toward eradicating these threats in the United
12 States.

13 “(6) Preventing the potential rise of self-
14 radicalized, unaffiliated terrorists domestically can-
15 not be easily accomplished solely through traditional
16 Federal intelligence or law enforcement efforts, and
17 can benefit from the incorporation of State and local
18 efforts.

19 “(7) Individuals prone to violent radicalization,
20 homegrown terrorism, and ideologically based vio-
21 lence span all races, ethnicities, and religious beliefs,
22 and individuals should not be targeted based solely
23 on race, ethnicity, or religion.

24 “(8) Any measure taken to prevent violent
25 radicalization, homegrown terrorism, and ideologi-

1 cally based violence and homegrown terrorism in the
2 United States should not violate the constitutional
3 rights, civil rights, or civil liberties of United States
4 citizens or lawful permanent residents.

5 “(9) Certain governments, including the United
6 Kingdom, Canada, and Australia have significant ex-
7 perience with homegrown terrorism and the United
8 States can benefit from lessons learned by those na-
9 tions.

10 **“SEC. 899C. NATIONAL COMMISSION ON THE PREVENTION**
11 **OF VIOLENT RADICALIZATION AND IDEO-**
12 **LOGICALLY BASED VIOLENCE.**

13 “(a) ESTABLISHMENT.—There is established within
14 the legislative branch of the Government the National
15 Commission on the Prevention of Violent Radicalization
16 and Homegrown Terrorism.

17 “(b) PURPOSE.—The purposes of the Commission are
18 the following:

19 “(1) Examine and report upon the facts and
20 causes of violent radicalization, homegrown ter-
21 rorism, and ideologically based violence in the
22 United States, including United States connections
23 to non-United States persons and networks, violent
24 radicalization, homegrown terrorism, and ideologi-
25 cally based violence in prison, individual or ‘lone

1 wolf’ violent radicalization, homegrown terrorism,
2 and ideologically based violence, and other faces of
3 the phenomena of violent radicalization, homegrown
4 terrorism, and ideologically based violence that the
5 Commission considers important.

6 “(2) Build upon and bring together the work of
7 other entities and avoid unnecessary duplication, by
8 reviewing the findings, conclusions, and rec-
9 ommendations of—

10 “(A) the Center of Excellence established
11 or designated under section 899D, and other
12 academic work, as appropriate;

13 “(B) Federal, State, local, or tribal studies
14 of, reviews of, and experiences with violent
15 radicalization, homegrown terrorism, and ideo-
16 logically based violence; and

17 “(C) foreign government studies of, re-
18 views of, and experiences with violent
19 radicalization, homegrown terrorism, and ideo-
20 logically based violence.

21 “(c) COMPOSITION OF COMMISSION.—The Commis-
22 sion shall be composed of 10 members appointed for the
23 life of the Commission, of whom—

24 “(1) one member shall be appointed by the
25 President from among officers or employees of the

1 executive branch and private citizens of the United
2 States;

3 “(2) one member shall be appointed by the Sec-
4 retary;

5 “(3) one member shall be appointed by the ma-
6 jority leader of the Senate;

7 “(4) one member shall be appointed by the mi-
8 nority leader of the Senate;

9 “(5) one member shall be appointed by the
10 Speaker of the House of Representatives;

11 “(6) one member shall be appointed by the mi-
12 nority leader of the House of Representatives;

13 “(7) one member shall be appointed by the
14 Chairman of the Committee on Homeland Security
15 of the House of Representatives;

16 “(8) one member shall be appointed by the
17 ranking minority member of the Committee on
18 Homeland Security of the House of Representatives;

19 “(9) one member shall be appointed by the
20 Chairman of the Committee on Homeland Security
21 and Governmental Affairs of the Senate; and

22 “(10) one member shall be appointed by the
23 ranking minority member of the Committee on
24 Homeland Security and Governmental Affairs of the
25 Senate.

1 “(d) CHAIR AND VICE CHAIR.—The Commission
2 shall elect a Chair and a Vice Chair from among its mem-
3 bers.

4 “(e) QUALIFICATIONS.—Individuals shall be selected
5 for appointment to the Commission solely on the basis of
6 their professional qualifications, achievements, public stat-
7 ure, experience, and expertise in relevant fields, including
8 behavioral science, constitutional law, corrections, counter-
9 terrorism, cultural anthropology, education, information
10 technology, intelligence, juvenile justice, local law enforce-
11 ment, organized crime, Islam and other world religions,
12 or sociology.

13 “(f) DEADLINE FOR APPOINTMENT.—All members of
14 the Commission shall be appointed no later than 60 days
15 after the date of enactment of this subtitle.

16 “(g) QUORUM AND MEETINGS.—The Commission
17 shall meet and begin the operations of the Commission
18 not later than 30 days after the date on which all members
19 have been appointed or, if such meeting cannot be mutu-
20 ally agreed upon, on a date designated by the Speaker of
21 the House of Representatives. Each subsequent meeting
22 shall occur upon the call of the Chair or a majority of
23 its members. A majority of the members of the Commis-
24 sion shall constitute a quorum, but a lesser number may
25 hold meetings.

1 “(h) AUTHORITY OF INDIVIDUALS TO ACT FOR COM-
2 MISSION.—Any member of the Commission may, if au-
3 thorized by the Commission, take any action that the
4 Commission is authorized to take under this Act.

5 “(i) POWERS OF COMMISSION.—The powers of the
6 Commission shall be as follows:

7 “(1) IN GENERAL.—

8 “(A) HEARINGS AND EVIDENCE.—The
9 Commission or, on the authority of the Com-
10 mission, any subcommittee or member thereof,
11 may, for the purpose of carrying out this sec-
12 tion, hold hearings and sit and act at such
13 times and places, take such testimony, receive
14 such evidence, and administer such oaths as the
15 Commission considers advisable to carry out its
16 duties.

17 “(B) CONTRACTING.—The Commission
18 may, to such extent and in such amounts as are
19 provided in appropriation Acts, enter into con-
20 tracts to enable the Commission to discharge its
21 duties under this section.

22 “(2) INFORMATION FROM FEDERAL AGEN-
23 CIES.—

24 “(A) IN GENERAL.—The Commission may
25 request directly from any executive department,

1 bureau, agency, board, commission, office, inde-
2 pendent establishment, or instrumentality of the
3 Government, information, suggestions, esti-
4 mates, and statistics for the purposes of this
5 section. The head of each such department, bu-
6 reau, agency, board, commission, office, inde-
7 pendent establishment, or instrumentality shall,
8 to the extent practicable and authorized by law,
9 furnish such information, suggestions, esti-
10 mates, and statistics directly to the Commis-
11 sion, upon request made by the Chair of the
12 Commission, by the chair of any subcommittee
13 created by a majority of the Commission, or by
14 any member designated by a majority of the
15 Commission.

16 “(B) RECEIPT, HANDLING, STORAGE, AND
17 DISSEMINATION.—The Committee and its staff
18 shall receive, handle, store, and disseminate in-
19 formation in a manner consistent with the oper-
20 ative statutes, regulations, and Executive orders
21 that govern the handling, storage, and dissemi-
22 nation of such information at the department,
23 bureau, agency, board, commission, office, inde-
24 pendent establishment, or instrumentality that
25 responds to the request.

1 “(j) ASSISTANCE FROM FEDERAL AGENCIES.—

2 “(1) GENERAL SERVICES ADMINISTRATION.—

3 The Administrator of General Services shall provide
4 to the Commission on a reimbursable basis adminis-
5 trative support and other services for the perform-
6 ance of the Commission’s functions.

7 “(2) OTHER DEPARTMENTS AND AGENCIES.—

8 In addition to the assistance required under para-
9 graph (1), departments and agencies of the United
10 States may provide to the Commission such services,
11 funds, facilities, and staff as they may determine ad-
12 visable and as may be authorized by law.

13 “(k) POSTAL SERVICES.—The Commission may use
14 the United States mails in the same manner and under
15 the same conditions as departments and agencies of the
16 United States.

17 “(l) NONAPPLICABILITY OF FEDERAL ADVISORY

18 COMMITTEE ACT.—The Federal Advisory Committee Act
19 (5 U.S.C. App.) shall not apply to the Commission.

20 “(m) PUBLIC MEETINGS.—

21 “(1) IN GENERAL.—The Commission shall hold
22 public hearings and meetings to the extent appro-
23 priate.

24 “(2) PROTECTION OF INFORMATION.—Any pub-

25 lic hearings of the Commission shall be conducted in

1 a manner consistent with the protection of informa-
2 tion provided to or developed for or by the Commis-
3 sion as required by any applicable statute, regula-
4 tion, or Executive order including subsection
5 (i)(2)(B).

6 “(n) STAFF OF COMMISSION.—

7 “(1) APPOINTMENT AND COMPENSATION.—The
8 Chair of the Commission, in consultation with the
9 Vice Chair and in accordance with rules adopted by
10 the Commission, may appoint and fix the compensa-
11 tion of a staff director and such other personnel as
12 may be necessary to enable the Commission to carry
13 out its functions, without regard to the provisions of
14 title 5, United States Code, governing appointments
15 in the competitive service, and without regard to the
16 provisions of chapter 51 and subchapter III of chap-
17 ter 53 of such title relating to classification and
18 General Schedule pay rates, except that no rate of
19 pay fixed under this subsection may exceed the max-
20 imum rate of pay for GS–15 under the General
21 Schedule.

22 “(2) STAFF EXPERTISE.—Individuals shall be
23 selected for appointment as staff of the Commission
24 on the basis of their expertise in one or more of the
25 fields referred to in subsection (e).

1 “(3) PERSONNEL AS FEDERAL EMPLOYEES.—

2 “(A) IN GENERAL.—The executive director
3 and any employees of the Commission shall be
4 employees under section 2105 of title 5, United
5 States Code, for purposes of chapters 63, 81,
6 83, 84, 85, 87, 89, and 90 of that title.

7 “(B) MEMBERS OF COMMISSION.—Sub-
8 paragraph (A) shall not be construed to apply
9 to members of the Commission.

10 “(4) DETAILEES.—Any Federal Government
11 employee may be detailed to the Commission without
12 reimbursement from the Commission, and during
13 such detail shall retain the rights, status, and privi-
14 leges of his or her regular employment without inter-
15 ruption.

16 “(5) CONSULTANT SERVICES.—The Commis-
17 sion may procure the services of experts and consult-
18 ants in accordance with section 3109 of title 5,
19 United States Code, but at rates not to exceed the
20 daily rate paid a person occupying a position at level
21 IV of the Executive Schedule under section 5315 of
22 title 5, United States Code.

23 “(6) EMPHASIS ON SECURITY CLEARANCES.—
24 The Commission shall make it a priority to hire as
25 employees and retain as contractors and detailees in-

1 individuals otherwise authorized by this section who
2 have active security clearances.

3 “(o) COMMISSION PERSONNEL MATTERS.—

4 “(1) COMPENSATION OF MEMBERS.—Each
5 member of the Commission who is not an employee
6 of the Government shall be compensated at a rate
7 not to exceed the daily equivalent of the annual rate
8 of basic pay in effect for a position at level IV of
9 the Executive Schedule under section 5315 of title
10 5, United States Code, for each day during which
11 that member is engaged in the actual performance
12 of the duties of the Commission.

13 “(2) TRAVEL EXPENSES.—While away from
14 their homes or regular places of business in the per-
15 formance of services for the Commission, members
16 of the Commission shall be allowed travel expenses,
17 including per diem in lieu of subsistence, at rates
18 authorized for employees of agencies under sub-
19 chapter I of chapter 57 of title 5, United States
20 Code, while away from their homes or regular places
21 of business in the performance of services for the
22 Commission.

23 “(3) TRAVEL ON ARMED FORCES CONVEY-
24 ANCES.—Members and personnel of the Commission
25 may travel on aircraft, vehicles, or other conveyances

1 of the Armed Forces of the United States when such
2 travel is necessary in the performance of a duty of
3 the Commission, unless the cost of commercial
4 transportation is less expensive.

5 “(4) TREATMENT OF SERVICE FOR PURPOSES
6 OF RETIREMENT BENEFITS.—A member of the
7 Commission who is an annuitant otherwise covered
8 by section 8344 or 8468 of title 5, United States
9 Code, by reason of membership on the Commission
10 shall not be subject to the provisions of such section
11 with respect to membership on the Commission.

12 “(5) VACANCIES.—A vacancy on the Commis-
13 sion shall not affect its powers and shall be filled in
14 the manner in which the original appointment was
15 made. The appointment of the replacement member
16 shall be made not later than 60 days after the date
17 on which the vacancy occurs.

18 “(p) SECURITY CLEARANCES.—The heads of appro-
19 priate departments and agencies of the executive branch
20 shall cooperate with the Commission to expeditiously pro-
21 vide Commission members and staff with appropriate se-
22 curity clearances to the extent possible under applicable
23 procedures and requirements.

24 “(q) REPORTS.—

1 “(1) FINAL REPORT.—Not later than 18
2 months after the date on which the Commission first
3 meets, the Commission shall submit to the President
4 and Congress a final report of its findings and con-
5 clusions, legislative recommendations for immediate
6 and long-term countermeasures to violent
7 radicalization, homegrown terrorism, and ideologi-
8 cally based violence, and measures that can be taken
9 to prevent violent radicalization, homegrown ter-
10 rorism, and ideologically based violence from devel-
11 oping and spreading within the United States, and
12 any final recommendations for any additional grant
13 programs to support these purposes. The report may
14 also be accompanied by a classified annex.

15 “(2) INTERIM REPORTS.—The Commission
16 shall submit to the President and Congress—

17 “(A) by not later than 6 months after the
18 date on which the Commission first meets, a
19 first interim report on—

20 “(i) its findings and conclusions and
21 legislative recommendations for the pur-
22 poses described in paragraph (1); and

23 “(ii) its recommendations on the fea-
24 sibility of a grant program established and
25 administered by the Secretary for the pur-

1 pose of preventing, disrupting, and miti-
2 gating the effects of violent radicalization,
3 homegrown terrorism, and ideologically
4 based violence and, if such a program is
5 feasible, recommendations on how grant
6 funds should be used and administered;
7 and

8 “(B) by not later than 6 months after the
9 date on which the Commission submits the in-
10 terim report under subparagraph (A), a second
11 interim report on such matters.

12 “(3) INDIVIDUAL OR DISSENTING VIEWS.—
13 Each member of the Commission may include in
14 each report under this subsection the individual ad-
15 ditional or dissenting views of the member.

16 “(4) PUBLIC AVAILABILITY.—The Commission
17 shall release a public version of each report required
18 under this subsection.

19 “(r) AVAILABILITY OF FUNDING.—Amounts made
20 available to the Commission to carry out this section shall
21 remain available until the earlier of the expenditure of the
22 amounts or the termination of the Commission.

23 “(s) TERMINATION OF COMMISSION.—The Commis-
24 sion shall terminate 30 days after the date on which the
25 Commission submits its final report.

1 **“SEC. 899D. CENTER OF EXCELLENCE FOR THE STUDY OF**
2 **VIOLENT RADICALIZATION AND HOME-**
3 **GROWN TERRORISM IN THE UNITED STATES.**

4 “(a) ESTABLISHMENT.—The Secretary of Homeland
5 Security shall establish or designate a university-based
6 Center of Excellence for the Study of Violent
7 Radicalization and Homegrown Terrorism in the United
8 States (hereinafter referred to as ‘Center’) following the
9 merit-review processes and procedures and other limita-
10 tions that have been previously established for selecting
11 and supporting University Programs Centers of Excel-
12 lence. The Center shall assist Federal, State, local, and
13 tribal homeland security officials through training, edu-
14 cation, and research in preventing violent radicalization
15 and homegrown terrorism in the United States. In car-
16 rying out this section, the Secretary may choose to either
17 create a new Center designed exclusively for the purpose
18 stated herein or identify and expand an existing Depart-
19 ment of Homeland Security Center of Excellence so that
20 a working group is exclusively designated within the exist-
21 ing Center of Excellence to achieve the purpose set forth
22 in subsection (b).

23 “(b) PURPOSE.—It shall be the purpose of the Center
24 to study the social, criminal, political, psychological, and
25 economic roots of violent radicalization and homegrown
26 terrorism in the United States and methods that can be

1 General, and other Federal Government entities, as appro-
2 priate, conduct a survey of methodologies implemented by
3 foreign nations to prevent violent radicalization and home-
4 grown terrorism in their respective nations.

5 “(b) IMPLEMENTATION.—To the extent that meth-
6 odologies are permissible under the Constitution, the Sec-
7 retary shall use the results of the survey as an aid in devel-
8 oping, in consultation with the Attorney General, a na-
9 tional policy in the United States on addressing
10 radicalization and homegrown terrorism.

11 “(c) REPORTS TO CONGRESS.—The Secretary shall
12 submit a report to Congress that provides—

13 “(1) a brief description of the foreign partners
14 participating in the survey; and

15 “(2) a description of lessons learned from the
16 results of the survey and recommendations imple-
17 mented through this international outreach.

18 **“SEC. 899F. PROTECTING CIVIL RIGHTS AND CIVIL LIB-**
19 **ERTIES WHILE PREVENTING IDEOLOGICALLY**
20 **BASED VIOLENCE AND HOMEGROWN TER-**
21 **RORISM.**

22 “(a) IN GENERAL.—The Department of Homeland
23 Security’s efforts to prevent ideologically based violence
24 and homegrown terrorism as described herein shall not
25 violate the constitutional rights, civil rights, or civil lib-

1 entities of United States citizens or lawful permanent resi-
2 dents.

3 “(b) COMMITMENT TO RACIAL NEUTRALITY.—The
4 Secretary shall ensure that the activities and operations
5 of the entities created by this subtitle are in compliance
6 with the Department of Homeland Security’s commitment
7 to racial neutrality.

8 “(c) AUDITING MECHANISM.—The Civil Rights and
9 Civil Liberties Officer of the Department of Homeland Se-
10 curity shall develop and implement an auditing mechanism
11 to ensure that compliance with this subtitle does not vio-
12 late the constitutional rights, civil rights, or civil liberties
13 of any racial, ethnic, or religious group, and shall include
14 the results of audits under such mechanism in its annual
15 report to Congress required under section 705.”.

16 (2) CLERICAL AMENDMENT.—The table of con-
17 tents in section 1(b) of such Act is amended by in-
18 serting at the end of the items relating to title VIII
19 the following:

“Subtitle J—Prevention of Violent Radicalization and Homegrown Terrorism

“Sec. 899A. Definitions.

“Sec. 899B. Findings.

“Sec. 899C. National Commission on the Prevention of Violent Radicalization
and Ideologically Based Violence.

“Sec. 899D. Center of Excellence for the Study of Violent Radicalization and
Homegrown Terrorism in the United States.

“Sec. 899E. Preventing violent radicalization and homegrown terrorism
through international cooperative efforts.

“Sec. 899F. Protecting civil rights and civil liberties while preventing ideologi-
cally based violence and homegrown terrorism.”.

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

3 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

4 There is authorized to be appropriated to the Sec-
5 retary \$47,474,026,000 for fiscal year 2011 for the nec-
6 essary expenses of the Department of Homeland Security.

7 **TITLE III—CONGRESSIONAL**
8 **OVERSIGHT**

9 **SEC. 301. CONGRESSIONAL OVERSIGHT.**

10 (a) FINDINGS.—Congress finds the following:

11 (1) The National Commission on Terrorist At-
12 tacks Upon the United States (in this section re-
13 ferred to as the “9/11 Commission”) recommended
14 in its report in 2004 that “Congress should create
15 a single, principal point of oversight and review for
16 homeland security”.

17 (2) At the time of that recommendation, there
18 were 86 committees and subcommittees exercising
19 oversight of the Department of Homeland Security.
20 As of the end of the 110th Congress, there were 108
21 committees and subcommittees exercising such over-
22 sight.

23 (3) The 9/11 Commission report further stated
24 that “so long as oversight is governed by current
25 congressional rules and resolutions, we believe the

1 American people will not get the security they want
2 and need”.

3 (4) In a 2007 op-ed in the Washington Post,
4 the former Chairman and Vice Chairman of the 9/
5 11 Commission, Governor Thomas Kean and Con-
6 gressman Lee Hamilton, described how fragmented
7 congressional oversight of the Department of Home-
8 land Security results in “a major drain on senior
9 management and a source of contradictory guid-
10 ance”.

11 (5) In a September 2007 letter to House of
12 Representatives Homeland Security Committee
13 ranking minority member Peter King, former Home-
14 land Security Secretary Michael Chertoff wrote that
15 “arguably, the single most important step Congress
16 can take to improve operational effectiveness at the
17 Department of Homeland Security at this juncture
18 is to streamline Congressional oversight of DHS”.

19 (6) On December 20, 2008, The New York
20 Times published an editorial entitled “Wayward Eye
21 on the Homeland”, commenting on the inability of
22 Congress to consolidate homeland security jurisdic-
23 tion, noting that “This is a comedy that invites fresh
24 tragedy unless Congressional leaders finally resolve
25 to streamline down to a few dedicated panels”.

1 (7) The Commission on Weapons of Mass De-
2 struction Proliferation and Terrorism (in this section
3 referred to as the “WMD Commission”) rec-
4 ommended in 2008 that Congress “reform its over-
5 sight, both structurally and substantively, to better
6 address intelligence, homeland security, and national
7 security missions such as the prevention of weapons
8 of mass destruction proliferation and terrorism”.

9 (8) The WMD Commission gave Congress an
10 “F” on its Prevention of WMD Proliferation and
11 Terrorism Report Card in January 2010 for failing
12 to reform Congressional oversight, noting that “vir-
13 tually no progress has been made since consolidation
14 was first recommended by the 9/11 Commission in
15 2004”.

16 (9) On May 19, 2010, the former Chairman
17 and Vice Chairman of the 9/11 Commission, Gov-
18 ernor Thomas Kean and Congressman Lee Ham-
19 ilton, testified before the House Committee on
20 Homeland Security that “the jurisdictional melee
21 among the scores of Congressional committees has
22 led to conflicting and contradictory tasks and man-
23 dates for DHS.” Adding that “Without taking seri-
24 ous action, we fear this unworkable system could
25 make the country less safe.”.

1 (10) The current structure of oversight over
2 homeland security and bifurcated Congressional ju-
3 risdiction has a deleterious effect on the ability of
4 Congress to provide clear and consistent guidance to
5 the Department and impedes the timely enactment
6 of appropriate legislation that will best ensure the
7 security of our Nation and its citizens.

8 (b) SENSE OF CONGRESS REGARDING OVERSIGHT OF
9 HOMELAND SECURITY.—It is the sense of Congress that
10 the House of Representatives and the Senate should fully
11 implement the recommendations of the National Commis-
12 sion on Terrorist Attacks Upon the United States for cre-
13 ating a single, principal point of oversight and review for
14 homeland security by amending House and Senate rules
15 relating to committee jurisdiction.

16 (c) AMENDMENT TO THE HOUSE RULES REGARDING
17 OVERSIGHT OF HOMELAND SECURITY.—Clause 2 of rule
18 XII of the Rules of the House of Representatives is
19 amended by redesignating paragraph (c) as paragraph (d)
20 and inserting after paragraph (b) the following:

21 “(c) The Speaker shall consider the recommendations
22 of the National Commission on Terrorist Attacks Upon
23 the United States for consolidating oversight and review
24 of homeland security, and to the maximum extent feasible,
25 minimize the impact that the referral to multiple commit-

1 tees of matters under paragraph (a) related to homeland
2 security and the Department of Homeland Security will
3 have on the ability of the House of Representatives to pro-
4 vide clear and consistent guidance to the Department and
5 act on such measures in a timely and effective manner
6 consistent with those recommendations.”.

7 **TITLE IV—BORDER SECURITY**

8 **SEC. 401. STRATEGY TO ACHIEVE CONTROL OF THE BOR-** 9 **DER.**

10 Not later than 180 days after the date of the enact-
11 ment of this Act, the Secretary shall submit to the appro-
12 priate congressional committees a strategy for gaining ef-
13 fective control of the international borders of the United
14 States within five years. The strategy shall include the
15 staffing, technology, infrastructure, and other appropriate
16 means necessary to achieve such effective control.

17 **SEC. 402. MAINTAINING BORDER PATROL STAFFING.**

18 (a) IN GENERAL.—For each of fiscal years 2011,
19 2012, 2013, and 2014, the Secretary of Homeland Secu-
20 rity shall maintain a force of not fewer than 20,000 Bor-
21 der Patrol agents and sufficient support staff for such
22 agents, including mechanics, administrative support, and
23 surveillance personnel.

24 (b) NORTHERN BORDER.—Of the Border Patrol
25 agents required under subsection (a), not fewer than

1 2,500 of such agents shall be assigned to the northern
2 border.

3 **SEC. 403. BORDER TECHNOLOGY AND INFRASTRUCTURE.**

4 (a) TECHNOLOGY.—The Secretary shall deploy a sys-
5 tem of technology to conduct systematic surveillance, de-
6 tection, and tracking along the international land and
7 maritime borders of the United States.

8 (b) COORDINATION.—In deploying technology pursu-
9 ant to subsection (a), the Secretary shall ensure that the
10 procurement of independent systems are done in a manner
11 that allows connectivity into a common operating picture
12 for the United States Border Patrol and other agencies,
13 as appropriate.

14 (c) DETECTION.—The technology deployed pursuant
15 to subsection (a) shall include the capability to detect low-
16 flying aircraft.

17 (d) INFRASTRUCTURE.—The Secretary is authorized
18 to construct physical fencing and vehicle barriers along the
19 international land borders of the United States.

20 **SEC. 404. UNMANNED AERIAL SYSTEM DEPLOYMENT.**

21 (a) IN GENERAL.—Not later than one year after the
22 date of the enactment of this Act, the Secretary of Home-
23 land Security shall—

24 (1) identify not fewer than four strategic sec-
25 tions of the international land borders of the United

1 States where the deployment of unmanned aerial
2 system assets would be beneficial to the Border Pa-
3 trol in implementing effective control of the border,
4 in addition any such sections where unmanned aerial
5 systems have been deployed as of the date of the en-
6 actment of this Act; and

7 (2) notify the Federal Aviation Administration,
8 the Committee on Homeland Security of the House
9 of Representatives, and the Committee on Homeland
10 Security and Governmental Affairs of the Senate re-
11 garding the Department's intent to use national air
12 space for unmanned aerial system assets in the stra-
13 tegic sections identified pursuant to paragraph (1).

14 (b) DEPLOYMENT TIMELINE.—Not later than—

15 (1) one year after the date of the enactment of
16 this Act, the Secretary shall deploy unmanned aerial
17 system assets to at least 50 percent of the strategic
18 sections identified pursuant to subsection (a)(1) of
19 the international land borders of the United States;
20 and

21 (2) three years after the date of the enactment
22 of this Act, the Secretary shall deploy such un-
23 manned aerial system assets to 100 percent of such
24 strategic sections.

1 (c) DEFINITION.—In this section, the term “effective
2 control” means the ability to detect, identify, and prevent
3 unlawful entries into the United States, including entries
4 by terrorists and other unlawful aliens, instruments of ter-
5 rorism, narcotics, and other contraband.

6 **SEC. 405. BORDER SECURITY ON PUBLIC LANDS.**

7 On public lands of the United States, neither the Sec-
8 retary of the Interior nor the Secretary of Agriculture may
9 impede, prohibit, or restrict activities of the Secretary of
10 Homeland Security to achieve operational control (as de-
11 fined in section 2(b) of the Secure Fence Act of 2006 (8
12 U.S.C. 1701 note; Public Law 109–367)).

13 **SEC. 406. INCREASE IN PORT OF ENTRY INSPECTION PER-**
14 **SONNEL.**

15 For each of fiscal years 2011, 2012, 2013, and 2014,
16 the Secretary of Homeland Security shall, subject to the
17 availability of appropriations for such purpose, increase by
18 not fewer than 250 the number of Customs and Border
19 Protection officers at United States ports of entry over
20 the number of such officers at such ports for the preceding
21 fiscal year.

22 **SEC. 407. MAINTAINING BORDER INSPECTION EXPERTISE.**

23 The Secretary, acting through the Commissioner of
24 United States Customs and Border Protection, shall en-

1 sure that expertise is maintained in all United States Cus-
2 toms and Border Protection mission areas.

3 **SEC. 408. CONVERSION OF CERTAIN OVERSEAS LIMITED**
4 **APPOINTMENTS.**

5 (a) DEFINITIONS.—For purposes of this section—

6 (1) the term “Commissioner” means the Com-
7 missioner of United States Customs and Border
8 Protection;

9 (2) the term “United States Customs and Bor-
10 der Protection” means United States Customs and
11 Border Protection of the Department of Homeland
12 Security;

13 (3) the term “competitive service” has the
14 meaning given such term by section 2102 of title 5,
15 United States Code; and

16 (4) the term “overseas limited appointment”
17 means an appointment under—

18 (A) subpart B of part 301 of title 5 of the
19 Code of Federal Regulations, as in effect on
20 January 1, 2008; or

21 (B) any similar antecedent or succeeding
22 authority, as determined by the Commissioner.

23 (b) AUTHORITY TO CONVERT CERTAIN OVERSEAS
24 LIMITED APPOINTMENTS TO PERMANENT APPOINT-
25 MENTS.—

1 (1) IN GENERAL.—Notwithstanding chapter 33
2 of title 5, United States Code, or any other provision
3 of law relating to the examination, certification, and
4 appointment of individuals in the competitive serv-
5 ice, the Commissioner may convert an employee
6 serving under an overseas limited appointment with-
7 in U.S. Customs and Border Protection to a perma-
8 nent appointment in the competitive service within
9 U.S. Customs and Border Protection, if—

10 (A) as of the time of conversion, the em-
11 ployee has completed at least 2 years of current
12 continuous service under 1 or more overseas
13 limited appointments; and

14 (B) the employee’s performance has,
15 throughout the period of continuous service re-
16 ferred to in subparagraph (A), been rated at
17 least fully successful or the equivalent.

18 An employee whose appointment is converted under
19 the preceding sentence acquires competitive status
20 upon conversion.

21 (2) INDEMNIFICATION AND PRIVILEGES.—

22 (A) INDEMNIFICATION.—The United
23 States shall, in the case of any individual whose
24 appointment is converted under paragraph (1),
25 indemnify and hold such individual harmless

1 from any claim arising from any event, act, or
2 omission—

3 (i) that arises from the exercise of
4 such individual's official duties, including
5 by reason of such individual's residency
6 status, in the foreign country in which
7 such individual resides at the time of con-
8 version,

9 (ii) for which the individual would not
10 have been liable had the individual enjoyed
11 the same privileges and immunities in the
12 foreign country as an individual who either
13 was a permanent employee, or was not a
14 permanent resident, in the foreign country
15 at the time of the event, act, or omission
16 involved, and

17 (iii) that occurs before, on, or after
18 the date of the enactment of this Act,
19 including any claim for taxes owed to the for-
20 eign country or a subdivision thereof.

21 (B) SERVICES AND PAYMENTS.—

22 (i) IN GENERAL.—In the case of any
23 individual whose appointment is converted
24 under paragraph (1), the United States
25 shall provide to such individual (including

1 any dependents) services and monetary
2 payments—

3 (I) equivalent to the services and
4 monetary payments provided to other
5 Customs and Border Protection em-
6 ployees in similar positions (and their
7 dependents) in the same country of
8 assignment by international agree-
9 ment, an exchange of notes, or other
10 diplomatic policy; and

11 (II) for which such individual (in-
12 cluding any dependents) was not eligi-
13 ble by reason of such individual's
14 overseas limited appointment.

15 (ii) APPLICABILITY.—Services and
16 payments under this subparagraph shall be
17 provided to an individual (including any
18 dependents) to the same extent and in the
19 same manner as if such individual had
20 held a permanent appointment in the com-
21 petitive service throughout the period de-
22 scribed in paragraph (1)(A). The preceding
23 sentence shall, in the case of any indi-
24 vidual, be effective as of the first day of

1 the period described in paragraph (1)(A)
2 with respect to such individual.

3 (3) GUIDANCE ON IMPLEMENTATION.—The
4 Commissioner shall implement the conversion of an
5 employee serving under an overseas limited appoint-
6 ment to a permanent appointment in the competitive
7 service in a manner that—

8 (A) meets the operational needs of the
9 U.S. Customs and Border Protection; and

10 (B) to the greatest extent practicable, is
11 not disruptive to the employees affected under
12 this section.

13 **SEC. 409. CIVIL AIR PATROL STUDY.**

14 (a) STUDY.—The Comptroller General of the United
15 States shall conduct a study of the functions and capabili-
16 ties of the Civil Air Patrol to support the homeland secu-
17 rity missions of State, local, and tribal governments and
18 the Department of Homeland Security. In conducting the
19 study, the Comptroller General shall review the process
20 by which the Civil Air Patrol may provide assistance to
21 the Secretary of Homeland Security, other Federal agen-
22 cies, and States to support homeland security missions
23 by—

24 (1) providing aerial reconnaissance or commu-
25 nications capabilities for border security;

1 (2) providing capabilities for a collective re-
2 sponse to an act of terrorism, natural disaster, or
3 other man-made event by assisting in damage as-
4 sessment and situational awareness, conducting
5 search and rescue operations, assisting in evacu-
6 ations, and transporting time-sensitive medical or
7 other materials;

8 (3) providing assistance in the exercise and
9 training of departmental resources responsible for
10 the intercept of aviation threats to designated re-
11 stricted areas; and

12 (4) carrying out such other activities as may be
13 determined appropriate by the Comptroller General
14 in the conduct of this review.

15 (b) REPORT.—Not later than 180 days after the date
16 of the enactment of this Act, the Comptroller General shall
17 submit to the Secretary of Homeland Security, the Com-
18 mittees on Homeland Security and Transportation and In-
19 frastructure of the House of Representatives, and the
20 Committee on Homeland Security and Governmental Af-
21 fairs of the Senate a report containing the findings of the
22 review conducted under subsection (a). The report shall
23 include—

1 (1) an assessment of the feasibility and cost ef-
2 fectiveness of using Civil Air Patrol assets for the
3 purposes described in subsection (a); and

4 (2) an assessment as to whether the current
5 mechanisms for Federal agencies and States to re-
6 quest support from the Civil Air Patrol are sufficient
7 or whether new agreements between relevant Federal
8 agencies and the Civil Air Patrol are necessary.

9 (c) **REPORT TO CONGRESS.**—Not later than 90 days
10 after the date of the receipt of the report required under
11 subsection (b), the Secretary of Homeland Security shall
12 review and analyze the study and submit to the Commit-
13 tees on Homeland Security and Transportation and Infra-
14 structure of the House of Representatives and the Com-
15 mittee on Homeland Security and Governmental Affairs
16 of the Senate a report on such review and analysis, includ-
17 ing any recommendations of the Secretary for further ac-
18 tion that could affect the organization and administration
19 of the Department of Homeland Security.

20 **SEC. 410. IMPLEMENTATION OF US-VISIT.**

21 (a) **AIRPORT AND SEAPORT EXIT IMPLEMENTA-**
22 **TION.**—Not later than June 30, 2011, the Secretary of
23 Homeland Security shall complete the exit portion of the
24 integrated entry and exit data system (commonly referred
25 to as the “United States Visitor and Immigrant Status

1 Indicator Technology system” or “US–VISIT”) required
2 under section 110 of the Illegal Immigration Reform and
3 Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a)
4 for aliens arriving in or departing from the United States
5 at an airport or seaport.

6 (b) LAND EXIT IMPLEMENTATION.—

7 (1) IN GENERAL.—The Secretary shall develop
8 a strategy for implementation of the exit portion of
9 such integrated entry and exit data system for aliens
10 departing from the United States at a land port of
11 entry. The Secretary shall provide the strategy to
12 appropriate congressional committees not later than
13 December 31, 2011.

14 (2) ADDITIONAL MEASURES FOR DATA CAP-
15 TURE.—In developing the strategy, the Secretary
16 shall consider additional measures to enhance the
17 ability of the Department of Homeland Security to
18 capture exit data.

19 **SEC. 411. NORTHERN BORDER CANINE TEAMS.**

20 Not later than one year after the date of the enact-
21 ment of this Act, the Secretary shall establish canine en-
22 forcement teams at the five busiest northern ports of entry
23 and at other ports of entry as the Secretary determines
24 necessary.

1 **SEC. 412. VISA SECURITY PROGRAM EXPANSION.**

2 (a) ISSUANCE OF VISAS AT DESIGNATED DIPLO-
3 MATIC AND CONSULAR POSTS.—Section 428(i) of the
4 Homeland Security Act of 2002 (6 U.S.C. 236(i)) is
5 amended to read as follows:

6 “(i) VISA ISSUANCE AT DESIGNATED CONSULAR
7 POSTS AND EMBASSIES.—Notwithstanding any other pro-
8 vision of law, the Secretary—

9 “(1) shall conduct an on-site review of all visa
10 applications and supporting documentation before
11 adjudication at each of the visa adjudicating posts
12 identified as high-risk, and posts subsequently des-
13 ignated as such, by the Secretary; and

14 “(2) is authorized to assign employees of the
15 Department to any diplomatic or consular post at
16 which visas are issued unless, in the Secretary’s sole
17 and unreviewable discretion, the Secretary deter-
18 mines that such an assignment at a particular post
19 would not promote national or homeland security.”.

20 (b) EXPEDITED CLEARANCE AND PLACEMENT OF
21 DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT
22 DIPLOMATIC AND CONSULAR POSTS.—The Secretary of
23 State shall ensure that—

24 (1) not later than 270 days after the date of
25 the enactment of the amendment made by sub-
26 section (a), Department of Homeland Security per-

1 sonnel assigned by the Secretary of Homeland Secu-
2 rity under section 428(i)(1) of the Homeland Secu-
3 rity Act of 2002, as amended by such subsection,
4 have been stationed at diplomatic and consular posts
5 as determined by the Secretary of Homeland Secu-
6 rity; and

7 (2) not later than 270 days after the date on
8 which the Secretary of Homeland Security des-
9 ignates an additional diplomatic or consular post for
10 personnel under section 428(i)(2) of the Homeland
11 Security Act of 2002, as amended by subsection (a)
12 of this section, the Department of Homeland Secu-
13 rity personnel assigned to such post have been sta-
14 tioned at such post.

15 **SEC. 413. VISA REVOCATION AUTHORITY.**

16 (a) **AUTHORITY OF THE SECRETARY OF HOMELAND**
17 **SECURITY.**—Section 428(b) of the Homeland Security Act
18 (6 U.S.C. 236) is amended—

19 (1) in the matter preceding paragraph (1), by
20 striking “Notwithstanding” and inserting “(1) AU-
21 THORITIES OF THE SECRETARY OF HOMELAND SE-
22 CURITY.—Notwithstanding”;

23 (2) by redesignating paragraphs (1) and (2) as
24 subparagraphs (A) and (B), respectively, and mov-

1 ing such subparagraphs, as so redesignated, two ems
2 to the right;

3 (3) in subparagraph (A), by striking “and” at
4 the end;

5 (4) by redesignating subparagraph (B) as sub-
6 paragraph (C);

7 (5) by inserting after subparagraph (A) the fol-
8 lowing new subparagraph:

9 “(B) may refuse or revoke any visa to any
10 alien or class of aliens if the Secretary, or the
11 Secretary’s designee, determines that such re-
12 fusal or revocation is necessary or advisable in
13 the security interests of the United States;
14 and”;

15 (6) by adding at the end the following new
16 paragraph:

17 “(2) EFFECT OF REVOCATION.—The revocation
18 of any visa of an alien under paragraph (1)(B) shall
19 take effect immediately and shall automatically can-
20 cel any other valid visa that is in such alien’s posses-
21 sion.”.

22 (b) AUTHORITY OF THE SECRETARY OF STATE.—
23 Section 428(c) of the Homeland Security Act (6 U.S.C.
24 236)—

1 (1) by redesignating paragraph (2) as para-
2 graph (3); and

3 (2) by inserting after paragraph (1) the fol-
4 lowing new paragraph:

5 “(2) LIMITATION.—No decision by the Sec-
6 retary of State to approve a visa may override a de-
7 cision by the Secretary of Homeland Security under
8 subsection (b).”.

9 **SEC. 414. IMPROVED STUDENT VISA SCREENING AND FOR-**
10 **EIGN STUDENT MONITORING.**

11 (a) ENHANCED STUDENT VISA BACKGROUND
12 CHECKS.—Section 428 of the Homeland Security Act (6
13 U.S.C. 236) is amended by adding at the end the fol-
14 lowing:

15 “(j) STUDENT VISAS.—In administering the program
16 under this section, not later than 180 days after the date
17 of enactment of the Counterterrorism Enhancement and
18 Department of Homeland Security Authorization Act of
19 2010, the Secretary shall prescribe regulations to require
20 employees assigned under subsection (e)(1) to conduct an
21 on-site review of all applications for visas under subpara-
22 graph (F), (J), or (M) of section 101(a)(15) of the Immi-
23 gration and Nationality Act (8 U.S.C. 1101(a)(15)) prior
24 to final adjudication, with special emphasis on deter-

1 mining whether applicants are inadmissible under section
2 212(a)(3)(B) of such Act (8 U.S.C. 1182(a)(3)(B)).”.

3 (b) IMPROVED FOREIGN STUDENT MONITORING.—
4 Section 442(a) of the Homeland Security Act (6 U.S.C.
5 252(a)) is amended—

6 (1) by redesignating paragraph (5) as para-
7 graph (7); and

8 (2) by inserting after paragraph (4) the fol-
9 lowing:

10 “(5) STUDENT AND EXCHANGE VISITOR PRO-
11 GRAM.—

12 “(A) IN GENERAL.—In administering the
13 program under paragraph (4), the Secretary,
14 not later than October 1, 2011—

15 “(i) shall prescribe regulations to re-
16 quire an institution or exchange visitor
17 program sponsor participating in such pro-
18 gram to ensure that each covered student
19 or exchange visitor enrolled at the institu-
20 tion or attending the exchange visitor pro-
21 gram—

22 “(I) is an active participant in
23 the program for which the covered
24 student or exchange visitor was issued
25 a visa to enter the United States;

1 “(II) is not unobserved for any
2 period—

3 “(aa) exceeding 30 days
4 during any academic term or pro-
5 gram in which the covered stu-
6 dent or exchange visitor is en-
7 rolled; or

8 “(bb) exceeding 60 days
9 during any period not described
10 in item (aa); and

11 “(III) is reported to the Depart-
12 ment within 10 days of—

13 “(aa) transferring to an-
14 other institution or program;

15 “(bb) changing academic
16 majors; or

17 “(cc) any other changes to
18 information required to be main-
19 tained in the system described in
20 paragraph (4); and

21 “(ii) notwithstanding clause (i), shall
22 require each covered student or exchange
23 visitor to be observed at least once every
24 60 days.

1 “(B) DEFINITIONS.—For purposes of this
2 paragraph:

3 “(i) The term ‘covered student’ means
4 a student who is a nonimmigrant pursuant
5 to subparagraph (F), (J), or (M) of section
6 101(a)(15) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1101(a)(15)).

8 “(ii) The term ‘observed’ means posi-
9 tively identified by physical or electronic
10 means.

11 “(6) UPGRADES TO SEVIS OR EQUIVALENT
12 DATA.—The Secretary shall update the program or
13 system described in paragraph (4) to incorporate
14 new data fields that include—

15 “(A) verification that a covered student’s
16 performance meets the minimum academic
17 standards of the institution in which the stu-
18 dent is enrolled; and

19 “(B) timely entry of any information re-
20 quired by paragraph (5) regarding covered stu-
21 dents and exchange visitors enrolled at institu-
22 tions or exchange program sponsors.”.

1 **TITLE V—ENFORCEMENT AND**
2 **INVESTIGATIONS**
3 **Subtitle A—Border and**
4 **Immigration Enforcement**

5 **SEC. 501. INCREASE IN FULL-TIME IMMIGRATION AND CUS-**
6 **TOMS ENFORCEMENT INVESTIGATORS.**

7 Subject to the availability of appropriations, in each
8 of fiscal years 2011 through 2014, the Secretary of Home-
9 land Security shall increase by not fewer than 800 the
10 number of positions for full-time active-duty investigators
11 within the Department of Homeland Security above the
12 number of such positions for which funds were allotted
13 for the preceding fiscal year.

14 **SEC. 502. MANDATORY DETENTION FOR ALIENS APPRE-**
15 **HENDED AT OR BETWEEN PORTS OF ENTRY.**

16 (a) IN GENERAL.—Not later than 90 days after the
17 date of the enactment of this Act, an alien who attempts
18 to unlawfully enter the United States and is apprehended
19 at a United States port of entry or along the international
20 land and maritime borders of the United States shall be
21 detained until removed or a final decision granting admis-
22 sion has been made, unless the alien—

23 (1) is permitted to withdraw an application for
24 admission under section 235(a)(4) of the Immigra-
25 tion and Nationality Act (8 U.S.C. 1225(a)(4)) and

1 immediately departs from the United States pursu-
2 ant to such section; or

3 (2) is paroled into the United States by the
4 Secretary of Homeland Security for urgent humani-
5 tarian reasons or significant public benefit in accord-
6 ance with section 212(d)(5)(A) of such Act (8
7 U.S.C. 1182(d)(5)(A)).

8 (b) RULES OF CONSTRUCTION.—

9 (1) ASYLUM AND REMOVAL.—Nothing in this
10 section shall be construed as limiting the right of an
11 alien to apply for asylum or for relief or deferral of
12 removal based on a fear of persecution.

13 (2) TREATMENT OF CERTAIN ALIENS.—The
14 mandatory detention requirement of subsection (a)
15 shall not apply to any alien who is a native or citizen
16 of a country in the Western Hemisphere with whose
17 government the United States does not have full dip-
18 lomatic relations.

19 (3) DISCRETION.—Nothing in this section shall
20 be construed as limiting the authority of the Sec-
21 retary of Homeland Security, in the Secretary's sole
22 unreviewable discretion, to determine whether an
23 alien described in clause (ii) of section 235(b)(1)(B)
24 of the Immigration and Nationality Act (8 U.S.C.
25 1225(b)(1)(B)) shall be detained or released after a

1 finding of a credible fear of persecution (as defined
2 in clause (v) of such section).

3 **SEC. 503. DENIAL OF ADMISSION TO NATIONALS OF COUN-**
4 **TRIES DENYING OR DELAYING ACCEPTANCE**
5 **OF ALIENS.**

6 Section 243(d) of the Immigration and Nationality
7 Act (8 U.S.C. 1253(d)) is amended to read as follows:

8 “(d) DENIAL OF ADMISSION TO NATIONALS OF
9 COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—
10 Whenever the Secretary of Homeland Security determines
11 that the government of a foreign country has denied or
12 unreasonably delayed accepting an alien who is a citizen,
13 subject, national, or resident of that country after the
14 alien has been ordered removed from the United States,
15 the Secretary, after consultation with the Secretary of
16 State, may deny admission to any citizen, subject, na-
17 tional, or resident of that country until the country ac-
18 cepts the alien who was ordered removed.”.

19 **SEC. 504. ALIEN TRANSFER AND REIMBURSEMENT AU-**
20 **THORITY.**

21 (a) TRANSFER TO FEDERAL CUSTODY.—The Sec-
22 retary of Homeland Security shall require appropriate per-
23 sonnel from the Department of Homeland Security to re-
24 spond within 24 hours in person to all requests made by
25 a State, or political subdivision of a State, participating

1 in the program described in section 287(g) of the Immi-
2 gration and Nationality Act (8 U.S.C. 1357(g)) that the
3 Secretary take into custody an alien, if the Secretary has
4 confirmed that the alien is unlawfully present in the
5 United States.

6 (b) REIMBURSEMENT OF COSTS.—If the Secretary
7 fails to carry out subsection (a), the Secretary shall be
8 responsible for the detention costs incurred by the State
9 or political subdivision as a result of such failure.

10 **Subtitle B—United States Secret** 11 **Service**

12 **SEC. 511. AUTHORIZATION OF THE HOMELAND SECURITY** 13 **FUNCTIONS OF THE UNITED STATES SECRET** 14 **SERVICE.**

15 (a) AUTHORIZATION.—Of the amount authorized in
16 section 201, there is authorized to be appropriated
17 \$1,811,617,000 for fiscal year 2011 for the necessary ex-
18 penses of the United States Secret Service.

19 (b) AUTHORIZED PERSONNEL STRENGTH.—The
20 United States Secret Service is authorized 7,014 full-time
21 equivalent positions for fiscal year 2011.

22 **SEC. 512. REPORT ON THE UNITED STATES SECRET SERV-** 23 **ICE JAMES J. ROWLEY TRAINING CENTER.**

24 Within 240 days after the date of the enactment of
25 this Act, the Inspector General of the Department of

1 Homeland Security shall provide to the appropriate con-
2 gressional committees, including the Committees on
3 Homeland Security and Appropriations of the House of
4 Representatives and the Committees on Homeland Secu-
5 rity and Governmental Affairs and Appropriations of the
6 Senate, a report describing the following:

7 (1) The mission and training capabilities of the
8 United States Secret Service James J. Rowley
9 Training Center.

10 (2) Current Secret Service personnel through-
11 put capacity of the James J. Rowley Training Cen-
12 ter.

13 (3) Maximum Secret Service personnel through-
14 put capacity of the James J. Rowley Training Cen-
15 ter.

16 (4) An assessment of what departmental com-
17 ponents engage in similar training activities as those
18 conducted at the James J. Rowley Training Center.

19 (5) An assessment of the infrastructure en-
20 hancements needed to support the mission and
21 training capabilities of the James J. Rowley Train-
22 ing Center.

23 (6) An assessment of the actual and expected
24 total throughput capacity at the James J. Rowley

1 Training Center, including outside entity partici-
2 pants.

3 **SEC. 513. COMMUNICATIONS INTEROPERABILITY.**

4 (a) IN GENERAL.—The Secretary of Homeland Secu-
5 rity shall implement full interoperability of all communica-
6 tions systems used by the United States Secret Service
7 and the White House Communications Agency.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—Of the
9 amount authorized in section 511, \$15,000,000 is avail-
10 able to complete the requirements in subsection (a).

11 **SEC. 514. INTERNATIONAL FIELD OFFICES.**

12 (a) CYBERSECURITY.—The Secretary of Homeland
13 Security may establish permanent United States Secret
14 Service international field offices to enhance cybersecurity
15 and the Secret Service’s ability to combat cyber crime.

16 (b) ANTI-COUNTERFEITING.—The Secretary may es-
17 tablish permanent United States Secret Service inter-
18 national field offices to enhance the Secret Service’s ability
19 to combat counterfeiting of United States currency.

20 (c) SELECTION OF COUNTRIES.—In selecting coun-
21 tries for the establishment of field offices under this sec-
22 tion, the Secretary shall—

23 (1) consult with the Director of the United
24 States Secret Service; and

1 (2) give priority to countries that pose the high-
2 est risk for cyber attacks against the United States
3 and where the largest amount of counterfeit United
4 States currency is produced.

5 **TITLE VI—TRANSPORTATION**
6 **SECURITY**

7 **SEC. 601. SHORT TITLE.**

8 This title may be cited as the “Transportation Secu-
9 rity Administration Authorization Act”.

10 **SEC. 602. DEFINITIONS.**

11 In this title, the following definitions apply:

12 (1) ASSISTANT SECRETARY.—The term “Assist-
13 ant Secretary” means Assistant Secretary of Home-
14 land Security (Transportation Security Administra-
15 tion).

16 (2) ADMINISTRATION.—The term “Administra-
17 tion” means the Transportation Security Adminis-
18 tration.

19 (3) AVIATION SECURITY ADVISORY COM-
20 MITTEE.—The term “Aviation Security Advisory
21 Committee” means the advisory committee estab-
22 lished by section 44946 of title 49, United States
23 Code, as added by this Act.

1 **SEC. 603. AUTHORITIES VESTED IN ASSISTANT SECRETARY.**

2 Any authority vested in the Assistant Secretary under
3 this title shall be carried out under the direction and con-
4 trol of the Secretary.

5 **Subtitle A—Authorization of**
6 **Appropriations**

7 **SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

8 Of the amounts authorized in section 201, there are
9 authorized to be appropriated to the Secretary
10 \$8,310,835,000 for fiscal year 2011 for the necessary ex-
11 penses of the Transportation Security Administration.

12 **SEC. 612. RISK-BASED SYSTEM FOR ALLOCATION OF RE-**
13 **SOURCES.**

14 (a) REPORT.—Not later than 180 days after the date
15 of enactment of this Act, the Assistant Secretary shall
16 submit to the appropriate congressional committees, in-
17 cluding the Committee on Homeland Security of the
18 House of Representatives, a report on the status of its
19 implementation of recommendations from the Comptroller
20 General with respect to the use by the Transportation Se-
21 curity Administration of a risk-based system for allocating
22 security resources effectively.

23 (b) ASSESSMENTS.—The report shall include assess-
24 ments of the Transportation Security Administration's
25 progress in—

1 (1) adopting security goals that define specific
2 outcomes, conditions, end points, and performance
3 targets;

4 (2) conducting comprehensive risk assessments
5 for the transportation sector that meet the criteria
6 established under Homeland Security Presidential
7 Directive–7 in effect as of January 1, 2009, and
8 combine individual assessments of threat, vulner-
9 ability, and consequence;

10 (3) analyzing the assessments described in
11 paragraph (2) to produce a comparative analysis of
12 risk across the entire transportation sector to guide
13 current and future investment decisions;

14 (4) establishing an approach for gathering data
15 on investments by State, local, and private sector se-
16 curity partners in transportation security;

17 (5) establishing a plan and corresponding
18 benchmarks for conducting risk assessments for the
19 transportation sector that identify the scope of the
20 assessments and resource requirements for com-
21 pleting them;

22 (6) establishing a strategy and timeline for ef-
23 fectuating the Administration’s intelligence-driven
24 risk management approach and documenting the re-
25 sults of the assessment;

1 (7) optimizing the assignment of uncertainty or
2 confidence levels to analytic intelligence products re-
3 lated to the Transportation Security Administra-
4 tion's security mission and applying such approach;
5 and

6 (8) establishing internal controls, including—

7 (A) a focal point and clearly defined roles
8 and responsibilities for ensuring that the Ad-
9 ministration's risk management framework is
10 implemented;

11 (B) policies, procedures, and guidance that
12 require the implementation of the Administra-
13 tion's framework and completion of related
14 work activities; and

15 (C) a system to monitor and improve how
16 effectively the framework is being implemented.

17 (c) ASSESSMENT AND PRIORITIZATION OF RISKS.—

18 (1) IN GENERAL.—Consistent with the risk and
19 threat assessments required under sections
20 114(s)(3)(B) and 44904(c) of title 49, United States
21 Code, the report shall include—

22 (A) a summary that ranks the risks within
23 and across transportation modes, including vul-
24 nerability of a cyber attack; and

1 (B) a description of the risk-based prior-
 2 ities for securing the transportation sector, both
 3 within and across modes, in the order that the
 4 priorities should be addressed.

5 (2) METHODS.—The report also shall—

6 (A) describe the underlying methodologies
 7 used to assess risks across and within each
 8 transportation mode and the basis for any as-
 9 sumptions regarding threats, vulnerabilities,
 10 and consequences made in assessing and
 11 prioritizing risks within and across such modes;
 12 and

13 (B) include the Assistant Secretary’s work-
 14 ing definition of the terms “risk-based” and
 15 “risk-informed”.

16 (d) FORMAT.—The report shall be submitted in clas-
 17 sified or unclassified formats, as appropriate.

18 **Subtitle B—Aviation Security**

19 **CHAPTER 1—AMENDMENTS TO CHAPTER**

20 **449**

21 **SEC. 621. SCREENING AIR CARGO AND CHECKED BAGGAGE.**

22 Section 44901(e)(1) of title 49, United States Code,
 23 is amended to read as follows:

24 “(1) A bag match program, ensuring that no
 25 checked baggage is placed aboard an aircraft unless

1 the passenger who checked the baggage is aboard
2 the aircraft, is not authorized as an alternate meth-
3 od of baggage screening where explosive detection
4 equipment is available unless there are exigent cir-
5 cumstances as determined by the Assistant Sec-
6 retary. The Assistant Secretary shall report to the
7 Committee on Homeland Security of the House of
8 Representatives within 90 days of the determination
9 that bag match must be used as an alternate method
10 of baggage screening.”.

11 **SEC. 622. PROHIBITION OF ADVANCE NOTICE OF COVERT**
12 **TESTING TO SECURITY SCREENERS.**

13 (a) COVERT TESTING.—Section 44935 of title 49,
14 United States Code, is amended—

15 (1) by redesignating the second subsection (i)
16 (as redesignated by section 111(a)(1) of Public Law
17 107–71 (115 Stat. 616), relating to accessibility of
18 computer-based training facilities) as subsection (k);
19 and

20 (2) by adding at the end the following new sub-
21 section:

22 “(l) PROHIBITION OF ADVANCE NOTICE TO SECUR-
23 RITY SCREENERS OF COVERT TESTING AND EVALUA-
24 TION.—

1 “(1) IN GENERAL.—The Assistant Secretary
2 shall ensure that information concerning a covert
3 test of a transportation security system to be con-
4 ducted by a covert testing office, the Inspector Gen-
5 eral of the Department of Homeland Security, or the
6 Government Accountability Office is not provided to
7 any individual prior to the completion of the test.

8 “(2) EXCEPTIONS.—Notwithstanding para-
9 graph (1)—

10 “(A) an authorized individual involved in a
11 covert test of a transportation security system
12 may provide information concerning the covert
13 test to—

14 “(i) employees, officers, and contrac-
15 tors of the Federal Government (including
16 military personnel);

17 “(ii) employees and officers of State
18 and local governments; and

19 “(iii) law enforcement officials who
20 are authorized to receive or directed to be
21 provided such information by the Assistant
22 Secretary, the Inspector General of the De-
23 partment of Homeland Security, or the
24 Comptroller General, as the case may be;
25 and

1 “(B) for the purpose of ensuring the secu-
2 rity of any individual in the vicinity of a site
3 where a covert test of a transportation security
4 system is being conducted, an individual con-
5 ducting the test may disclose his or her status
6 as an individual conducting the test to any ap-
7 propriate individual if a security screener or
8 other individual who is not a covered employee
9 identifies the individual conducting the test as
10 a potential threat.

11 “(3) SPECIAL RULES FOR TSA.—

12 “(A) MONITORING AND SECURITY OF
13 TESTING PERSONNEL.—The head of each covert
14 testing office shall ensure that a person or
15 group of persons conducting a covert test of a
16 transportation security system for the covert
17 testing office is accompanied at the site of the
18 test by a cover team composed of one or more
19 employees of the covert testing office for the
20 purpose of monitoring the test and confirming
21 the identity of personnel involved in the test
22 under subparagraph (B).

23 “(B) RESPONSIBILITY OF COVER TEAM.—
24 Under this paragraph, a cover team for a covert
25 test of a transportation security system shall—

1 “(i) monitor the test; and

2 “(ii) for the purpose of ensuring the
3 security of any individual in the vicinity of
4 a site where the test is being conducted,
5 confirm, notwithstanding paragraph (1),
6 the identity of any individual conducting
7 the test to any appropriate individual if a
8 security screener or other individual who is
9 not a covered employee identifies the indi-
10 vidual conducting the test as a potential
11 threat.

12 “(C) AVIATION SCREENING.—Notwith-
13 standing subparagraph (A), the Transportation
14 Security Administration is not required to have
15 a cover team present during a test of the
16 screening of persons, carry-on items, or checked
17 baggage at an aviation security checkpoint at or
18 serving an airport if the test—

19 “(i) is approved, in coordination with
20 the designated security official for the air-
21 port operator by the Federal Security Di-
22 rector for such airport; and

23 “(ii) is carried out under an aviation
24 screening assessment program of the De-
25 partment of Homeland Security.

1 “(D) USE OF OTHER PERSONNEL.—The
2 Transportation Security Administration may
3 use employees, officers, and contractors of the
4 Federal Government (including military per-
5 sonnel) and employees and officers of State and
6 local governments to conduct covert tests.

7 “(4) DEFINITIONS.—In this subsection, the fol-
8 lowing definitions apply:

9 “(A) APPROPRIATE INDIVIDUAL.—The
10 term ‘appropriate individual’, as used with re-
11 spect to a covert test of a transportation secu-
12 rity system, means any individual that—

13 “(i) the individual conducting the test
14 determines needs to know his or her status
15 as an individual conducting a test under
16 paragraph (2)(B); or

17 “(ii) the cover team monitoring the
18 test under paragraph (3)(B)(i) determines
19 needs to know the identity of an individual
20 conducting the test.

21 “(B) COVERED EMPLOYEE.—The term
22 ‘covered employee’ means any individual who
23 receives notice of a covert test before the com-
24 pletion of a test under paragraph (2)(A).

25 “(C) COVERT TEST.—

1 “(i) IN GENERAL.—The term ‘covert
2 test’ means an exercise or activity con-
3 ducted by a covert testing office, the In-
4 spector General of the Department of
5 Homeland Security, or the Government Ac-
6 countability Office to intentionally test,
7 compromise, or circumvent transportation
8 security systems to identify vulnerabilities
9 in such systems.

10 “(ii) LIMITATION.—Notwithstanding
11 clause (i), the term ‘covert test’ does not
12 mean an exercise or activity by an em-
13 ployee or contractor of the Transportation
14 Security Administration to test or assess
15 compliance with relevant regulations.

16 “(D) COVERT TESTING OFFICE.—The term
17 ‘covert testing office’ means any office of the
18 Transportation Security Administration des-
19 ignated by the Assistant Secretary to conduct
20 covert tests of transportation security systems.

21 “(E) EMPLOYEE OF A COVERT TESTING
22 OFFICE.—The term ‘employee of a covert test-
23 ing office’ means an individual who is an em-
24 ployee of a covert testing office or a contractor

1 or an employee of a contractor of a covert test-
2 ing office.”.

3 (b) UNIFORMS.—Section 44935(j) of such title is
4 amended—

5 (1) by striking “The Under Secretary” and in-
6 serting the following:

7 “(1) UNIFORM REQUIREMENT.—The Assistant
8 Secretary”; and

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

10 “(2) ALLOWANCE.—The Assistant Secretary
11 may grant a uniform allowance of not less than
12 \$300 to any individual who screens passengers and
13 property pursuant to section 44901.”.

14 **SEC. 623. SECURE VERIFICATION SYSTEM FOR LAW EN-**
15 **FORCEMENT OFFICERS.**

16 Section 44917 of title 49, United States Code, is
17 amended by adding at the end the following:

18 “(e) SECURE VERIFICATION SYSTEM FOR LAW EN-
19 FORCEMENT OFFICERS.—

20 “(1) IN GENERAL.—The Assistant Secretary
21 shall develop a plan for a system to securely verify
22 the identity and status of law enforcement officers
23 flying while armed. The Assistant Secretary shall en-
24 sure that the system developed includes a biometric
25 component.

1 “(2) DEMONSTRATION.—The Assistant Sec-
2 retary shall conduct a demonstration program to
3 test the secure verification system described in para-
4 graph (1) before issuing regulations for deployment
5 of the system.

6 “(3) CONSULTATION.—The Assistant Secretary
7 shall consult with the Aviation Security Advisory
8 Committee, established under section 44946 of title
9 49, United States Code, when developing the system
10 and evaluating the demonstration program.

11 “(4) REPORT.—The Assistant Secretary shall
12 submit a report to the Committee on Homeland Se-
13 curity of the House of Representatives, evaluating
14 the demonstration program of the secure verification
15 system required by this section.

16 “(5) AUTHORIZATION OF APPROPRIATIONS.—
17 From the amounts authorized under section 611 of
18 the Transportation Security Administration Author-
19 ization Act, there is authorized to be appropriated to
20 carry out this subsection \$10,000,000, to remain
21 available until expended.”.

1 **SEC. 624. OMBUDSMAN FOR FEDERAL AIR MARSHAL SERV-**
2 **ICE.**

3 Section 44917 of title 49, United States Code, as
4 amended by section 623 of this Act, is further amended
5 by adding at the end the following:

6 “(f) OMBUDSMAN.—

7 “(1) ESTABLISHMENT.—The Assistant Sec-
8 retary shall establish in the Federal Air Marshal
9 Service an Office of the Ombudsman.

10 “(2) APPOINTMENT.—The head of the Office
11 shall be the Ombudsman, who shall be appointed by
12 the Assistant Secretary.

13 “(3) DUTIES.—The Ombudsman shall carry out
14 programs and activities to improve morale, training,
15 and quality of life issues in the Service, including
16 through implementation of the recommendations of
17 the Inspector General of the Department of Home-
18 land Security and the Comptroller General.”.

19 **SEC. 625. FEDERAL FLIGHT DECK OFFICER PROGRAM EN-**
20 **HANCEMENTS.**

21 (a) ESTABLISHMENT.—Section 44921(a) of title 49,
22 United States Code, is amended by striking the following:
23 “The Under Secretary of Transportation for Security”
24 and inserting “The Secretary of Homeland Security, act-
25 ing through the Assistant Secretary (Transportation Secu-
26 rity Administration)”.

1 (b) ADMINISTRATORS.—Section 44921(b) of title 49,
2 United States Code, is amended—

3 (1) by striking “Under” in paragraphs (1), (2),
4 (4), (6), and (7); and

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

6 “(8) ADMINISTRATORS.—The Assistant Sec-
7 retary shall implement an appropriately sized admin-
8 istrative structure to manage the program, including
9 overseeing—

10 “(A) eligibility and requirement protocols
11 administration; and

12 “(B) communication with Federal flight
13 deck officers.”.

14 (c) TRAINING, SUPERVISION, AND EQUIPMENT.—
15 Section 44921(c)(2)(C) of such title is amended by adding
16 at the end the following:

17 “(iv) USE OF FEDERAL AIR MARSHAL
18 SERVICE FIELD OFFICE FACILITIES.—In
19 addition to dedicated Government and con-
20 tract training facilities, the Assistant Sec-
21 retary shall require that field office facili-
22 ties of the Federal Air Marshal Service be
23 used for the administrative and training
24 needs of the program. Such facilities shall
25 be available to Federal flight deck officers

1 at no cost for firearms training and quali-
2 fication, defensive tactics training, and
3 program administrative assistance.”.

4 (d) REIMBURSEMENT.—Section 44921 of such title
5 is amended by adding at the end the following:

6 “(l) REIMBURSEMENT.—The Secretary, acting
7 through the Assistant Secretary, shall reimburse all Fed-
8 eral flight deck officers for expenses incurred to complete
9 a recurrent and requalifying training requirement nec-
10 essary to continue to serve as a Federal flight deck officer.
11 Eligible expenses under this subsection include ground
12 transportation, lodging, meals, and ammunition, to com-
13 plete any required training as determined by the Assistant
14 Secretary.”.

15 **SEC. 626. FEDERAL AIR MARSHALS.**

16 Section 44917 of title 49, United States Code, is
17 amended by adding at the end the following:

18 “(e) CRIMINAL INVESTIGATIVE TRAINING PRO-
19 GRAM.—

20 “(1) NEW EMPLOYEE TRAINING.—Not later
21 than 30 days after the date of enactment of this
22 subsection, the Federal Air Marshal Service shall re-
23 quire Federal air marshals hired after such date to
24 complete the criminal investigative training program

1 at the Federal Law Enforcement Training Center as
2 part of basic training for Federal air marshals.

3 “(2) EXISTING EMPLOYEES.—A Federal air
4 marshal who has previously completed the criminal
5 investigative training program shall not be required
6 to repeat such program.

7 “(3) ALTERNATIVE TRAINING.—Not later than
8 3 years after the date of enactment of this sub-
9 section, an air marshal hired before such date who
10 has not completed the criminal investigative training
11 program shall be required to complete a alternative
12 training program, as determined by the Director of
13 the Federal Law Enforcement Training Center, that
14 provides the training necessary to bridge the gap be-
15 tween the mixed basic police training, the Federal
16 air marshal programs already completed by the Fed-
17 eral air marshal and the criminal investigative train-
18 ing provided through the criminal investigative train-
19 ing program. Any such alternative program shall be
20 deemed to have met the standards of the criminal
21 investigative training program.

22 “(4) AUTHORIZATION OF APPROPRIATIONS.—
23 Not less than \$3,000,000 is authorized to be appro-
24 priated for fiscal year 2011 to carry out this sub-
25 section.

1 “(5) SAVINGS CLAUSE.—Nothing in this sub-
2 section shall be construed to reclassify Federal air
3 marshals as criminal investigators.”.

4 **SEC. 627. ASSISTANT SECRETARY DEFINED.**

5 (a) IN GENERAL.—Subchapter II of chapter 449 of
6 title 49, United States Code, is amended by inserting be-
7 fore section 44933 the following:

8 **“§ 44931. Assistant Secretary defined**

9 “(a) IN GENERAL.—In this chapter—

10 “(1) the term ‘Assistant Secretary’ means the
11 Assistant Secretary (Transportation Security Ad-
12 ministration); and

13 “(2) any reference to the Administrator of the
14 Transportation Security Administration, the Under
15 Secretary of Transportation for Security, the Under
16 Secretary of Transportation for Transportation Se-
17 curity, or the Under Secretary for Transportation
18 Security shall be deemed to be a reference to the As-
19 sistant Secretary.

20 “(b) AUTHORITIES VESTED IN ASSISTANT SEC-
21 RETARY.—Any authority vested in the Assistant Secretary
22 under this chapter shall be carried out under the direction
23 and control of the Secretary of Homeland Security.”.

1 (b) CLERICAL AMENDMENT.—The analysis for such
2 subchapter is amended by inserting before the item relat-
3 ing to section 44933 the following:

“44931. Assistant Secretary defined.”.

4 **SEC. 628. TSA AND HOMELAND SECURITY INFORMATION**
5 **SHARING.**

6 (a) FEDERAL SECURITY DIRECTOR.—Section 44933
7 of title 49, United States Code, is amended—

8 (1) in the section heading, by striking “**Man-**
9 **agers**” and inserting “**Directors**”;

10 (2) by striking “Manager” each place it appears
11 and inserting “Director”;

12 (3) by striking “Managers” each place it ap-
13 pears and inserting “Directors”; and

14 (4) by adding at the end the following:

15 “(c) INFORMATION SHARING.—Not later than one
16 year after the date of enactment of the Transportation Se-
17 curity Administration Authorization Act, the Assistant
18 Secretary shall—

19 “(1) require an airport security plan to have
20 clear reporting procedures to provide that the Fed-
21 eral Security Director of the airport is immediately
22 notified whenever any Federal, State, or local law
23 enforcement personnel are called to an aircraft at a
24 gate or on an airfield at the airport to respond to
25 any security matter;

1 “(2) require each Federal Security Director of
2 an airport to meet at least quarterly with law en-
3 forcement agencies serving the airport to discuss in-
4 cident management protocols; and

5 “(3) require each Federal Security Director at
6 an airport to inform, consult, and coordinate, as ap-
7 propriate, with the airport operator in a timely man-
8 ner on security matters impacting airport operations
9 and to establish and maintain operational protocols
10 with airport operators to ensure coordinated re-
11 sponses to security matters.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 114(f)(6) of title 49, United States
14 Code, is amended by striking “Managers” and in-
15 serting “Directors”.

16 (2) Section 44940(a)(1)(F) of title 49, United
17 States Code, is amended by striking “Managers”
18 and inserting “Directors”.

19 (c) TECHNICAL AMENDMENT.—The chapter analysis
20 for chapter 449 is amended by striking the item relating
21 to section 44933 and inserting the following:

“44933. Federal Security Directors.”.

1 **SEC. 629. AVIATION SECURITY STAKEHOLDER PARTICIPA-**
2 **TION.**

3 (a) IN GENERAL.—Subchapter II of chapter 449 of
4 title 49, United States Code, is amended by adding at the
5 end the following:

6 **“§ 44946. Aviation Security Advisory Committee**

7 “(a) ESTABLISHMENT OF AVIATION SECURITY ADVI-
8 SORY COMMITTEE.—

9 “(1) IN GENERAL.—The Assistant Secretary
10 shall establish in the Transportation Security Ad-
11 ministration an advisory committee, to be known as
12 the Aviation Security Advisory Committee (in this
13 chapter referred to as the ‘Advisory Committee’), to
14 assist the Assistant Secretary with issues pertaining
15 to aviation security, including credentialing.

16 “(2) RECOMMENDATIONS.—The Assistant Sec-
17 retary shall require the Advisory Committee to de-
18 velop recommendations for improvements to civil
19 aviation security methods, equipment, and processes.

20 “(3) MEETINGS.—The Assistant Secretary shall
21 require the Advisory Committee to meet at least
22 semiannually and may convene additional meetings
23 as necessary.

24 “(4) UNPAID POSITION.—Advisory Committee
25 members shall serve at their own expense and re-

1 ceive no salary, reimbursement of travel expenses, or
2 other compensation from the Federal Government.

3 “(b) MEMBERSHIP.—

4 “(1) MEMBER ORGANIZATIONS.—The Assistant
5 Secretary shall ensure that the Advisory Committee
6 is composed of not more than one individual rep-
7 resenting not more than 27 member organizations,
8 including representation of air carriers, all cargo air
9 transportation, indirect air carriers, labor organiza-
10 tions representing air carrier employees, aircraft
11 manufacturers, airport operators, general aviation,
12 and the aviation technology security industry, in-
13 cluding biometrics.

14 “(2) APPOINTMENTS.—Members shall be ap-
15 pointed by the Assistant Secretary, and the Assist-
16 ant Secretary shall have the discretion to review the
17 participation of any Advisory Committee member
18 and remove for cause at any time.

19 “(c) NONAPPLICABILITY OF FACA.—The Federal
20 Advisory Committee Act (5 U.S.C. App.) shall not apply
21 to the Advisory Committee under this section.

22 “(d) AIR CARGO SECURITY WORKING GROUP.—

23 “(1) IN GENERAL.—The Assistant Secretary
24 shall establish within the Advisory Committee an air
25 cargo security working group to provide rec-

1 ommendations for air cargo security issues, includ-
2 ing the implementation of the air cargo screening
3 initiatives proposed by the Transportation Security
4 Administration to screen air cargo on passenger air-
5 craft in accordance with established cargo screening
6 mandates.

7 “(2) MEETINGS.—The working group shall
8 meet at least semiannually and provide annual re-
9 ports to the Assistant Secretary with recommenda-
10 tions to improve the Administration’s cargo screen-
11 ing initiatives established to meet all cargo screening
12 mandates set forth in section 44901(g) of title 49,
13 United States Code.

14 “(3) MEMBERSHIP.—The working group shall
15 include members from the Advisory Committee with
16 expertise in air cargo operations and representatives
17 from other stakeholders as determined by the Assist-
18 ant Secretary.

19 “(4) REPORTS.—

20 “(A) IN GENERAL.—The working group
21 shall prepare and submit reports to the Assist-
22 ant Secretary in accordance with this para-
23 graph that provide cargo screening mandate im-
24 plementation recommendations.

1 “(B) SUBMISSION.—Not later than one
 2 year after the date of enactment of this section
 3 and on an annual basis thereafter, the working
 4 group shall submit its first report to the Assist-
 5 ant Secretary, including any recommendations
 6 of the group—

7 “(i) to reduce redundancies and in-
 8 crease efficiencies with the screening and
 9 inspection of inbound cargo; and

10 “(ii) on the potential development of a
 11 fee structure to help sustain cargo screen-
 12 ing efforts.”.

13 (b) CLERICAL AMENDMENT.—The analysis for such
 14 subchapter is amended by adding at the end the following:
 “44946. Aviation Security Advisory Committee.”.

15 **SEC. 630. GENERAL AVIATION SECURITY.**

16 (a) IN GENERAL.—Subchapter II of chapter 449 of
 17 title 49, United States Code, as amended by section 629
 18 of this Act, is further amended by adding at the end the
 19 following:

20 **“§ 44947. General aviation security**

21 “(a) GENERAL AVIATION SECURITY GRANT PRO-
 22 GRAM.—

23 “(1) IN GENERAL.—The Assistant Secretary
 24 shall carry out a general aviation security grant pro-
 25 gram to enhance transportation security at general

1 aviation airports by making grants to operators of
2 general aviation airports for projects to enhance pe-
3 rimeter security, airfield security, and terminal secu-
4 rity.

5 “(2) ELIGIBLE PROJECTS.—Not later than one
6 year after the date of submission of the first report
7 of the working group under subsection (b), the As-
8 sistant Secretary shall develop and make publically
9 available a list of approved eligible projects for such
10 grants under paragraph (1) based upon rec-
11 ommendations made by the working group in such
12 report.

13 “(3) FEDERAL SHARE.—The Federal share of
14 the cost of activities for which grants are made
15 under this subsection shall be 90 percent.

16 “(4) PRESUMPTION OF CONGRESS RELATING TO
17 COMPETITIVE PROCEDURES.—

18 “(A) PRESUMPTION.—It is the presump-
19 tion of Congress that grants awarded under
20 this section will be awarded using competitive
21 procedures based on risk.

22 “(B) REPORT TO CONGRESS.—If grants
23 are awarded under this section using proce-
24 dures other than competitive procedures, the
25 Assistant Secretary shall submit to Congress a

1 report explaining why competitive procedures
2 were not used.

3 “(b) GENERAL AVIATION SECURITY WORKING
4 GROUP.—

5 “(1) IN GENERAL.—The Assistant Secretary
6 shall establish, within the Aviation Security Advisory
7 Committee established under section 44946, a gen-
8 eral aviation working group to advise the Transpor-
9 tation Security Administration regarding transpor-
10 tation security issues for general aviation facilities,
11 general aviation aircraft, heliports, and helicopter
12 operations at general aviation and commercial serv-
13 ice airports.

14 “(2) MEETINGS.—The working group shall
15 meet at least semiannually and may convene addi-
16 tional meetings as necessary.

17 “(3) MEMBERSHIP.—The Assistant Secretary
18 shall appoint members from the Aviation Security
19 Advisory Committee with general aviation experi-
20 ence.

21 “(4) REPORTS.—

22 “(A) SUBMISSION.—The working group
23 shall submit a report to the Assistant Secretary
24 with recommendations on ways to improve secu-
25 rity at general aviation airports.

1 “(B) CONTENTS OF REPORT.—The report
2 of the working group submitted to the Assistant
3 Secretary under this paragraph shall include
4 any recommendations of the working group for
5 eligible security enhancement projects at gen-
6 eral aviation airports to be funded by grants
7 under subsection (a).

8 “(C) SUBSEQUENT REPORTS.—After sub-
9 mitting the report, the working group shall con-
10 tinue to report to the Assistant Secretary on
11 general aviation aircraft and airports.

12 “(c) AUTHORIZATION OF APPROPRIATIONS.—From
13 amounts made available under section 611 of the Trans-
14 portation Security Administration Authorization Act,
15 there is authorized to be appropriated for making grants
16 under subsection (a) \$20,000,000 for fiscal year 2011.
17 None of the funds appropriated pursuant to this sub-
18 section may be used for a congressional earmark as de-
19 fined in clause 9d, of Rule XXI of the rules of the House
20 of Representatives of the 111th Congress.”.

21 (b) CLERICAL AMENDMENT.—The analysis for such
22 subchapter is further amended by adding at the end the
23 following:

“44947. General aviation security.”.

1 **SEC. 631. SECURITY AND SELF-DEFENSE TRAINING.**

2 (a) Section 44918(b) of title 49, United States Code,
3 is amended—

4 (1) by striking paragraph (1) and inserting the
5 following:

6 “(1) SELF-DEFENSE TRAINING PROGRAM.—Not
7 later than 1 year after the date of enactment of the
8 Transportation Security Administration Authoriza-
9 tion Act, the Assistant Secretary shall provide ad-
10 vanced self-defense training of not less than 5 hours
11 during each 2-year period for all cabin crew-
12 members. The Assistant Secretary shall consult with
13 the Advisory Committee established under section
14 44946 and cabin crew and air carrier representatives
15 in developing a plan for providing self-defense train-
16 ing in conjunction with existing recurrent training.”;

17 (2) by striking paragraph (3) and inserting the
18 following:

19 “(3) PARTICIPATION.—A crewmember shall not
20 be required to engage in any physical contact during
21 the training program under this subsection.”; and

22 (3) by striking paragraph (4) and redesignating
23 paragraphs (5) through (7) as paragraphs (4)
24 through (6), respectively.

25 (b) SECURITY TRAINING.—Section 44918(a)(6) of
26 title 49, United States Code, is amended by adding at the

1 end the following: “The Assistant Secretary shall establish
2 an oversight program for security training of cabin crew-
3 members that includes developing performance measures
4 and strategic goals for air carriers, and standard protocols
5 for Transportation Security Administration oversight in-
6 spectors, in accordance with recommendations by the In-
7 spector General of the Department of Homeland Security
8 and the Comptroller General.”.

9 **SEC. 632. SECURITY SCREENING OF INDIVIDUALS WITH**
10 **METAL IMPLANTS TRAVELING IN AIR TRANS-**
11 **PORTATION.**

12 (a) IN GENERAL.—Section 44903 of title 49, United
13 States Code, is amended by adding at the end the fol-
14 lowing:

15 “(m) SECURITY SCREENING OF INDIVIDUALS WITH
16 METAL IMPLANTS TRAVELING IN AIR TRANSPOR-
17 TATION.—

18 “(1) IN GENERAL.—The Assistant Secretary
19 shall carry out a program to ensure fair treatment
20 in the screening of individuals with metal implants
21 traveling in air transportation.

22 “(2) PLAN.—Not later than 6 months after the
23 date of enactment of the Transportation Security
24 Administration Authorization Act, the Assistant Sec-
25 retary shall submit a plan to the Committee on

1 Homeland Security of the House of Representatives
2 for improving security screening procedures for indi-
3 viduals with metal implants to limit disruptions in
4 the screening process while maintaining security.
5 The plan shall include an analysis of approaches to
6 limit such disruptions for individuals with metal im-
7 plants, and benchmarks for implementing changes to
8 the screening process and the establishment of a cre-
9 dential or system that incorporates biometric tech-
10 nology and other applicable technologies to verify the
11 identity of an individual who has a metal implant.

12 “(3) PROGRAM.—Not later than 12 months
13 after the date of enactment of the Transportation
14 Security Administration Authorization Act, the As-
15 sistant Secretary shall implement a program to im-
16 prove security screening procedures for individuals
17 with metal implants to limit disruptions in the
18 screening process while maintaining security, includ-
19 ing a credential or system that incorporates biomet-
20 ric technology or other applicable technologies to
21 verify the identity of an individual who has a metal
22 implant.

23 “(4) METAL IMPLANT DEFINED.—In this para-
24 graph, the term ‘metal implant’ means a metal de-
25 vice or object that has been surgically implanted or

1 otherwise placed in the body of an individual, includ-
2 ing any metal device used in a hip or knee replace-
3 ment, metal plate, metal screw, metal rod inside a
4 bone, and other metal orthopedic implants.”.

5 (b) EFFECTIVE DATE.—Not later than 180 days
6 after the date of enactment of the Transportation Security
7 Administration Authorization Act, the Secretary of Home-
8 land Security shall submit the plan for security screening
9 procedures for individuals with metal implants, as re-
10 quired by section 44903(m) of title 49, United States
11 Code.

12 **SEC. 633. PROHIBITION ON OUTSOURCING.**

13 Section 44903(j)(2)(C) of title 49, United States
14 Code, is amended by adding at the end the following new
15 clause:

16 “(v) OUTSOURCING PROHIBITED.—
17 Upon implementation of the advanced pas-
18 senger prescreening system required by
19 this section, the Assistant Secretary shall
20 prohibit any non-governmental entity from
21 administering the function of comparing
22 passenger information to the automatic se-
23 lectee and no fly lists, consolidated and in-
24 tegrated terrorist watchlists, or any list or
25 database derived from such watchlists for

1 activities related to aviation security. The
2 Assistant Secretary shall report to the
3 Committee on Homeland Security of the
4 House of Representatives and the Com-
5 mittee on Commerce, Science, and Trans-
6 portation of the Senate when any non-gov-
7 ernmental entity is authorized access to
8 the watchlists described in this clause.”.

9 **SEC. 634. KNOWN AIR TRAVELER CREDENTIAL.**

10 (a) ESTABLISHMENT.—Section 44903(h) of title 49,
11 United States Code, is amended—

12 (1) by redesignating paragraph (7) as para-
13 graph (8); and

14 (2) by inserting after paragraph (6) the fol-
15 lowing:

16 “(7) KNOWN AIR TRAVELER CREDENTIAL.—
17 Not later than 6 months after the date of enactment
18 of the Transportation Security Administration Au-
19 thorization Act, the Assistant Secretary shall—

20 “(A) establish a known air traveler creden-
21 tial that incorporates biometric identifier tech-
22 nology;

23 “(B) establish a process by which the cre-
24 dential will be used to verify the identity of

1 known air travelers and allow them expedited
2 passenger and carry-on baggage screening;

3 “(C) establish procedures—

4 “(i) to ensure that only known air
5 travelers are issued the known air traveler
6 credential;

7 “(ii) to resolve failures to enroll, false
8 matches, and false nonmatches relating to
9 use of the known air traveler credential;
10 and

11 “(iii) to invalidate any known air trav-
12 eler credential that is lost, stolen, or no
13 longer authorized for use;

14 “(D) begin issuance of the known air trav-
15 eler credential to each known air traveler that
16 applies for a credential; and

17 “(E) take such other actions with respect
18 to the known air traveler credential as the As-
19 sistant Secretary considers appropriate.”.

20 (b) KNOWN AIR TRAVELER DEFINED.—Section
21 44903(h)(8) of such title (as redesignated by subsection
22 (a) of this section) is amended—

23 (1) by redesignating subparagraph (F) as sub-
24 paragraph (G); and

1 (2) by inserting after subparagraph (E) the fol-
2 lowing:

3 “(F) KNOWN AIR TRAVELER.—The term
4 ‘known air traveler’ means a United States cit-
5 izen who—

6 “(i) has received a security clearance
7 from the Federal Government;

8 “(ii) is a Federal Aviation Adminis-
9 tration certificated pilot, flight crew mem-
10 ber, or cabin crew member;

11 “(iii) is a Federal, State, local, tribal,
12 or territorial government law enforcement
13 officer not covered by paragraph (6);

14 “(iv) is a member of the armed forces
15 (as defined by section 101 of title 10) who
16 has received a security clearance from the
17 Federal Government; or

18 “(v) the Assistant Secretary deter-
19 mines has appropriate security qualifica-
20 tions for inclusion under this subpara-
21 graph.”.

22 **SEC. 635. ADVANCED IMAGING TECHNOLOGY.**

23 (a) IN GENERAL.—The Assistant Secretary shall en-
24 sure that advanced imaging technology systems are pro-
25 cured and deployed in a timely manner in the Nation’s

1 commercial airports. Such systems may be utilized as a
2 primary method of screening aviation passengers.

3 (b) ALTERNATIVES REQUIRED.—Notwithstanding
4 subsection (a), the Assistant Secretary shall prescribe for
5 alternative screening processes or equipment in lieu of
6 screening by advanced imaging technology, if such alter-
7 native results in a comparable level of security.

8 (c) RISK-BASED DEPLOYMENT.—The Assistant Sec-
9 retary shall ensure that advanced imaging technology sys-
10 tems are deployed on a risk-based basis and consistent
11 with the Transportation Security Administration’s most
12 recent strategic plans for passenger checkpoint security.

13 (d) DESCRIPTION OF ADVANCED IMAGING TECH-
14 NOLOGY.—Advanced imaging technology deployed under
15 this section shall meet qualification standards set by the
16 Transportation Security Administration and shall be capa-
17 ble of safely and nonintrusively screening a passenger’s
18 whole body.

19 (e) INFORMATION ON ADVANCED IMAGING TECH-
20 NOLOGY AT THE CHECKPOINT.—Information and pic-
21 torials of generic images produced by advanced imaging
22 technology shall be posted at each commercial airport
23 checkpoint where advanced imaging technology is de-
24 ployed. Such information shall include alternative screen-
25 ing procedures required under subsection (b). The Assist-

1 ant Secretary shall ensure that transportation security ad-
2 ministration personnel are available to speak with pas-
3 sengers regarding advanced imaging technology at each
4 commercial airport checkpoint where advanced imaging
5 technology is deployed.

6 (f) ANNUAL REPORT.—The Assistant Secretary shall
7 submit to the Committee on Homeland Security of the
8 House of Representatives and the Committee on Com-
9 merce, Science, and Transportation of the Senate, in con-
10 junction with the Department’s annual budget submission
11 to the Congress for fiscal years 2012, 2013, 2014, and
12 2015, a report that includes—

13 (1) an updated privacy impact assessment of
14 advanced imaging technology;

15 (2) an analysis of the results of covert testing
16 conducted by the Transportation Security Adminis-
17 tration’s Office of Inspections and Office of Security
18 Operations; and

19 (3) an analysis of the Transportation Security
20 Administration’s personnel model including a de-
21 tailed breakdown of personnel required to operate
22 advanced imaging technology equipment.

23 (g) INTERNATIONAL HARMONIZATION.—The Sec-
24 retary shall work with foreign nations, foreign civil avia-
25 tion authorities, international organizations, and associa-

1 tions including the International Civil Aviation Organiza-
2 tion, to set binding international standards for passenger
3 checkpoint security at commercial airports worldwide.

4 (h) FOREIGN ASSISTANCE AUTHORIZED.—The As-
5 sistant Secretary may lend, lease, donate, or otherwise
6 provide security-related equipment, including advanced
7 imaging technology, and provide technical training and
8 support, to any foreign airport if—

9 (1) the airport serves as a last point of depart-
10 ure prior to an aircraft's entry into the United
11 States;

12 (2) the equipment, training, or support would
13 assist in bringing the airport into compliance (or ex-
14 ceed compliance) with applicable International Civil
15 Aviation Organization standards; and

16 (3) such assistance is based upon the assess-
17 ment of the risks to the security of the United
18 States and the ability of the airport to otherwise
19 provide adequate security for passengers and air-
20 craft bound for the United States.

21 (i) AUTHORIZATION OF APPROPRIATIONS.—Of the
22 amount appropriated to the Secretary under section 611,
23 there is authorized to be appropriated to the Secretary for
24 advanced imaging technology systems \$250,000,000 for
25 fiscal year 2011.

1 **CHAPTER 2—OTHER MATTERS**
2 **SEC. 636. SECURITY RISK ASSESSMENT OF AIRPORT PERIM-**
3 **ETER ACCESS CONTROLS.**

4 (a) **IN GENERAL.**—The Assistant Secretary shall de-
5 velop a strategic risk-based plan to improve transportation
6 security at airports that includes best practices to make
7 airport perimeter access controls more secure at all com-
8 mercial service and general aviation airports.

9 (b) **CONTENTS.**—The plan shall—

10 (1) incorporate best practices for enhanced pe-
11 rimeter access controls;

12 (2) evaluate and incorporate major findings of
13 all relevant pilot programs of the Transportation Se-
14 curity Administration;

15 (3) address recommendations of the Comp-
16 troller General on perimeter access controls;

17 (4) include a requirement that airports update
18 their security plans to incorporate the best practices,
19 as appropriate, based on risk and adapt the best
20 practices to meet the needs specific to their facilities;
21 and

22 (5) include an assessment of the role of new
23 and emerging technologies, including unmanned and
24 autonomous perimeter security technologies, that

1 could be utilized at both commercial and general
2 aviation facilities.

3 **SEC. 637. ADVANCED PASSENGER PRESCREENING SYSTEM.**

4 (a) INITIAL REPORT.—Not later than 90 days after
5 the date of enactment of this Act, the Comptroller General
6 shall submit to the Committee on Homeland Security of
7 the House of Representatives and the Committee on Com-
8 merce, Science, and Transportation of the Senate a report
9 that—

10 (1) describes the progress made by the Depart-
11 ment of Homeland Security in implementing the ad-
12 vanced passenger prescreening system;

13 (2) compares the total number of misidentified
14 passengers who must undergo secondary screening
15 or have been prevented from boarding a plane dur-
16 ing the 3-month period beginning 90 days before the
17 date of enactment of this Act with the 3-month pe-
18 riod beginning 90 days after such date; and

19 (3) includes any other relevant recommenda-
20 tions that the Inspector General of the Department
21 of Homeland Security or the Comptroller General
22 determines appropriate.

23 (b) SUBSEQUENT REPORTS.—The Comptroller Gen-
24 eral shall submit subsequent reports on the implementa-

1 tion to such Committees every 90 days thereafter until the
2 implementation is complete.

3 **SEC. 638. BIOMETRIC IDENTIFIER AIRPORT ACCESS EN-**
4 **HANCEMENT DEMONSTRATION PROGRAM.**

5 (a) IN GENERAL.—The Assistant Secretary shall
6 carry out a demonstration program under which biometric
7 identifier access systems for individuals with unescorted
8 access to secure or sterile areas of an airport, including
9 airport employees and flight crews, are evaluated for the
10 purposes of enhancing transportation security at airports
11 and to determine how airports can implement uniform bio-
12 metric identifier and interoperable security systems.

13 (b) AIRPORTS PARTICIPATING IN PROGRAM.—The
14 Assistant Secretary shall select at least 7 airports, includ-
15 ing at least 2 large airports, to participate in the dem-
16 onstration program.

17 (c) INITIATION AND DURATION OF PROGRAM.—

18 (1) DEADLINE FOR INITIATION.—The Assistant
19 Secretary shall conduct the demonstration program
20 not later than one year after the date of enactment
21 of this Act.

22 (2) DURATION.—The program shall have a du-
23 ration of not less than 180 days and not more than
24 one year.

1 (d) REQUIRED ELEMENTS.—In conducting the dem-
2 onstration program, the Assistant Secretary shall—

3 (1) assess best operational, administrative, and
4 management practices in creating uniform, stand-
5 ards-based, and interoperable biometric identifier
6 systems for all individuals with access to secure or
7 sterile areas of commercial service airports; and

8 (2) conduct a risk-based analysis of the selected
9 airports and other airports, as the Assistant Sec-
10 retary determines appropriate, to identify where the
11 implementation of biometric identifier systems could
12 benefit security.

13 (e) CONSIDERATIONS.—In conducting the demonstra-
14 tion program, the Assistant Secretary shall consider, at
15 a minimum, the following:

16 (1) PARALLEL SYSTEMS.—Existing parallel bio-
17 metric transportation security systems applicable to
18 workers with unescorted access to transportation
19 systems, including—

20 (A) transportation worker identification
21 credentials issued under section 70105 of title
22 46, United States Code;

23 (B) armed law enforcement travel creden-
24 tials issued under section 44903(h)(6) of title
25 49, United States Code; and

1 (C) other credential and biometric identi-
2 fier systems used by the Federal Government,
3 as the Assistant Secretary considers appro-
4 priate.

5 (2) EFFORTS BY TRANSPORTATION SECURITY
6 ADMINISTRATION.—Any biometric identifier system
7 or proposals developed by the Assistant Secretary.

8 (3) INFRASTRUCTURE AND TECHNICAL RE-
9 QUIREMENTS.—The architecture, modules, inter-
10 faces, and transmission of data needed for airport
11 security operations.

12 (4) EXISTING AIRPORT SYSTEMS.—Credential-
13 ing and access control systems in use in secure and
14 sterile areas of airports.

15 (5) ASSOCIATED COSTS.—The costs of imple-
16 menting uniform, standards-based, and interoperable
17 biometric identifier systems at airports, including—

18 (A) the costs to airport operators, airport
19 workers, air carriers, and other aviation indus-
20 try stakeholders; and

21 (B) the costs associated with ongoing oper-
22 ations and maintenance and modifications and
23 enhancements needed to support changes in
24 physical and electronic infrastructure.

1 (6) INFORMATION FROM OTHER SOURCES.—
2 Recommendations, guidance, and information from
3 other sources, including the Inspector General of the
4 Department of Homeland Security, the Comptroller
5 General, the heads of other governmental entities,
6 organizations representing airport workers, and pri-
7 vate individuals and organizations.

8 (f) IDENTIFICATION OF BEST PRACTICES.—In con-
9 ducting the demonstration program, the Assistant Sec-
10 retary shall identify best practices for the administration
11 of biometric identifier access at airports, including best
12 practices for each of the following processes:

13 (1) Registration, vetting, and enrollment.

14 (2) Issuance.

15 (3) Verification and use.

16 (4) Expiration and revocation.

17 (5) Development of a cost structure for acquisi-
18 tion of biometric identifier credentials.

19 (6) Development of redress processes for work-
20 ers.

21 (g) CONSULTATION.—In conducting the demonstra-
22 tion program, the Assistant Secretary shall consult with
23 the Aviation Security Advisory Committee regarding how
24 airports may transition to uniform, standards-based, and
25 interoperable biometric identifier systems for airport

1 workers and others with unescorted access to secure or
2 sterile areas of an airport.

3 (h) EVALUATION.—The Assistant Secretary shall
4 conduct an evaluation of the demonstration program to
5 specifically assess best operational, administrative, and
6 management practices in creating a standard, interoper-
7 able, biometric identifier access system for all individuals
8 with access to secure or sterile areas of commercial service
9 airports.

10 (i) REPORT TO CONGRESS.—Not later than 180 days
11 after the last day of that demonstration program ends,
12 the Assistant Secretary shall submit to the appropriate
13 congressional committees, including the Committee on
14 Homeland Security of the House of Representatives, a re-
15 port on the results of the demonstration program. The re-
16 port shall include possible incentives for airports that vol-
17 untarily seek to implement uniform, standards-based, and
18 interoperable biometric identifier systems.

19 (j) BIOMETRIC IDENTIFIER SYSTEM DEFINED.—In
20 this section, the term “biometric identifier system” means
21 a system that uses biometric identifier information to
22 match individuals and confirm identity for transportation
23 security and other purposes.

24 (k) AUTHORIZATION OF APPROPRIATIONS.—From
25 amounts authorized under section 611, there is authorized

1 to be appropriated a total of \$20,000,000 to carry out this
2 section for fiscal year 2011.

3 **SEC. 639. TRANSPORTATION SECURITY TRAINING PRO-**
4 **GRAMS.**

5 Not later than one year after the date of enactment
6 of this Act, the Assistant Secretary shall establish recur-
7 ring training of transportation security officers regarding
8 updates to screening procedures and technologies in re-
9 sponse to weaknesses identified in covert tests at airports.
10 The training shall include—

11 (1) internal controls for monitoring and docu-
12 menting compliance of transportation security offi-
13 cers with training requirements;

14 (2) the availability of high-speed Internet and
15 Intranet connectivity to all airport training facilities
16 of the Administration; and

17 (3) such other matters as identified by the As-
18 sistant Secretary with regard to training.

19 **SEC. 640. DEPLOYMENT OF TECHNOLOGY APPROVED BY**
20 **SCIENCE AND TECHNOLOGY DIRECTORATE.**

21 (a) IN GENERAL.—The Assistant Secretary, in con-
22 sultation with the Directorate of Science and Technology
23 of the Department of Homeland Security, shall develop
24 and submit to the appropriate committees of Congress, in-
25 cluding the Committee on Homeland Security of the

1 House of Representatives, a strategic plan for the certifi-
2 cation and integration of technologies for transportation
3 security with high approval or testing results from the Di-
4 rectorate and the Transportation Security Laboratory of
5 the Department.

6 (b) CONTENTS OF STRATEGIC PLAN.—The strategic
7 plan developed under subsection (a) shall include—

8 (1) a cost-benefit analysis to assist in prioritiz-
9 ing investments in new checkpoint screening tech-
10 nologies that compare the costs and benefits of
11 screening technologies being considered for develop-
12 ment or acquisition with the costs and benefits of
13 other viable alternatives;

14 (2) quantifiable performance measures to assess
15 the extent to which investments in research, develop-
16 ment, and deployment of checkpoint screening tech-
17 nologies achieve performance goals for enhancing se-
18 curity at airport passenger checkpoints; and

19 (3) a method to ensure that operational tests
20 and evaluations have been successfully completed in
21 an operational environment before deploying check-
22 point screening technologies to airport checkpoints.

23 (c) REPORT TO CONGRESS.—

24 (1) IN GENERAL.—The Assistant Secretary
25 shall submit to the appropriate committees of Con-

1 progress, including the Committee on Homeland Secu-
2 rity of the House of Representatives, an annual re-
3 port on the status of all technologies that have un-
4 dergone testing and evaluation, including tech-
5 nologies that have been certified by the Department,
6 and any technologies used in a demonstration pro-
7 gram administered by the Administration. The re-
8 port shall also specify whether the technology was
9 submitted by an academic institution, including an
10 institution of higher education eligible to receive as-
11 sistance under title III or V of the Higher Education
12 Act of 1965 (20 U.S.C. 1051 et seq. and 1101 et
13 seq.).

14 (2) FIRST REPORT.—The first report submitted
15 under this subsection shall assess such technologies
16 for a period of not less than 2 years.

17 **SEC. 641. IN-LINE BAGGAGE SCREENING STUDY.**

18 The Assistant Secretary shall consult with the Advi-
19 sory Committee and report to the appropriate committees
20 of Congress, including the Committee on Homeland Secu-
21 rity of the House of Representatives, on deploying optimal
22 baggage screening solutions and replacing baggage screen-
23 ing equipment nearing the end of its life cycle at commer-
24 cial service airports. Specifically, the report shall address
25 the Administration's plans, estimated costs, and current

1 benchmarks for replacing explosive detection equipment
2 that is nearing the end of its life cycle.

3 **SEC. 642. IN-LINE CHECKED BAGGAGE SCREENING SYS-**
4 **TEMS.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) Since its inception, the Administration has
7 procured and installed over 2,000 explosive detection
8 systems (referred to in this section as “EDS”) and
9 8,000 explosive trace detection (referred to in this
10 section as “ETD”) systems to screen checked bag-
11 gage for explosives at the Nation’s commercial air-
12 ports.

13 (2) Initial deployment of stand-alone EDS ma-
14 chines in airport lobbies resulted in operational inef-
15 ficiencies and security risks as compared to using
16 EDS machines integrated in-line with airport bag-
17 gage conveyor systems.

18 (3) The Administration has acknowledged the
19 advantages of fully integrating in-line checked bag-
20 gage EDS systems, especially at large airports. Ac-
21 cording to the Administration, in-line EDS systems
22 have proven to be cost-effective and more accurate
23 at detecting dangerous items.

24 (4) As a result of the large up-front capital in-
25 vestment required, these systems have not been de-

1 employed on a wide-scale basis. The Administration es-
2 timates that installing and operating the optimal
3 checked baggage screening systems could potentially
4 cost more than \$20,000,000,000 over 20 years.

5 (5) Nearly \$2,000,000,000 has been appro-
6 priated for the installation of in-line explosive detec-
7 tion systems, including necessary baggage handling
8 system improvements, since 2007.

9 (b) GAO REPORT.—The Comptroller General shall
10 submit to the Committee on Homeland Security of the
11 House of Representatives and the Committee on Com-
12 merce, Science, and Transportation of the Senate a report
13 on the Administration’s progress in deploying optimal bag-
14 gage screening solutions and replacing aging baggage
15 screening equipment at the Nation’s commercial airports.
16 The report shall also include an analysis of the Adminis-
17 tration’s methodology for expending public funds to deploy
18 in-line explosive detection systems since 2007. The report
19 shall address, at a minimum—

20 (1) the Administration’s progress in deploying
21 optimal screening solutions at the Nation’s largest
22 commercial airports, including resources obligated
23 and expended through fiscal year 2009;

1 necessary to ensure an alert and responsible workforce of
2 Federal air marshals.

3 **SEC. 644. EXPLOSIVES DETECTION CANINE TEAMS MIN-**
4 **IMUM FOR AVIATION SECURITY.**

5 (a) AVIATION SECURITY.—The Assistant Secretary
6 shall ensure that the number of explosives detection canine
7 teams for aviation security is not less than 250 through
8 fiscal year 2011.

9 (b) CARGO SCREENING.—The Secretary shall in-
10 crease the number of canine detection teams, as of the
11 date of enactment of this Act, deployed for the purpose
12 of meeting the 100 percent air cargo screening require-
13 ment set forth in section 44901(g) of title 49, United
14 States Code, by not less than 100 canine teams through
15 fiscal year 2011.

16 **SEC. 645. ASSESSMENTS AND GAO REPORT OF INBOUND**
17 **AIR CARGO SCREENING.**

18 Section 1602 of the Implementing Recommendations
19 of the 9/11 Commission Act of 2007 (121 Stat. 478) is
20 amended by inserting at the end the following:

21 “(c) ASSESSMENT OF INBOUND COMPLIANCE.—
22 Upon establishment of the inbound air cargo screening
23 system, the Assistant Secretary shall submit a report to
24 the Committee on Homeland Security in the House of
25 Representatives on the impact, rationale, and percentage

1 of air cargo being exempted from screening under exemp-
2 tions granted under section 44901(i)(1) of title 49, United
3 States Code.

4 “(d) GAO REPORT.—Not later than 120 days after
5 the date of enactment of this Act and quarterly thereafter
6 until December 31, 2015, the Comptroller General shall
7 review the air cargo screening system for inbound pas-
8 senger aircraft and report to the Committee on Homeland
9 Security in the House of Representatives on the status of
10 implementation, including the approximate percentage of
11 cargo being screened, as well as the Administration’s
12 methods to verify the screening system’s implementa-
13 tion.”.

14 **SEC. 646. STATUS OF EFFORTS TO PROMOTE AIR CARGO**
15 **SHIPPER CERTIFICATION.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Assistant Secretary shall submit to the
18 Committee on Homeland Security of the House of Rep-
19 resentatives and the Committee on Commerce, Science,
20 and Transportation of the Senate a report on the status
21 of the implementation of the Administration’s plan to pro-
22 mote a program to certify the screening methods used by
23 shippers in a timely manner, in accordance with section
24 44901(g) of title 49, United States Code, including par-

1 participation by shippers with robust and mature internal se-
2 curity programs.

3 **SEC. 647. FULL AND OPEN COMPETITION IN SECURITY**

4 **BACKGROUND SCREENING SERVICE.**

5 Not later than 9 months after the date of enactment
6 of this section, the Secretary shall publish in the Federal
7 Register a notice that the selection process for security
8 background screening services for persons requiring back-
9 ground screening in the aviation industry is subject to full
10 and open competition. The notice shall include—

11 (1) a statement that airports and other affected
12 entities are not required to use a single service pro-
13 vider of background screening services and may use
14 the services of other providers approved by the As-
15 sistant Secretary;

16 (2) any requirements for disposal of personally
17 identifiable information by the approved provider by
18 a date certain; and

19 (3) information on all technical specifications
20 and other criteria required by the Assistant Sec-
21 retary to approve a background screening service
22 provider.

1 **SEC. 648. TRUSTED PASSENGER/REGISTERED TRAVELER**
2 **PROGRAM.**

3 (a) **ASSESSMENTS AND BACKGROUND CHECKS.**—
4 Subject to paragraph (2) and not later than 120 days
5 after the date of enactment of this Act, to enhance avia-
6 tion security through risk management at airport check-
7 points through use of a trusted passenger program, com-
8 monly referred to as the Registered Traveler program, es-
9 tablished pursuant to section 109(a)(3) of the Aviation
10 Transportation Security Act (115 Stat. 597), the Assist-
11 ant Secretary shall—

12 (1) reinstate an initial and continuous security
13 threat assessment program as part of the Registered
14 Traveler enrollment process; and

15 (2) allow Registered Traveler providers to per-
16 form private sector background checks as part of
17 their enrollment process with assurance that the pro-
18 gram shall be undertaken in a manner consistent
19 with constitutional privacy and civil liberties protec-
20 tions and be subject to approval and oversight by
21 the Assistant Secretary.

22 (b) **NOTIFICATION.**—

23 (1) **CONTENTS.**—Not later than 180 days after
24 the date of enactment of this Act, if the Assistant
25 Secretary determines that the Registered Traveler
26 program can be integrated into risk-based aviation

1 security operations under subsection (a), the Assist-
2 ant Secretary shall report to the Committee on
3 Homeland Security of the House of Representatives
4 and the Committee on Commerce, Science, and
5 Transportation of the Senate regarding—

6 (A) the level of risk reduction provided by
7 carrying out section (a); and

8 (B) how the Registered Traveler program
9 has been integrated into risk-based aviation se-
10 curity operations.

11 (2) CHANGES TO PROTOCOL.—The Assistant
12 Secretary shall also set forth what changes to the
13 program, including screening protocols, have been
14 implemented to realize the full potential of the Reg-
15 istered Traveler program.

16 (c) TREATMENT OF INDIVIDUALS WITH TOP SECRET
17 SECURITY CLEARANCES.—Not later than 180 days after
18 the date of enactment of this Act, the Assistant Secretary
19 shall establish protocols to—

20 (1) verify the identity of United States citizens
21 who participate in the Registered Traveler program
22 and possess a valid top secret security clearance
23 granted by the Federal Government; and

24 (2) allow alternative screening procedures for
25 individuals described in paragraph (1), including

1 random, risk-based screening determined necessary
2 to respond to a specific threat to security identified
3 pursuant to a security threat assessment.

4 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
5 tion shall be construed to authorize any nongovernmental
6 entity to perform vetting against the terrorist screening
7 database maintained by the Administration.

8 **SEC. 649. REPORT ON CABIN CREW COMMUNICATION.**

9 Not later than one year after the date of enactment
10 of this Act, the Assistant Secretary, in consultation with
11 the Advisory Committee established under section 44946
12 of title 49, United States Code, shall prepare a report that
13 assesses technologies and includes standards for the use
14 of wireless devices to enhance transportation security on
15 aircraft for the purpose of ensuring communication be-
16 tween and among cabin crew and pilot crewmembers, em-
17 barked Federal air marshals, and authorized law enforce-
18 ment officials, as appropriate.

19 **SEC. 650. AIR CARGO CREW TRAINING.**

20 The Assistant Secretary, in consultation with the Ad-
21 visory Committee established under section 44946 of title
22 49, United States Code, shall develop a plan for security
23 training for the all-cargo aviation threats for pilots and,
24 as appropriate, other crewmembers operating in all-cargo
25 transportation.

1 **SEC. 651. REIMBURSEMENT FOR AIRPORTS THAT HAVE IN-**
2 **CURRED ELIGIBLE COSTS.**

3 (a) PROCESS.—Section 1604(b)(2) of the Imple-
4 menting Recommendations of the 9/11 Commission Act of
5 2007 (121 Stat. 481) is amended to read as follows:

6 “(2) AIRPORTS THAT HAVE INCURRED ELIGI-
7 BLE COSTS.—

8 “(A) IN GENERAL.—Not later than 60
9 days after the date of enactment of the Trans-
10 portation Security Administration Authorization
11 Act, the Assistant Secretary of Homeland Secu-
12 rity (Transportation Security Administration)
13 shall establish a process for resolving reim-
14 bursement claims for airports that have in-
15 curred, before the date of enactment of this
16 Act, eligible costs associated with development
17 of partial or completed in-line baggage systems.

18 “(B) PROCESS FOR RECEIVING REIM-
19 BURSEMENT.—The process shall allow an air-
20 port—

21 “(i) to submit a claim to the Assistant
22 Secretary for reimbursement for eligible
23 costs described in subparagraph (A); and

24 “(ii) not later than 180 days after
25 date on which the airport submits the
26 claim, to receive a determination on the

1 claim and, if the determination is positive,
2 to be reimbursed.

3 “(C) REPORT.—Not later than 60 days
4 after the date on which the Assistant Secretary
5 establishes the process under subparagraph (B),
6 the Assistant Secretary shall submit to the
7 Committee on Homeland Security of the House
8 of Representatives a report containing a de-
9 scription of the process, including a schedule
10 for the timely reimbursement of airports for
11 which a positive determination has been
12 made.”.

13 (b) REIMBURSEMENTS OF AIRPORTS FOR ELIGIBLE
14 COSTS REIMBURSED AT LESS THAN 90 PERCENT.—If the
15 Secretary or Assistant Secretary reimbursed, after August
16 3, 2007, an airport that incurred an amount for eligible
17 costs under section 44923 of title 49, United States Code,
18 that was less than 90 percent of such costs, the Secretary
19 or Assistant Secretary shall reimburse such airport under
20 such section an amount equal to the difference for such
21 eligible costs.

1 **SEC. 652. ESTABLISHMENT OF APPEAL AND REDRESS**
2 **PROCESS FOR INDIVIDUALS WRONGLY DE-**
3 **LAYED OR PROHIBITED FROM BOARDING A**
4 **FLIGHT, OR DENIED A RIGHT, BENEFIT, OR**
5 **PRIVILEGE.**

6 (a) IN GENERAL.—Subtitle H of title VIII of the
7 Homeland Security Act of 2002 (6 U.S.C. 451 et seq.)
8 is amended by adding at the end the following new section:

9 **“SEC. 890A. APPEAL AND REDRESS PROCESS FOR PAS-**
10 **SENGERS WRONGLY DELAYED OR PROHIB-**
11 **ITED FROM BOARDING A FLIGHT, OR DENIED**
12 **A RIGHT, BENEFIT, OR PRIVILEGE.**

13 “(a) ESTABLISHMENT.—Not later than 30 days after
14 the date of the enactment of this section, the Secretary
15 shall establish a timely and fair process for individuals
16 who believe they were delayed or prohibited from boarding
17 a commercial aircraft or denied a right, benefit, or privi-
18 lege because they were wrongly identified as a threat when
19 screened against any terrorist watchlist or database used
20 by the Transportation Security Administration (TSA) or
21 any office or component of the Department.

22 “(b) OFFICE OF APPEALS AND REDRESS.—

23 “(1) ESTABLISHMENT.—The Secretary shall es-
24 tablish in the Department an Office of Appeals and
25 Redress to implement, coordinate, and execute the
26 process established by the Secretary pursuant to

1 subsection (a). The Office shall include representa-
2 tives from the TSA and such other offices and com-
3 ponents of the Department as the Secretary deter-
4 mines appropriate.

5 “(2) COMPREHENSIVE CLEARED LIST.—The
6 process established by the Secretary pursuant to
7 subsection (a) shall include the establishment of a
8 method by which the Office, under the direction of
9 the Secretary, will maintain and appropriately dis-
10 seminate a comprehensive list, to be known as the
11 ‘Comprehensive Cleared List’, of individuals who—

12 “(A) were misidentified as an individual on
13 any terrorist watchlist or database;

14 “(B) completed an approved Department
15 of Homeland Security appeal and redress re-
16 quest and provided such additional information
17 as required by the Department to verify the in-
18 dividual’s identity; and

19 “(C) permit the use of their personally
20 identifiable information to be shared between
21 multiple Departmental components for purposes
22 of this section.

23 “(3) USE OF COMPREHENSIVE CLEARED
24 LIST.—

25 “(A) IN GENERAL.—The Secretary shall—

1 “(i) except as provided in subpara-
2 graph (B), transmit to the TSA or any
3 other appropriate office or component of
4 the Department, other Federal, State,
5 local, and tribal entities, and domestic air
6 carriers and foreign air carriers that use
7 any terrorist watchlist or database, the
8 Comprehensive Cleared List and any other
9 information the Secretary determines nec-
10 essary to resolve misidentifications and im-
11 prove the administration of the advanced
12 passenger prescreening system and reduce
13 the number of false positives; and

14 “(ii) ensure that the Comprehensive
15 Cleared List is taken into account by all
16 appropriate offices or components of the
17 Department when assessing the security
18 risk of an individual.

19 “(B) TERMINATION.—

20 “(i) IN GENERAL.—The transmission
21 of the Comprehensive Cleared List to do-
22 mestic air carriers and foreign air carriers
23 under clause (i) of subparagraph (A) shall
24 terminate on the date on which the Fed-

1 eral Government assumes terrorist watch-
2 list or database screening functions.

3 “(ii) WRITTEN NOTIFICATION TO CON-
4 GRESS.—Not later than 15 days after the
5 date on which the transmission of the
6 Comprehensive Cleared List to the air car-
7 riers referred to in clause (i) of this sub-
8 paragraph terminates in accordance with
9 such clause, the Secretary shall provide
10 written notification to the Committee on
11 Homeland Security of the House of Rep-
12 resentatives and the Committee on Com-
13 merce, Science, and Transportation and
14 the Committee on Homeland Security and
15 Governmental Affairs of the Senate of such
16 termination.

17 “(4) INTERGOVERNMENTAL EFFORTS.—The
18 Secretary may—

19 “(A) enter into memoranda of under-
20 standing with other Federal, State, local, and
21 tribal agencies or entities, as necessary, to im-
22 prove the appeal and redress process and for
23 other purposes such as to verify an individual’s
24 identity and personally identifiable information;
25 and

1 “(B) work with other Federal, State, local,
2 and tribal agencies or entities that use any ter-
3 rorist watchlist or database to ensure, to the
4 greatest extent practicable, that the Com-
5 prehensive Cleared List is considered when as-
6 sessing the security risk of an individual.

7 “(5) HANDLING OF PERSONALLY IDENTIFIABLE
8 INFORMATION.—The Secretary, in conjunction with
9 the Chief Privacy Officer of the Department, shall—

10 “(A) require that Federal employees of the
11 Department handling personally identifiable in-
12 formation of individuals (in this paragraph re-
13 ferred to as ‘PII’) complete mandatory privacy
14 and security training prior to being authorized
15 to handle PII;

16 “(B) ensure that the information main-
17 tained under this subsection is secured by
18 encryption, including one-way hashing, data
19 anonymization techniques, or such other equiva-
20 lent technical security protections as the Sec-
21 retary determines necessary;

22 “(C) limit the information collected from
23 misidentified passengers or other individuals to
24 the minimum amount necessary to resolve an
25 appeal and redress request;

1 “(D) ensure that the information main-
2 tained under this subsection is shared or trans-
3 ferred via an encrypted data network that has
4 been audited to ensure that the anti-hacking
5 and other security related software functions
6 perform properly and are updated as necessary;

7 “(E) ensure that any employee of the De-
8 partment receiving the information maintained
9 under this subsection handles such information
10 in accordance with section 552a of title 5,
11 United States Code, the Federal Information
12 Security Management Act of 2002 (Public Law
13 107–296), and other applicable laws;

14 “(F) only retain the information main-
15 tained under this subsection for as long as
16 needed to assist the individual traveler in the
17 appeal and redress process;

18 “(G) engage in cooperative agreements
19 with appropriate Federal agencies and entities,
20 on a reimbursable basis, to ensure that legal
21 name changes are properly reflected in any ter-
22 rorist watchlist or database and the Com-
23 prehensive Cleared List to improve the appeal
24 and redress process and to ensure the most ac-
25 curate lists of identifications possible (except

1 that section 552a of title 5, United States
2 Code, shall not prohibit the sharing of legal
3 name changes among Federal agencies and en-
4 tities for the purposes of this section); and

5 “(H) conduct and publish a privacy impact
6 assessment of the appeal and redress process
7 established under this section and transmit the
8 assessment to the Committee on Homeland Se-
9 curity of the House of Representatives, and the
10 Committee on Commerce, Science, and Trans-
11 portation and the Committee on Homeland Se-
12 curity and Governmental Affairs of the Senate.

13 “(6) INITIATION OF APPEAL AND REDRESS
14 PROCESS AT AIRPORTS.—At each airport at which—

15 “(A) the Department has a presence, the
16 Office shall provide written information to air
17 carrier passengers to begin the appeal and re-
18 dress process established pursuant to subsection
19 (a); and

20 “(B) the Department has a significant
21 presence, provide the written information re-
22 ferred to in subparagraph (A) and ensure a
23 TSA supervisor who is trained in such appeal
24 and redress process is available to provide sup-

1 port to air carrier passengers in need of guid-
2 ance concerning such process.

3 “(7) REPORT TO CONGRESS.—Not later than
4 240 days after the date of the enactment of this sec-
5 tion, the Secretary shall submit to the Committee on
6 Homeland Security of the House of Representatives
7 and the Committee on Commerce, Science, and
8 Transportation and the Committee on Homeland Se-
9 curity and Governmental Affairs of the Senate a re-
10 port on the status of information sharing among
11 users at the Department of any terrorist watchlist or
12 database. The report shall include the following in-
13 formation:

14 “(A) A description of the processes and the
15 status of the implementation of this section to
16 share the Comprehensive Cleared List with
17 other Department offices and components and
18 other Federal, State, local, and tribal authori-
19 ties that utilize any terrorist watchlist or data-
20 base.

21 “(B) A description of the extent to which
22 such other Department offices and components
23 are taking into account the Comprehensive
24 Cleared List.

1 “(C) Data on the number of individuals
2 who have sought and successfully obtained re-
3 dress through the Office of Appeals and Re-
4 dress.

5 “(D) Data on the number of individuals
6 who have sought and were denied redress
7 through the Office of Appeals and Redress.

8 “(E) An assessment of what impact infor-
9 mation sharing of the Comprehensive Cleared
10 List has had on misidentifications of individuals
11 who have successfully obtained redress through
12 the Office of Appeals and Redress.

13 “(F) An updated privacy impact assess-
14 ment.

15 “(c) TERRORIST WATCHLIST OR DATABASE DE-
16 FINED.—In this section, the term ‘terrorist watchlist or
17 database’ means any terrorist watchlist or database used
18 by the Transportation Security Administration or any of-
19 fice or component of the Department of Homeland Secu-
20 rity or specified in Homeland Security Presidential Direc-
21 tive–6, in effect as of the date of the enactment of this
22 section.”.

23 (b) INCORPORATION OF SECURE FLIGHT.—Section
24 44903(j)(2) of title 49, United States Code, is amended—

25 (1) in subparagraph (C)(iii)—

1 (A) by redesignating subclauses (II)
2 through (VII) as subclauses (III) through
3 (VIII), respectively; and

4 (B) by inserting after subclause (I) the fol-
5 lowing new subclause:

6 “(II) ensure, not later than 30
7 days after the date of the enactment
8 of the Counterterrorism Enhancement
9 and Department of Homeland Secu-
10 rity Authorization Act, that the proce-
11 dure established under subclause (I)
12 is incorporated into the appeals and
13 redress process established under sec-
14 tion 890A of the Homeland Security
15 Act of 2002;”;

16 (2) in subparagraph (E)(iii), by inserting before
17 the period at the end the following: “, in accordance
18 with the appeals and redress process established
19 under section 890A of the Homeland Security Act of
20 2002”; and

21 (3) in subparagraph (G)—

22 (A) in clause (i), by adding at the end the
23 following new sentence: “The Assistant Sec-
24 retary shall incorporate the process established
25 pursuant to this clause into the appeals and re-

1 dress process established under section 890A of
2 the Homeland Security Act of 2002.”; and

3 (B) in clause (ii), by adding at the end the
4 following new sentence: “The Assistant Sec-
5 retary shall incorporate the record established
6 and maintained pursuant to this clause into the
7 Comprehensive Cleared List established and
8 maintained under such section 890A.”.

9 (c) CONFORMING AMENDMENT.—Title 49, United
10 States Code, is amended by striking section 44926 (and
11 the item relating to such section in the analysis for chap-
12 ter 449 of title 49).

13 (d) CLERICAL AMENDMENT.—Section 1(b) of the
14 Homeland Security Act of 2002 (6 U.S.C. 101(b)) is
15 amended by inserting after the item relating to section
16 890 the following new item:

“Sec. 890A. Appeal and redress process for passengers wrongly delayed or pro-
hibited from boarding a flight, or denied a right, benefit, or
privilege.”.

17 **SEC. 653. PERSONAL PROTECTIVE EQUIPMENT.**

18 (a) USE OF PERSONAL PROTECTIVE EQUIPMENT.—

19 (1) IN GENERAL.—Any personnel of the Trans-
20 portation Security Administration voluntarily may
21 wear personal protective equipment during any
22 emergency.

23 (2) WRITTEN GUIDANCE.—Not later than 90
24 days after the date of enactment of this Act, the

1 Secretary of Homeland Security shall establish, co-
2 ordinate, and disseminate written guidance to per-
3 sonnel of the Transportation Security Administra-
4 tion to allow for the voluntary usage of personal pro-
5 tective equipment.

6 (b) DEFINITION.—In this section the term “protec-
7 tive equipment” includes surgical masks and N95 masks.

8 **SEC. 654. SECURITY SCREENING FOR MEMBERS OF THE**
9 **ARMED FORCES.**

10 (a) IN GENERAL.—Section 44903 of title 49, United
11 States Code (as amended by this Act), is further amended
12 by adding at the end the following:

13 “(n) SECURITY SCREENING FOR MEMBERS OF THE
14 ARMED FORCES.—

15 “(1) IN GENERAL.—The Assistant Secretary
16 shall develop and implement a plan to provide expe-
17 dited security screening services for a member of the
18 Armed Forces, and any accompanying family mem-
19 ber, when the member of the Armed Forces is trav-
20 eling on official orders while in uniform through a
21 primary airport (as defined by section 47102).

22 “(2) PROTOCOLS.—In developing the plan, the
23 Assistant Secretary shall consider—

24 “(A) leveraging existing security screening
25 models used by airports and air carriers to re-

1 duce passenger wait times before entering a se-
2 curity screening checkpoint;

3 “(B) establishing standard guidelines for
4 the screening of military uniform items, includ-
5 ing combat boots; and

6 “(C) incorporating any new screening pro-
7 tocols into an existing trusted passenger pro-
8 gram, as established pursuant to section
9 109(a)(3) of the Aviation and Transportation
10 Security Act (115 Stat. 613), or into the devel-
11 opment of any new credential or system that in-
12 corporates biometric technology and other appli-
13 cable technologies to verify the identity of indi-
14 viduals traveling in air transportation.

15 “(3) REPORT TO CONGRESS.—The Assistant
16 Secretary shall submit to the appropriate committees
17 of Congress a report on the implementation of the
18 plan.”.

19 (b) EFFECTIVE DATE.—Not later than one year after
20 the date of enactment of this Act, the Assistant Secretary
21 shall establish the plan required by the amendment made
22 by subsection (a).

1 **SEC. 655. REPORT ON COMMERCIAL AVIATION SECURITY**
2 **PLANS.**

3 Not later than one year after the date of enactment
4 of this Act, the Assistant Secretary shall submit a report
5 to the appropriate committees of Congress that—

6 (1) reviews whether the most recent security
7 plans developed by the commercial aviation airports
8 in the United States territories meet the security
9 concerns described in guidelines and other official
10 documents issued by the Transportation Security
11 Administration pertaining to parts 1544 and 1546
12 of title 49, Code of Federal Regulations, particularly
13 with regard to the commingling of passengers;

14 (2) makes recommendations regarding best
15 practices supported by the Transportation Security
16 Administration and any adequate alternatives that
17 address the problems or benefits of commingling
18 passengers at such airports to satisfy the concerns
19 described in paragraph (1);

20 (3) reviews the potential costs of implementing
21 the preferred and alternative methods to address the
22 Administration concerns regarding parts 1544 and
23 1546 of title 49, Code of Federal Regulations, par-
24 ticularly in regards to the commingling of pas-
25 sengers at the airport; and

1 (4) identifies funding sources, including grant
2 programs, to implement improved security methods
3 at such airports.

4 **SEC. 656. STUDY ON COMBINATION OF FACIAL AND IRIS**
5 **RECOGNITION.**

6 (a) **STUDY REQUIRED.**—The Assistant Secretary
7 shall carry out a study on the use of the combination of
8 facial and iris recognition to rapidly identify individuals
9 in security checkpoint lines. Such study shall focus on—

- 10 (1) increased accuracy of facial recognition;
11 (2) enhancement of existing iris recognition
12 technology; and
13 (3) establishment of integrated face and iris
14 features for accurate identification of individuals.

15 (b) **PURPOSE OF STUDY.**—The purpose of the study
16 required by subsection (a) is to facilitate the use of a com-
17 bination of facial and iris recognition to provide a higher
18 probability of success in identification than either ap-
19 proach on its own and to achieve transformational ad-
20 vances in the flexibility, authenticity, and overall capability
21 of integrated biometric detectors and satisfy one of major
22 issues with war against terrorists. The operational goal
23 of the study should be to provide the capability to non-
24 intrusively collect biometrics (face image, iris) in less than
25 10 seconds without impeding the movement of individuals.

1 **SEC. 657. ISSUANCE OF REGULATIONS AND SECURITY DI-**
2 **RECTIVES USING EMERGENCY PROCEDURES.**

3 (a) IN GENERAL.—Section 114(l) of title 49, United
4 States Code, is amended—

5 (1) in paragraph (2)—

6 (A) in subparagraph (A) by striking “im-

7 mediately in order to protect transportation se-

8 curity” and inserting “in order to respond to an

9 imminent threat of finite duration”; and

10 (B) in subparagraph (B) by inserting “to

11 determine if the regulation or security directive

12 is needed to respond to an imminent threat of

13 finite duration” before the period at the end of

14 the first sentence;

15 (2) by striking paragraph (3) and inserting the

16 following:

17 “(3) FACTORS TO CONSIDER.—

18 “(A) IN GENERAL.—In determining wheth-

19 er to issue, rescind, or revise a regulation or se-

20 curity directive under this subsection, the As-

21 sistant Secretary shall consider, as factors in

22 the final determination—

23 “(i) whether the costs of the regula-

24 tion or security directive are excessive in

25 relation to the enhancement of security the

26 regulation or security directive will provide;

1 “(ii) whether the regulation or secu-
2 rity directive will remain effective for more
3 than a 90-day period; and

4 “(iii) whether the regulation or secu-
5 rity directive will require revision in the
6 subsequent 90-day period.

7 “(B) AUTHORITY TO WAIVE CERTAIN RE-
8 QUIREMENTS.—For purposes of subparagraph
9 (A)(i), the Assistant Secretary may waive any
10 requirement for an analysis that estimates the
11 number of lives that will be saved by the regula-
12 tion or security directive or the cost basis for
13 carrying out the regulation or security directive
14 if the Assistant Secretary determines that it is
15 not feasible to make such an estimate.”; and
16 (3) by adding at the end the following:

17 “(5) RULEMAKING REQUIRED.—The Assistant
18 Secretary shall, to the maximum extent possible, en-
19 sure that a regulation or security directive issued
20 under paragraph (2) that remains effective, with or
21 without revision, for a period of more than 180 days
22 is subject to a rulemaking pursuant to subchapter II
23 of chapter 5 of title 5, except that nothing in this
24 paragraph shall require the disclosure of information

1 otherwise protected from public disclosure under law
2 or regulation.”.

3 (b) APPLICABILITY.—The amendment made by sub-
4 section (a)(3) shall apply to a regulation issued under sec-
5 tion 114(l)(2) of title 49, United States Code, before, on,
6 or after the date of enactment of this Act.

7 **SEC. 658. GENERAL AVIATION NEGOTIATED RULEMAKING.**

8 (a) NEGOTIATED RULEMAKING COMMITTEE.—Sub-
9 ject to subsection (b), the Secretary may not issue a rule,
10 interim final rule, or a new rulemaking intended to ad-
11 dress, in whole or in part, the proposed rulemaking enti-
12 tled “Large Aircraft Security Program, Other Aircraft
13 Operator Security Program, and Airport Operator Secu-
14 rity Program (TSA–2008–0021)” unless the Secretary—

15 (1) establishes a negotiated rulemaking com-
16 mittee in accordance with the requirements for es-
17 tablishing an advisory committee under section 871
18 of the Homeland Security Act of 2002 (6 U.S.C.
19 451); and

20 (2) receives a written report from the advisory
21 committee chosen pursuant to paragraph (1) de-
22 scribing in detail its findings and recommendations.

23 (b) RULE EXCEPTION.—

24 (1) URGENT THREAT.—The Secretary may
25 issue a rule prohibited by subsection (a) if the Sec-

1 retary determines, based on a credible and urgent
2 threat, that an emergency exists that necessitates
3 the immediate issuance of such a rule to save lives
4 or protect property.

5 (2) REVIEW OF EMERGENCY DETERMINA-
6 TION.—Not later than 30 days after such a rule is
7 issued under this subsection, the Inspector General
8 of the Department of Homeland Security shall deter-
9 mine if a credible and urgent threat existed that ne-
10 cessitated issuing an immediate rule and report its
11 findings to the Committees on Homeland Security
12 and Transportation and Infrastructure of the House
13 of Representatives and the Committee on Commerce,
14 Science, and Transportation of the Senate.

15 **Subtitle C—Surface Transportation** 16 **Security**

17 **SEC. 661. SENSE OF CONGRESS REGARDING SECURING** 18 **SURFACE TRANSPORTATION SYSTEMS.**

19 (a) FINDINGS.—The Congress finds that—

20 (1) the Transportation Security Administration
21 is uniquely positioned to lead the efforts to secure
22 our Nation’s rail and mass transit systems and other
23 modes of surface transportation against terrorist at-
24 tack and should leverage the investments and exper-

1 tise developed from securing our Nation's commer-
2 cial air transportation system;

3 (2) the successes of the Transportation Security
4 Administration's National Explosives Detection Ca-
5 nine Team Program has furthered the Transpor-
6 tation Security Administration's ability to secure our
7 Nation's transportation systems against terrorist at-
8 tack by preventing and protecting against explosives
9 threats;

10 (3) each weekday approximately 11,300,000
11 passengers depend on our Nation's mass transit sys-
12 tems as a means of transportation;

13 (4) rail and mass transit systems serve as an
14 enticing target for terrorists and terrorist organiza-
15 tions, such as Al Qaeda, as evidenced by the March
16 11, 2004, attack on the Madrid, Spain, rail system,
17 the July 7, 2005, attack on the London, England,
18 mass transit system, and the July 11, 2006, and
19 November 26, 2008, attacks on the Mumbai, India,
20 rail system;

21 (5) the Transportation Security Administration
22 Authorization Act of 2009, which was passed by the
23 House of Representatives on June 4, 2009, in an
24 overwhelming and bipartisan manner, expresses Con-

1 gress' commitment to bolstering the security of rail
2 and mass transit systems; and

3 (6) securing our Nation's rail and mass transit
4 systems against terrorist attack and other security
5 threats is essential due to their impact on our Na-
6 tion's economic stability and the continued func-
7 tioning of our national economy.

8 (b) SENSE OF CONGRESS.—It is the sense of the
9 Congress that the Transportation Security Administration
10 should—

11 (1) continue to enhance security against ter-
12 rorist attack and other security threats to our Na-
13 tion's rail and mass transit systems and other modes
14 of surface transportation;

15 (2) continue expansion of the National Explo-
16 sives Detection Canine Team Program, which has
17 proven to be an effective tool in securing against ex-
18 plosives threats to our Nation's rail and mass transit
19 systems, with particular attention to the application
20 of its training standards and the establishment of a
21 reliable source of domestically bred canines;

22 (3) improve upon the success of the Online
23 Learning Center by providing increased person-to-
24 person professional development programs to ensure
25 those responsible for securing our surface transpor-

1 tation systems against terrorist attack are highly
2 trained in both securing those systems against ter-
3 rorist attack and professional relations with the
4 traveling public; and

5 (4) continue to secure our Nation’s mass tran-
6 sit and rail systems against terrorist attack and
7 other security threats, so as to ensure the security
8 of commuters on our Nation’s rail and mass transit
9 systems and prevent the disruption of rail lines crit-
10 ical to our Nation’s economy.

11 **SEC. 662. ASSISTANT SECRETARY DEFINED.**

12 Section 1301 of the Implementing Recommendations
13 of the 9/11 Commission Act of 2007 (6 U.S.C. 1111) is
14 amended—

15 (1) by redesignating paragraphs (2) through
16 (6) as paragraphs (3) through (7), respectively; and

17 (2) by inserting after paragraph (1) the fol-
18 lowing:

19 “(2) ASSISTANT SECRETARY.—The term ‘As-
20 sistant Secretary’ means the Assistant Secretary of
21 Homeland Security (Transportation Security Admin-
22 istration).”.

23 **SEC. 663. SURFACE TRANSPORTATION SECURITY INSPEC-**
24 **TION PROGRAM.**

25 (a) FINDINGS.—Congress finds the following:

1 (1) Surface transportation security inspectors
2 assist passenger rail stakeholders in identifying secu-
3 rity gaps through Baseline Assessment for Security
4 Enhancement (“BASE”) reviews, monitor freight
5 rail stakeholder efforts to reduce the risk that toxic
6 inhalation hazard shipments pose to high threat
7 urban areas through Security Action Item (“SAI”) reviews, and assist in strengthening chain of custody
8 security.
9

10 (2) Surface transportation security inspectors
11 play a critical role in building and maintaining work-
12 ing relationships with transit agencies and acting as
13 liaisons between such agencies and the Transpor-
14 tation Security Operations Center, relationships
15 which are vital to effective implementation of the
16 surface transportation security mission.

17 (3) In December 2006, the Transportation Se-
18 curity Administration shifted from a system in which
19 surface transportation security inspectors reported
20 to surface-focused supervisors to a system in which
21 inspectors report to aviation-focused supervisors in
22 the field; a shift which has resulted in a strained
23 chain of command, misappropriation of inspectors to
24 nonsurface activities, the hiring of senior-level in-
25 spectors with no surface qualifications, and signifi-

1 cant damage to relationships with transit agencies
2 and inspector morale.

3 (b) SURFACE TRANSPORTATION SECURITY INSPEC-
4 TION OFFICE.—Section 1304 of the Implementing Rec-
5 ommendations of the 9/11 Commission Act of 2007 (6
6 U.S.C. 1113) is amended—

7 (1) by redesignating subsections (c) through (j)
8 as subsections (b) through (i), respectively; and

9 (2) by striking subsections (a) and (b) and in-
10 serting the following:

11 “(a) SURFACE TRANSPORTATION SECURITY INSPEC-
12 TION OFFICE.—

13 “(1) ESTABLISHMENT.—The Secretary, acting
14 through the Assistant Secretary, shall establish an
15 office to be known as the Surface Transportation
16 Security Inspection Office (in this section referred to
17 as the ‘Office’).

18 “(2) MISSION.—The Secretary shall use the Of-
19 fice to train, employ, and utilize surface transpor-
20 tation security inspectors to—

21 “(A) assist surface transportation carriers,
22 operators, owners, entities, and facilities to en-
23 hance their security against terrorist attacks
24 and other security threats; and

1 “(B) assist the Secretary in enforcing ap-
2 plicable surface transportation security regula-
3 tions and directives.

4 “(3) OFFICERS.—

5 “(A) DIRECTOR.—The head of the Office
6 shall be the Director, who shall—

7 “(i) oversee and coordinate the activi-
8 ties of the Office, including all officers and
9 any corresponding surface transportation
10 modes in which the Office carries out such
11 activities, and the surface transportation
12 security inspectors who assist in such ac-
13 tivities; and

14 “(ii) act as the primary point of con-
15 tact between the Office and other entities
16 that support the Department’s surface
17 transportation security mission through
18 the efficient and appropriate use of surface
19 transportation security inspectors and
20 strong working relationships with surface
21 transportation security stakeholders.

22 “(B) DEPUTY DIRECTOR.—There shall be
23 a Deputy Director of the Office, who shall—

1 “(i) assist the Director in carrying out
2 the responsibilities of the Director under
3 this subsection; and

4 “(ii) serve as acting Director in the
5 absence of the Director and during any va-
6 cancy in the office of Director.

7 “(4) APPOINTMENT.—

8 “(A) IN GENERAL.—The Director and
9 Deputy Director shall be responsible on a full-
10 time basis for the duties and responsibilities de-
11 scribed in this subsection.

12 “(B) CLASSIFICATION.—The position of
13 Director shall be considered a position in the
14 Senior Executive Service as defined in section
15 2101a of title 5, United States Code, and the
16 position of Deputy Director shall be considered
17 a position classified at grade GS–15 of the Gen-
18 eral Schedule.

19 “(5) LIMITATION.—No person shall serve as an
20 officer under subsection (a)(3) while serving in any
21 other position in the Federal Government.

22 “(6) FIELD OFFICES.—

23 “(A) ESTABLISHMENT.—The Secretary
24 shall establish primary and secondary field of-
25 fices in the United States to be staffed by sur-

1 face transportation security inspectors in the
2 course of carrying out their duties under this
3 section.

4 “(B) DESIGNATION.—The locations for,
5 and designation as ‘primary’ or ‘secondary’ of,
6 such field offices shall be determined in a man-
7 ner that is consistent with the Department’s
8 risk-based approach to carrying out its home-
9 land security mission.

10 “(C) COMMAND STRUCTURE.—

11 “(i) PRIMARY FIELD OFFICES.—Each
12 primary field office shall be led by a chief
13 surface transportation security inspector,
14 who has significant experience with surface
15 transportation systems, facilities, and oper-
16 ations and shall report directly to the Di-
17 rector.

18 “(ii) SECONDARY FIELD OFFICES.—
19 Each secondary field office shall be led by
20 a senior surface transportation security in-
21 spector, who shall report directly to the
22 chief surface transportation security in-
23 spector of a geographically appropriate pri-
24 mary field office, as determined by the Di-
25 rector.”.

1 (c) NUMBER OF INSPECTORS.—Section 1304(e) of
2 such Act (6 U.S.C. 1113(e)), as redesignated by sub-
3 section (b) of this section, is amended to read as follows:

4 “(e) NUMBER OF INSPECTORS.—Subject to the avail-
5 ability of appropriations, the Secretary shall hire not fewer
6 than 200 additional surface transportation security in-
7 spectors in fiscal year 2011.”.

8 (d) COORDINATION.—Section 1304(f) of such Act (6
9 U.S.C. 1113(f)), as redesignated by subsection (b) of this
10 section, is amended by striking “114(t)” and inserting
11 “114(s)”.

12 (e) REPORT.—Section 1304(h) of such Act (6 U.S.C.
13 1113(h)), as redesignated by subsection (b) of this section,
14 is amended by striking “2008” and inserting “2011”.

15 (f) PLAN.—Section 1304(i) of such Act (6 U.S.C.
16 1113(i)), as redesignated by subsection (b) of this section,
17 is amended to read as follows:

18 “(i) PLAN.—

19 “(1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of the Transportation
21 Security Administration Authorization Act, the Sec-
22 retary shall submit to the Committee on Homeland
23 Security of the House of Representatives and the
24 Committee on Homeland Security and Governmental
25 Affairs of the Senate a plan for expanding the duties

1 and leveraging the expertise of surface transpor-
2 tation security inspectors to further support the De-
3 partment’s surface transportation security mission.

4 “(2) CONTENTS.—The plan shall include—

5 “(A) an analysis of how surface transpor-
6 tation security inspectors could be used to con-
7 duct oversight activities with respect to surface
8 transportation security projects funded by rel-
9 evant grant programs administered by the De-
10 partment;

11 “(B) an evaluation of whether authorizing
12 surface transportation security inspectors to ob-
13 tain or possess law enforcement qualifications
14 or status would enhance the capacity of the Of-
15 fice to take an active role in the Department’s
16 surface transportation security operations; and

17 “(C) any other potential functions relating
18 to surface transportation security the Secretary
19 determines appropriate.”.

20 (g) AUTHORIZATION OF APPROPRIATIONS.—Section
21 1304 of such Act (6 U.S.C. 1113) is amended by adding
22 at the end the following:

23 “(j) AUTHORIZATION OF APPROPRIATIONS.—From
24 amounts made available under section 611 of the Trans-
25 portation Security Administration Authorization Act,

1 there are authorized to be appropriated such sums as may
2 be necessary to the Secretary to carry out this section for
3 fiscal year 2011.”.

4 (h) CONFORMING AMENDMENT.—Section 1304(b) of
5 such Act (6 U.S.C. 1113(b)), as redesignated by sub-
6 section (b) of this section, is amended by striking “sub-
7 section (e)” and inserting “subsection (d)”.

8 **SEC. 664. VISIBLE INTERMODAL PREVENTION AND RE-**
9 **SPONSE TEAMS.**

10 Section 1303 of the Implementing Recommendations
11 of the 9/11 Commission Act of 2007 (6 U.S.C. 1112) is
12 amended—

13 (1) in subsection (a) by striking “Administrator
14 of the Transportation Security Administration,” and
15 inserting “Assistant Secretary,”;

16 (2) in subsection (a)(4) by striking “team,” and
17 inserting “team as to specific locations and times
18 within their facilities at which VIPR teams should
19 be deployed to maximize the effectiveness of such de-
20 ployment and other matters,”; and

21 (3) by striking subsection (b) and inserting the
22 following:

23 “(b) PERFORMANCE MEASURES.—Not later than one
24 year after the date of enactment of the Transportation Se-
25 curity Administration Authorization Act, the Secretary

1 shall develop and implement a system of qualitative per-
2 formance measures and objectives by which to assess the
3 roles, activities, and effectiveness of VIPR team operations
4 on an ongoing basis, including a mechanism through
5 which the transportation entities listed in subsection
6 (a)(4) may submit feedback on VIPR team operations in-
7 volving their systems or facilities.

8 “(c) PLAN.—Not later than one year after the date
9 of enactment of the Transportation Security Administra-
10 tion Authorization Act, the Secretary shall develop and
11 implement a plan for ensuring the interoperability of com-
12 munications among all participating VIPR team compo-
13 nents as designated under subsection (a)(1) and between
14 VIPR teams and any relevant transportation entities as
15 designated in subsection (a)(4) whose systems or facilities
16 are involved in VIPR team operations, including an anal-
17 ysis of the costs and resources required to carry out the
18 plan.

19 “(d) AUTHORIZATION OF APPROPRIATIONS.—From
20 amounts made available under section 611 of the Trans-
21 portation Security Administration Authorization Act,
22 there are authorized to be appropriated to the Secretary
23 to carry out this section such sums as may be necessary
24 for fiscal year 2011.”.

1 **SEC. 665. SURFACE TRANSPORTATION SECURITY STAKE-**
2 **HOLDER PARTICIPATION.**

3 (a) IN GENERAL.—Title XIII of the Implementing
4 Recommendations of the 9/11 Commission Act of 2007 (6
5 U.S.C. 1111 et seq.) is amended by adding at the end
6 the following:

7 **“SEC. 1311. TRANSIT SECURITY ADVISORY COMMITTEE.**

8 “(a) ESTABLISHMENT.—

9 “(1) IN GENERAL.—The Assistant Secretary
10 shall establish in the Transportation Security Ad-
11 ministration an advisory committee, to be known as
12 the Transit Security Advisory Committee (in this
13 section referred to as the ‘Advisory Committee’), to
14 assist the Assistant Secretary with issues pertaining
15 to surface transportation security.

16 “(2) RECOMMENDATIONS.—

17 “(A) IN GENERAL.—The Assistant Sec-
18 retary shall require the Advisory Committee to
19 develop recommendations for improvements to
20 surface transportation security planning, meth-
21 ods, equipment, and processes.

22 “(B) PRIORITY ISSUES.—Not later than
23 one year after the date of enactment of the
24 Transportation Security Administration Author-
25 ization Act, the Advisory Committee shall sub-

1 mit to the Assistant Secretary recommendations
2 on—

3 “(i) improving homeland security in-
4 formation sharing between components of
5 the Department of Homeland Security and
6 surface transportation security stakehold-
7 ers, including those represented on the Ad-
8 visory Committee; and

9 “(ii) streamlining or consolidating re-
10 dundant security background checks re-
11 quired by the Department under relevant
12 statutes governing surface transportation
13 security, as well as redundant security
14 background checks required by States
15 where there is no legitimate homeland se-
16 curity basis for requiring such checks.

17 “(3) MEETINGS.—The Assistant Secretary shall
18 require the Advisory Committee to meet at least
19 semiannually and may convene additional meetings
20 as necessary.

21 “(4) UNPAID POSITION.—Advisory Committee
22 Members shall serve at their own expense and re-
23 ceive no salary, reimbursement for travel expenses,
24 or other compensation from the Federal Govern-
25 ment.

1 “(b) MEMBERSHIP.—

2 “(1) IN GENERAL.—The Assistant Secretary
3 shall ensure that the Advisory Committee is com-
4 posed of not more than one individual representing
5 not more than 27 member organizations, including
6 representatives from public transportation agencies,
7 passenger rail agencies or operators, railroad car-
8 riers, motor carriers, owners or operators of high-
9 ways, over-the-road bus operators and terminal own-
10 ers and operators, pipeline operators, labor organiza-
11 tions representing employees of such entities, and
12 the surface transportation security technology indus-
13 try.

14 “(2) APPOINTMENTS.—Members shall be ap-
15 pointed by the Assistant Secretary and the Assistant
16 Secretary shall have the discretion to review the par-
17 ticipation of any Advisory Committee member and
18 remove for cause at any time.

19 “(c) NONAPPLICABILITY OF FACA.—The Federal
20 Advisory Committee Act (5 U.S.C. App.) shall not apply
21 to the Advisory Committee under this section.

22 “(d) PASSENGER CARRIER SECURITY WORKING
23 GROUP.—

24 “(1) IN GENERAL.—The Assistant Secretary
25 shall establish within the Advisory Committee a pas-

1 senger carrier security working group to provide rec-
2 ommendations for successful implementation of ini-
3 tiatives relating to passenger rail, over-the-road bus,
4 and public transportation security proposed by the
5 Transportation Security Administration in accord-
6 ance with statutory requirements, including relevant
7 grant programs and security training provisions.

8 “(2) MEETINGS.—The working group shall
9 meet at least semiannually and provide annual re-
10 ports to the Assistant Secretary with recommenda-
11 tions to improve the Transportation Security Admin-
12 istration’s initiatives relating to passenger rail, over-
13 the-road bus, and public transportation security, in-
14 cluding grant, training, inspection, or other relevant
15 programs authorized in titles XIII and XIV, and
16 subtitle C of title XV of this Act.

17 “(3) MEMBERSHIP.—The working group shall
18 be composed of members from the Advisory Com-
19 mittee with expertise in public transportation, over-
20 the-road bus, or passenger rail systems and oper-
21 ations, all appointed by the Assistant Secretary.

22 “(4) REPORTS.—

23 “(A) IN GENERAL.—The working group
24 shall prepare and submit reports to the Assist-
25 ant Secretary in accordance with this para-

1 graph that provide recommendations as de-
2 scribed in paragraphs (1) and (2).

3 “(B) SUBMISSION.—Not later than one
4 year after the date of enactment of the Trans-
5 portation Security Administration Authorization
6 Act, and on an annual basis thereafter, the
7 working group shall submit a report on the
8 findings and recommendations developed under
9 subparagraph (A) to the Assistant Secretary.

10 “(e) FREIGHT RAIL SECURITY WORKING GROUP.—

11 “(1) IN GENERAL.—The Assistant Secretary
12 shall establish within the Advisory Committee a
13 freight rail security working group to provide rec-
14 ommendations for successful implementation of ini-
15 tiatives relating to freight rail security proposed by
16 the Transportation Security Administration in ac-
17 cordance with statutory requirements, including rel-
18 evant grant programs and security training provi-
19 sions.

20 “(2) MEETINGS.—The working group shall
21 meet at least semiannually and provide annual re-
22 ports to the Assistant Secretary with recommenda-
23 tions to improve the Transportation Security Admin-
24 istration’s initiatives relating to freight rail security,
25 including grant, training, inspection, or other rel-

1 evant programs authorized in titles XIII and XV of
2 this Act.

3 “(3) MEMBERSHIP.—The working group shall
4 be composed of members from the Advisory Com-
5 mittee with expertise in freight rail systems and op-
6 erations, all appointed by the Assistant Secretary.

7 “(4) REPORTS.—

8 “(A) IN GENERAL.—The working group
9 shall prepare and submit reports to the Assist-
10 tant Secretary in accordance with this para-
11 graph that provide recommendations as de-
12 scribed in paragraphs (1) and (2).

13 “(B) SUBMISSION.—Not later than one
14 year after the date of enactment of the Trans-
15 portation Security Administration Authorization
16 Act, and on an annual basis thereafter, the
17 working group shall submit a report on the
18 findings and recommendations developed under
19 subparagraph (A) to the Assistant Secretary.”.

20 (b) CONFORMING AMENDMENT.—Section 1(b) of the
21 Implementing Recommendations of the 9/11 Commission
22 Act of 2007 (Public Law 110–53) is amended by adding
23 at the end of title XIII (Transportation Security Enchant-
24 ments) the following:

“Sec. 1311. Transit Security Advisory Committee.”.

1 **SEC. 666. HUMAN CAPITAL PLAN FOR SURFACE TRANSPOR-**
2 **TATION SECURITY PERSONNEL.**

3 (a) IN GENERAL.—Not later than one year after the
4 date of enactment of this Act, the Assistant Secretary
5 shall submit to the Committee on Homeland Security of
6 the House of Representatives and the Committee on
7 Homeland Security and Governmental Affairs of the Sen-
8 ate a human capital plan for hiring, training, managing,
9 and compensating surface transportation security per-
10 sonnel, including surface transportation security inspec-
11 tors.

12 (b) CONSULTATION.—In developing the human cap-
13 ital plan, the Assistant Secretary shall consult with the
14 chief human capital officer of the Department of Home-
15 land Security, the Director of the Surface Transportation
16 Security Inspection Office, the Inspector General of the
17 Department of Homeland Security, and the Comptroller
18 General.

19 (c) APPROVAL.—Prior to submission, the human cap-
20 ital plan shall be reviewed and approved by the chief
21 human capital officer of the Department of Homeland Se-
22 curity.

23 **SEC. 667. SURFACE TRANSPORTATION SECURITY TRAIN-**
24 **ING.**

25 (a) STATUS REPORT.—Not later than 30 days after
26 the date of enactment of this Act, the Secretary shall sub-

1 mit a report to the Committee on Homeland Security of
2 the House of Representatives and the Committee on
3 Homeland Security and Governmental Affairs of the Sen-
4 ate on the status of the Department's implementation of
5 sections 1408, 1517, and 1534 of the Implementing Rec-
6 ommendations of the 9/11 Commission Act of 2007 (6
7 U.S.C. 1137, 1167, and 1184), including detailed time-
8 frames for development and issuance of the transportation
9 security training regulations required under such sections.

10 (b) PRIVATE PROVIDERS.—Not later than one year
11 after the date of enactment of this Act, the Assistant Sec-
12 retary shall identify criteria and establish a process for
13 approving and maintaining a list of approved private
14 third-party providers of security training with whom sur-
15 face transportation entities may enter into contracts, as
16 needed, for the purpose of satisfying security training re-
17 quirements of the Department of Homeland Security, in-
18 cluding requirements developed under sections 1408,
19 1517, and 1534 of the Implementing Recommendations
20 of the 9/11 Commission Act of 2007 (6 U.S.C. 1137,
21 1167, and 1184).

1 **SEC. 668. IMPROVEMENT OF PUBLIC TRANSPORTATION SE-**
2 **CURITY ASSISTANCE.**

3 (a) IN GENERAL.—Section 1406 of the Implementing
4 Recommendations of the 9/11 Commission Act of 2007 (6
5 U.S.C. 1135; Public Law 110–53) is amended—

6 (1) in subsection (b)(1)—

7 (A) in subparagraph (B), by inserting
8 “bollards,” after “including”; and

9 (B) in subparagraph (D), by inserting
10 after “including” the following: “projects for
11 the purpose of demonstrating or assessing the
12 capability of such systems and”;

13 (2) by redesignating subsections (e) through (k)
14 as subsections (f) through (l), respectively;

15 (3) by redesignating subsections (l) and (m) as
16 subsections (n) and (o), respectively;

17 (4) by inserting after subsection (d) the fol-
18 lowing new subsection (e):

19 “(e) PROCEDURE.—

20 “(1) TIMELINE.—

21 “(A) AVAILABILITY OF APPLICATIONS.—

22 Applications for grants under this section for a
23 grant cycle shall be made available to eligible
24 applicants not later than 30 days after the date
25 of the enactment of the appropriations Act for

1 the Department of Homeland Security for the
2 same fiscal year as the grant cycle.

3 “(B) SUBMISSION OF APPLICATIONS.—A
4 public transportation agency that is eligible for
5 a grant under this section shall submit an ap-
6 plication for a grant not later than 45 days
7 after the applications are made available under
8 subparagraph (A).

9 “(C) ACTION.—The Secretary shall make a
10 determination approving or rejecting each appli-
11 cation submitted under subparagraph (B), no-
12 tify the applicant of the determination, and im-
13 mediately commence any additional processes
14 required to allow an approved applicant to
15 begin to receive grant funds by not later than
16 60 days after date on which the Secretary re-
17 ceives the application.

18 “(2) PROHIBITION OF COST-SHARING REQUIRE-
19 MENT.—No grant under this section may require
20 any cost-sharing contribution from the grant recipi-
21 ent or from any related State or local agency.

22 “(3) ANNUAL REPORT.—Not later than the
23 date that is 180 days after the last determination
24 made under paragraph (1)(C) for a grant cycle, the
25 Secretary shall submit to the Committees on Appro-

1 priations and Homeland Security of the House of
2 Representatives and the Committees on Appropria-
3 tions and Homeland Security and Governmental Af-
4 fairs of the Senate a report that includes a list of
5 all grants awarded under this section for that grant
6 cycle for which the grant recipient is not, as of such
7 date, able to receive grant funds and an explanation
8 of why such funds have not yet been released for use
9 by the recipient.

10 “(4) PERFORMANCE.—

11 “(A) DURATION.—The performance period
12 for grants made under this section shall be a
13 period of time not less than 36 months in dura-
14 tion.

15 “(B) TIMING.—The performance period
16 for any grant made under this section shall not
17 begin to run until the recipient of the grant has
18 been formally notified that funds provided
19 under the terms of the grant have been released
20 for use by the recipient.”;

21 (5) by inserting after subsection (l), as redesign-
22 nated by paragraph (2) of this section, the following
23 new subsection (m):

1 “(m) ACCESS.—The Secretary shall ensure that, for
2 each grant awarded under this section, the Inspector Gen-
3 eral of the Department is authorized to—

4 “(1) examine any records of the grant recipient
5 or any contractors or subcontractors with which the
6 recipient enters into a contract, or any State or local
7 agency, that directly pertain to and involve trans-
8 actions relating to grants under this section; and

9 “(2) interview any officer or employee of the re-
10 cipient, any contractors or subcontractors with
11 which the recipient enters into a contract, or State
12 or local agency regarding such transactions.”; and

13 (6) in subsection (o), as redesignated by para-
14 graph (3) of this section—

15 (A) by striking paragraph (1) and insert-
16 ing the following new paragraph (1):

17 “(1) IN GENERAL.—There is authorized to be
18 appropriated to the Secretary to make grants under
19 this section \$1,100,000,000 for fiscal year 2011, ex-
20 cept that not more than 30 percent of such funds
21 may be used for operational costs under subsection
22 (b)(2) of this section.”;

23 (B) by redesignating paragraphs (3) and
24 (4) as paragraphs (4) and (5), respectively; and

1 (C) by inserting after paragraph (2) the
2 following new paragraph (3):

3 “(3) EXCEPTION.—The limitation on the per-
4 centage of funds that may be used for operational
5 costs under paragraph (1) shall not apply to any
6 costs involved with or relating to explosives detection
7 canine teams acquired or used for the purpose of se-
8 curing public transportation systems or facilities.”.

9 (b) TECHNICAL ASSISTANCE PILOT PROGRAM.—

10 (1) PILOT PROGRAM REQUIRED.—

11 (A) IN GENERAL.—Not later than one year
12 after the date of the enactment of this Act, the
13 Assistant Secretary shall conduct and complete
14 a pilot program to provide grants to not more
15 than 7 public transportation agencies eligible
16 for security grants under section 1406 of the
17 Implementing Recommendations of the 9/11
18 Commission Act of 2007 (6 U.S.C. 1135; Pub-
19 lic Law 110–53) for the purpose of obtaining
20 external technical support and expertise to as-
21 sist such agencies in conducting comprehensive
22 security risk assessments of public transpor-
23 tation systems, resources, and facilities.

1 (B) METHODOLOGY.—Not later than 90
2 days after the date of the enactment of this
3 Act, the Assistant Secretary shall identify—

4 (i) a comprehensive risk methodology
5 for conducting comprehensive security risk
6 assessments using grants made under this
7 subsection that accounts for all three ele-
8 ments of risk, including threat, vulner-
9 ability, and consequence; and

10 (ii) an approved third-party provider
11 of technical support and expertise for the
12 purpose of providing external assistance to
13 grantees in conducting comprehensive se-
14 curity risk assessments.

15 (C) PARTICIPANTS.—

16 (i) IN GENERAL.—In selecting public
17 transportation agencies to participate in
18 the pilot program, the Assistant Secretary
19 shall approve eligible agencies based on a
20 combination of factors, including risk,
21 whether the agency has completed a com-
22 prehensive security risk assessment re-
23 ferred to in subparagraph (B)(i) within a
24 year preceding the date of enactment of
25 this Act, and geographic representation.

1 (ii) PRIOR EFFORTS.—No eligible
2 public transportation agency may be de-
3 nied participation in the pilot program on
4 the grounds that it has applied for other
5 grants administered by the Department for
6 the purpose of conducting a comprehensive
7 security risk assessment.

8 (D) PROHIBITIONS.—In carrying out the
9 pilot program the Assistant Secretary shall en-
10 sure that—

11 (i) grants awarded under the pilot
12 program shall supplement and not replace
13 other sources of Federal funding;

14 (ii) other sources of Federal funding
15 are not taken into consideration when as-
16 sistance is awarded under the pilot pro-
17 gram; and

18 (iii) no aspect of the pilot program is
19 conducted or administered by a component
20 of the Department other than the Trans-
21 portation Security Administration.

22 (2) REPORT.—Not later than 180 days after
23 the completion of the pilot program, the Assistant
24 Secretary shall submit to the Committee on Home-
25 land Security of the House of Representatives a re-

1 port on the results of the pilot program, including
2 an analysis of the feasibility and merit of expanding
3 the pilot program to a permanent program and any
4 recommendations determined appropriate by the As-
5 sistant Secretary.

6 (3) AUTHORIZATION OF APPROPRIATIONS.—Of
7 amounts made available pursuant to section 611 for
8 fiscal year 2011, \$7,000,000 shall be available to the
9 Assistant Secretary to carry out this subsection. Any
10 amount made available to the Assistant Secretary
11 pursuant to this paragraph shall remain available
12 until the end of fiscal year 2012.

13 (c) REPORT ON RECOMMENDATIONS OF COMP-
14 TROLLER GENERAL.—

15 (1) REPORT REQUIRED.—Not later than 90
16 days after the date of the enactment of this Act, the
17 Secretary of Homeland Security shall submit to the
18 Committee on Homeland Security of the House of
19 Representatives and the Committee on Homeland
20 Security and Governmental Affairs of the Senate a
21 report on the status of the Secretary's implementa-
22 tion of the recommendations of the Comptroller Gen-
23 eral with respect to the improvement of the adminis-
24 tration of security grants under section 1406 of the
25 Implementing Recommendations of the 9/11 Com-

1 mission Act of 2007 (6 U.S.C. 1135; Public Law
2 110–53).

3 (2) REVIEW BY INSPECTOR GENERAL.—Before
4 the Secretary submits the report required under
5 paragraph (1), the report shall be reviewed by the
6 Inspector General of the Department of Homeland
7 Security. When the Secretary submits the report to
8 Congress under paragraph (1), the Secretary shall
9 include with the report documentation verifying that
10 the report was reviewed by the Inspector General in
11 accordance with this paragraph.

12 **SEC. 669. INTERNATIONAL LESSONS LEARNED FOR SECUR-**
13 **ING PASSENGER RAIL AND PUBLIC TRANS-**
14 **PORTATION SYSTEMS.**

15 (a) FINDINGS.—Congress finds that—

16 (1) numerous terrorist attacks since September
17 11, 2001, have targeted passenger rail or public
18 transportation systems;

19 (2) nearly 200 people were killed and almost
20 2,000 more were injured when terrorists set off 10
21 simultaneous explosions on 4 commuter trains in
22 Madrid, Spain, on March 11, 2004;

23 (3) 50 people were killed and more than 700 in-
24 jured in successive bombings of 3 transit stations
25 and a public bus in London, England, on July 7,

1 2005, and a second attack against 4 similar targets
2 on July 21, 2005, failed because of faulty deto-
3 nators;

4 (4) more than 200 people were killed and more
5 than 700 injured in simultaneous terrorist bombings
6 of commuter trains on the Western Line in the sub-
7 urbs of Mumbai, India, on July 11, 2006;

8 (5) the acts of terrorism in Mumbai, India, on
9 November 26, 2008, included commando-style at-
10 tacks on a major railway station; and

11 (6) a disproportionately low amount of atten-
12 tion and resources have been devoted to surface
13 transportation security by the Department of Home-
14 land Security, including the security of passenger
15 rail and public transportation systems, as compared
16 with aviation security, which has been the primary
17 focus of Federal transportation security efforts gen-
18 erally, and of the Transportation Security Adminis-
19 tration in particular.

20 (b) STUDY.—The Comptroller General shall conduct
21 a study on the efforts undertaken by the Secretary and
22 Assistant Secretary, as well as other entities determined
23 by the Comptroller General to have made significant ef-
24 forts, since January 1, 2004, to learn from foreign nations
25 that have been targets of terrorist attacks on passenger

1 rail and public transportation systems in an effort to iden-
2 tify lessons learned from the experience of such nations
3 to improve the execution of Department functions to ad-
4 dress transportation security gaps in the United States.

5 (c) REPORT.—

6 (1) IN GENERAL.—Not later than one year
7 after the date of enactment of this Act, the Comp-
8 troller General shall submit to the Committee on
9 Homeland Security of the House of Representatives
10 and the Committee on Homeland Security and Gov-
11 ernmental Affairs of the Senate a report on the re-
12 sults of the study. The report shall also include an
13 analysis of relevant conflicts of law that may affect
14 the ability of the Department to apply lessons
15 learned.

16 (2) RECOMMENDATIONS.—The Comptroller
17 General shall include in the report recommendations
18 on how the Department and its components, includ-
19 ing the Transportation Security Administration, can
20 expand efforts to learn from the expertise and the
21 security practices of passenger rail and public trans-
22 portation systems in foreign nations that have expe-
23 rienced terrorist attacks on such systems.

1 **SEC. 670. UNDERWATER TUNNEL SECURITY DEMONSTRATION PROJECT.**
2

3 (a) **DEMONSTRATION PROJECT.**—The Assistant Sec-
4 retary, in consultation with the Under Secretary for
5 Science and Technology, shall conduct a full-scale dem-
6 onstration project to test and assess the feasibility and
7 effectiveness of certain technologies to enhance the secu-
8 rity of underwater public transportation tunnels against
9 terrorist attacks involving the use of improvised explosive
10 devices.

11 (b) **INFLATABLE PLUGS.**—

12 (1) **IN GENERAL.**—At least one of the tech-
13 nologies tested under subsection (a) shall be inflat-
14 able plugs that may be rapidly deployed to prevent
15 flooding of a tunnel.

16 (2) **FIRST TECHNOLOGY TESTED.**—Not later
17 than 180 days after the date of enactment of this
18 Act, the Assistant Secretary shall carry out a dem-
19 onstration project that tests the effectiveness of
20 using inflatable plugs for the purpose described in
21 paragraph (1).

22 (c) **REPORT TO CONGRESS.**—Not later than 180 days
23 after completion of the demonstration project under this
24 section, the Assistant Secretary shall submit a report to
25 the appropriate committees of Congress, including the

1 Committee on Homeland Security of the House of Rep-
2 resentatives, on the results of the demonstration project.

3 (d) AUTHORIZATION OF APPROPRIATION.—Of the
4 amounts made available under section 201 for fiscal year
5 2011, \$8,000,000 shall be available to carry out this sec-
6 tion.

7 **SEC. 671. PASSENGER RAIL SECURITY DEMONSTRATION**
8 **PROJECT.**

9 (a) DEMONSTRATION PROJECT.—The Assistant Sec-
10 retary, in consultation with the Under Secretary for
11 Science and Technology, shall conduct a demonstration
12 project in a passenger rail system to test and assess the
13 feasibility and effectiveness of technologies to strengthen
14 the security of passenger rail systems against terrorist at-
15 tacks involving the use of improvised explosive devices.

16 (b) SECURITY TECHNOLOGIES.—The demonstration
17 project under this section shall test and assess tech-
18 nologies to—

19 (1) detect improvised explosive devices on sta-
20 tion platforms, through the use of foreign object de-
21 tection programs in conjunction with cameras; and

22 (2) defeat improvised explosive devices left on
23 rail tracks.

24 (c) REPORT TO CONGRESS.—Not later than 180 days
25 after completion of the demonstration project under this

1 section, the Assistant Secretary shall submit a report to
2 the appropriate committees of Congress, including the
3 Committee on Homeland Security of the House of Rep-
4 resentatives, on the results of the demonstration project.

5 **SEC. 672. EXPLOSIVES DETECTION CANINE TEAMS.**

6 Section 1307 of the Implementing Recommendations
7 of the 9/11 Commission Act of 2007 (6 U.S.C. 1116) is
8 amended—

9 (1) in subsection (b)—

10 (A) in paragraph (1)(A), by striking
11 “2010” and inserting “2011”; and

12 (B) by adding at the end the following new
13 paragraph:

14 “(3) ALLOCATION.—

15 “(A) IN GENERAL.—The Secretary shall
16 increase the number of canine teams certified
17 by the Transportation Security Administration
18 for the purpose of passenger rail and public
19 transportation security activities to not less
20 than 200 canine teams by the end of fiscal year
21 2011.

22 “(B) COOPERATIVE AGREEMENTS.—The
23 Secretary shall expand the use of canine teams
24 to enhance passenger rail and public transpor-
25 tation security by entering into cooperative

1 agreements with passenger rail and public
2 transportation agencies eligible for security as-
3 sistance under section 1406 of this Act for the
4 purpose of deploying and maintaining canine
5 teams to such agencies for use in passenger rail
6 or public transportation security activities and
7 providing for assistance in an amount not less
8 than \$75,000 for each canine team deployed, to
9 be adjusted by the Secretary for inflation.

10 “(C) AUTHORIZATION OF APPROPRIA-
11 TIONS.—From amounts made available under
12 section 611 of the Transportation Security Ad-
13 ministration Authorization Act, there are au-
14 thorized to be appropriated to the Secretary
15 such sums as may be necessary to carry out
16 this paragraph for fiscal year 2011.”;

17 (2) in subsection (d)—

18 (A) in paragraph (3), by striking “and”;

19 (B) in paragraph (4), by striking the pe-
20 riod at the end and inserting the following: “;
21 and”; and

22 (C) by adding at the end the following new
23 paragraph:

24 “(5) expand the use of canine teams trained to
25 detect vapor wave trails in passenger rail and public

1 transportation security environments, as the Sec-
2 retary, in consultation with the Assistant Secretary,
3 determines appropriate.”;

4 (3) in subsection (e), by striking “, if appro-
5 priate,” and inserting “, to the extent practicable,”;
6 and

7 (4) by striking subsection (f) and inserting the
8 following new subsection (f):

9 “(f) REPORT.—Not later than one year after the date
10 of the enactment of the Transportation Security Adminis-
11 tration Authorization Act, the Comptroller General shall
12 submit to the appropriate congressional committees a re-
13 port on—

14 “(1) utilization of explosives detection canine
15 teams to strengthen security in passenger rail and
16 public transportation environments;

17 “(2) the capacity of the national explosive de-
18 tection canine team program as a whole to serve
19 homeland security; and

20 “(3) how the Assistant Secretary could better
21 support State and local passenger rail and public
22 transportation entities in maintaining certified ca-
23 nine teams for the life of the canine, including by
24 providing financial assistance.”.

1 **SEC. 673. DEPUTY ASSISTANT SECRETARY FOR SURFACE**
2 **TRANSPORTATION SECURITY.**

3 (a) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) the Transportation Security Administra-
6 tion’s capacity to address surface transportation se-
7 curity would be enhanced significantly by estab-
8 lishing a position of Deputy Assistant Secretary for
9 Surface Transportation Security to lead the Trans-
10 portation Security Administration’s surface trans-
11 portation security mission; and

12 (2) a Deputy Assistant Secretary for Surface
13 Transportation Security could provide the focused
14 leadership and resource management necessary to
15 implement the policies and programs that are crit-
16 ical to securing surface transportation modes and
17 ensure the effectiveness of the Surface Transpor-
18 tation Security Inspection Office, security policy and
19 grant functions affecting surface transportation
20 modes, and the Transit Security Advisory Com-
21 mittee.

22 (b) REPORT.—

23 (1) IN GENERAL.—Not later than 270 days
24 after the date of enactment of this Act, the Inspec-
25 tor General of the Department of Homeland Secu-
26 rity shall submit to the Committee on Homeland Se-

1 security of the House of Representatives and the Com-
2 mittee on Homeland Security and Governmental Af-
3 fairs of the Senate a report on the feasibility and
4 merit of establishing a Deputy Assistant Secretary
5 for Surface Transportation Security in the Trans-
6 portation Security Administration to reflect the re-
7 ality of security threats that are faced by all modes
8 of transportation in the United States and also
9 whether establishing the position of a Deputy Assist-
10 ant Secretary for Aviation Security would more ef-
11 fectively streamline or enhance the operational and
12 policymaking capabilities of the Transportation Se-
13 curity Administration for all transportation modes.

14 (2) RECOMMENDATIONS.—The Inspector Gen-
15 eral shall include in the report recommendations
16 on—

17 (A) the most effective and efficient ways to
18 organize offices, functions, personnel, and pro-
19 grams of the Transportation Security Adminis-
20 tration under or among all respective Deputy
21 Assistant Secretary positions to be created;

22 (B) what offices, functions, personnel, and
23 programs of the Transportation Security Ad-
24 ministration would best remain outside of the
25 scope of any new Deputy Assistant Secretary

1 positions in order that such offices, functions,
2 personnel, and programs maintain the status of
3 reporting directly to the Assistant Secretary;
4 and

5 (C) any other relevant matters, as the In-
6 spector General determines appropriate.

7 **SEC. 674. PUBLIC HEARINGS ON SECURITY ASSISTANCE**
8 **GRANT PROGRAM AND THE RESTRICTION OF**
9 **SECURITY IMPROVEMENT PRIORITIES.**

10 (a) PUBLIC HEARINGS.—Not later than 180 days
11 after the date of the enactment of this Act, the Assistant
12 Secretary shall conduct public hearings on the administra-
13 tion of the security assistance grant program under sec-
14 tion 1406 of the Implementing Recommendations of the
15 9/11 Commission Act of 2007 (6 U.S.C. 1135). The As-
16 sistant Secretary shall—

17 (1) solicit information and input from the 5
18 urban areas that receive the largest amount of grant
19 funds under such section, including recipients pro-
20 viding mass transportation and passenger rail serv-
21 ices; and

22 (2) solicit feedback from such recipients on
23 whether current allowable uses of grant funds under
24 the regulations or guidance implementing the grant

1 program are sufficient to address security improve-
2 ment priorities identified by transit agencies.

3 (b) REPORT TO CONGRESS.—The Assistant Sec-
4 retary shall submit to the Committees on Appropriations
5 and Homeland Security of the House of Representatives
6 and the Committees on Appropriations and Homeland Se-
7 curity and Governmental Affairs of the Senate a report
8 on the findings of the public hearings conducted under
9 paragraph (1). The report shall include—

10 (1) the Assistant Secretary’s determinations
11 with respect to the extent to which security improve-
12 ment priorities identified by transit agencies are not
13 met by the regulations or guidance implementing the
14 grant program; and

15 (2) how such regulations or guidance should be
16 changed to accommodate such priorities, or the As-
17 sistant Secretary’s justification for not addressing
18 such priorities with the grant program.

19 **Subtitle D—Transportation**
20 **Security Enhancements**

21 **CHAPTER 1—SECURITY ENHANCEMENTS**

22 **SEC. 681. REPORT AND RECOMMENDATION FOR UNIFORM**
23 **SECURITY BACKGROUND CHECKS.**

24 Not later than one year after the date of enactment
25 of this Act, the Comptroller General shall submit to the

1 Committee on Homeland Security of the House of Rep-
2 resentatives a report that contains—

3 (1) a review of background checks and forms of
4 identification required under State and local trans-
5 portation security programs;

6 (2) a determination as to whether the back-
7 ground checks and forms of identification required
8 under such programs duplicate or conflict with Fed-
9 eral programs; and

10 (3) recommendations on limiting the number of
11 background checks and forms of identification re-
12 quired under such programs to reduce or eliminate
13 duplication with Federal programs.

14 **SEC. 682. ANIMAL-PROPELLED VESSELS.**

15 Notwithstanding section 70105 of title 46, United
16 States Code, the Secretary shall not require an individual
17 to hold a transportation security card, or be accompanied
18 by another individual who holds such a card if—

19 (1) the individual has been issued a license, cer-
20 tificate of registry, or merchant mariner's document
21 under part E of subtitle II of title 46, United States
22 Code;

23 (2) the individual is not allowed unescorted ac-
24 cess to a secure area designated in a vessel or facil-
25 ity security plan approved by the Secretary; and

1 (3) the individual is engaged in the operation of
2 an animal-propelled vessel.

3 **SEC. 683. REQUIREMENTS FOR ISSUANCE OF TRANSPOR-**
4 **TATION SECURITY CARDS; ACCESS PENDING**
5 **ISSUANCE; REDUNDANT BACKGROUND**
6 **CHECKS.**

7 Section 70105 of title 46, United States Code, is
8 amended by adding at the end the following new sub-
9 sections:

10 “(n) PROCESSING TIME.—The Secretary shall review
11 an initial transportation security card application and re-
12 spond to the applicant, as appropriate, including the mail-
13 ing of an Initial Determination of Threat Assessment let-
14 ter, within 30 days after receipt of the initial application.
15 The Secretary shall, to the greatest extent practicable, re-
16 view appeal and waiver requests submitted by a transpor-
17 tation security card applicant, and send a written decision
18 or request for additional information required for the ap-
19 peal or waiver determination, within 30 days after receipt
20 of the applicant’s appeal or waiver written request. For
21 an applicant that is required to submit additional informa-
22 tion for an appeal or waiver determination, the Secretary
23 shall send a written decision, to the greatest extent prac-
24 ticable, within 30 days after receipt of all requested infor-
25 mation.

1 “(o) RECEIPT OF CARDS.—Within 180 days after the
2 date of enactment of the Transportation Security Admin-
3 istration Authorization Act, the Secretary shall develop a
4 process to permit an individual approved for a transpor-
5 tation security card under this section to receive the card
6 at the individual’s place of residence.

7 “(p) FINGERPRINTING.—The Secretary shall estab-
8 lish procedures providing for an individual who is required
9 to be fingerprinted for purposes of this section to be
10 fingerprinted at facilities operated by or under contract
11 with an agency of the Department of the Secretary that
12 engages in fingerprinting the public for transportation se-
13 curity or other security purposes.

14 “(q) REDUNDANT BACKGROUND CHECKS.—The Sec-
15 retary shall prohibit a State or political subdivision thereof
16 from requiring a separate security background check for
17 any purpose for which a transportation security card is
18 issued under this section. The Secretary may waive the
19 application of this subsection with respect to a State or
20 political subdivision thereof if the State or political sub-
21 division demonstrates a compelling homeland security rea-
22 son that a separate security background check is nec-
23 essary.”.

1 **SEC. 684. HARMONIZING SECURITY CARD EXPIRATIONS.**

2 Section 70105(b) of title 46, United States Code, is
3 amended by adding at the end the following new para-
4 graph:

5 “(6) The Secretary may extend for up to one year
6 the expiration of a biometric transportation security card
7 required by this section to align the expiration with the
8 expiration of a license, certificate of registry, or merchant
9 mariner document required under chapter 71 or 73.”.

10 **SEC. 685. PIPELINE SECURITY STUDY.**

11 (a) STUDY.—The Comptroller General shall conduct
12 a study regarding the roles and responsibilities of the De-
13 partment of Homeland Security and the Department of
14 Transportation with respect to pipeline security. The
15 study shall address whether—

16 (1) the Annex to the Memorandum of Under-
17 standing executed on August 9, 2006, between the
18 Department of Homeland Security and the Depart-
19 ment of Transportation adequately delineates stra-
20 tegic and operational responsibilities for pipeline se-
21 curity, including whether it is clear which Depart-
22 ment is responsible for—

23 (A) protecting against intentional pipeline
24 breaches;

25 (B) responding to intentional pipeline
26 breaches; and

1 (C) planning to recover from the effects of
2 intentional pipeline breaches;

3 (2) the respective roles and responsibilities of
4 each Department are adequately conveyed to rel-
5 evant stakeholders and to the public; and

6 (3) the processes and procedures for deter-
7 mining whether a particular pipeline breach is a ter-
8 rorist incident are clear and effective.

9 (b) REPORT ON STUDY.—Not later than 180 days
10 after the date of enactment of this section, the Comp-
11 troller General shall submit to the Committee on Home-
12 land Security in the House of Representatives a report
13 containing the findings of the study conducted under sub-
14 section (a).

15 (c) REPORT TO CONGRESS.—Not later than 90 days
16 after the issuance of the report regarding the study con-
17 ducted pursuant to this section, the Secretary of Home-
18 land Security shall review and analyze the study and sub-
19 mit to the Committee on Homeland Security of the House
20 of Representatives a report on such review and analysis,
21 including any recommendations for—

22 (1) changes to the Annex to the Memorandum
23 of Understanding described in subsection (a)(1); and

24 (2) other improvements to pipeline security ac-
25 tivities at the Department of Homeland Security.

1 **SEC. 686. TRANSPORTATION SECURITY ADMINISTRATION**

2 **CENTRALIZED TRAINING FACILITY.**

3 (a) **STUDY.**—The Secretary of Homeland Security
4 shall carry out a study on the feasibility of establishing
5 a centralized training center for advanced security train-
6 ing provided by the Transportation Security Administra-
7 tion for the purpose of enhancing aviation security.

8 (b) **CONSIDERATIONS.**—In conducting the study, the
9 Secretary shall take into consideration the benefits, costs,
10 equipment, personnel needs, and building requirements for
11 establishing such a training center and if the benefits of
12 establishing the center are an efficient use of resources
13 for training transportation security officers.

14 (c) **REPORT.**—Not later than one year after the date
15 of enactment of this Act, the Secretary shall submit to
16 the Committee on Homeland Security of the House of
17 Representatives and the Committee on Commerce,
18 Science, and Transportation of the Senate a report re-
19 garding the results of the study.

20 **CHAPTER 2—SAFE TRUCKERS ACT OF 2010**

21 **SEC. 691. SHORT TITLE.**

22 This chapter may be cited as the “Screening Applied
23 Fairly and Equitably to Truckers Act of 2010” or the
24 “SAFE Truckers Act of 2010”.

1 **SEC. 692. SURFACE TRANSPORTATION SECURITY.**

2 (a) IN GENERAL.—The Homeland Security Act of
3 2002 (6 U.S.C. 101 et seq.) is amended by adding at the
4 end the following:

5 **“TITLE XXI—SURFACE**
6 **TRANSPORTATION SECURITY**

7 **“SEC. 2101. TRANSPORTATION OF SECURITY SENSITIVE MA-**
8 **TERIALS.**

9 “(a) SECURITY SENSITIVE MATERIALS.—Not later
10 than 120 days after the date of enactment of this section,
11 the Secretary shall issue final regulations, after notice and
12 comment, defining security sensitive materials for the pur-
13 poses of this title.

14 “(b) MOTOR VEHICLE OPERATORS.—The Secretary
15 shall prohibit an individual from operating a motor vehicle
16 in commerce while transporting a security sensitive mate-
17 rial unless the individual holds a valid transportation secu-
18 rity card issued by the Secretary under section 70105 of
19 title 46, United States Code.

20 “(c) SHIPPERS.—The Secretary shall prohibit a per-
21 son from—

22 “(1) offering a security sensitive material for
23 transportation by motor vehicle in commerce; or

24 “(2) causing a security sensitive material to be
25 transported by motor vehicle in commerce,

1 unless the motor vehicle operator transporting the security
2 sensitive material holds a valid transportation security
3 card issued by the Secretary under section 70105 of title
4 46, United States Code.

5 **“SEC. 2102. ENROLLMENT LOCATIONS.**

6 “(a) FINGERPRINTING LOCATIONS.—The Secretary
7 shall—

8 “(1) work with appropriate entities to ensure
9 that fingerprinting locations for individuals applying
10 for a transportation security card under section
11 70105 of title 46, United States Code, have flexible
12 operating hours; and

13 “(2) permit an individual applying for such
14 transportation security card to utilize a
15 fingerprinting location outside of the individual’s
16 State of residence to the greatest extent practicable.

17 “(b) RECEIPT AND ACTIVATION OF CARDS.—The
18 Secretary shall develop guidelines and procedures to per-
19 mit an individual to receive a transportation security card
20 under section 70105 of title 46, United States Code, at
21 the individual’s place of residence and to activate the card
22 at any enrollment center.

23 “(c) NUMBER OF LOCATIONS.—The Secretary shall
24 develop and implement a plan—

1 “(1) to offer individuals applying for a trans-
2 portation security card under section 70105 of title
3 46, United States Code, the maximum number of
4 fingerprinting locations practicable across diverse ge-
5 ographic regions; and

6 “(2) to conduct outreach to appropriate stake-
7 holders, including owners, operators, and relevant
8 entities (and labor organizations representing em-
9 ployees of such owners, operators, and entities), to
10 keep the stakeholders informed of the timeframe and
11 locations for the opening of additional fingerprinting
12 locations.

13 “(d) AUTHORIZATION.—There are authorized to be
14 appropriated such sums as may be necessary to carry out
15 this section.

16 **“SEC. 2103. AUTHORITY TO ENSURE COMPLIANCE.**

17 “(a) IN GENERAL.—The Secretary is authorized to
18 ensure compliance with this title.

19 “(b) MEMORANDUM OF UNDERSTANDING.—The Sec-
20 retary may enter into a memorandum of understanding
21 with the Secretary of Transportation to ensure compliance
22 with section 2101.

23 **“SEC. 2104. CIVIL PENALTIES.**

24 “A person that violates this title or a regulation or
25 order issued under this title is liable to the United States

1 Government pursuant to the Secretary's authority under
2 section 114(v) of title 49, United States Code.

3 **“SEC. 2105. COMMERCIAL MOTOR VEHICLE OPERATORS**
4 **REGISTERED TO OPERATE IN MEXICO OR**
5 **CANADA.**

6 “The Secretary shall prohibit a commercial motor ve-
7 hicle operator licensed to operate in Mexico or Canada
8 from operating a commercial motor vehicle transporting
9 a security sensitive material in commerce in the United
10 States until the operator has been subjected to, and not
11 disqualified as a result of, a security background records
12 check by a Federal agency that the Secretary determines
13 is similar to the security background records check re-
14 quired for commercial motor vehicle operators in the
15 United States transporting security sensitive materials in
16 commerce.

17 **“SEC. 2106. OTHER SECURITY BACKGROUND CHECKS.**

18 “The Secretary shall determine that an individual ap-
19 plying for a transportation security card under section
20 70105 of title 46, United States Code, has met the back-
21 ground check requirements for such card if the individual
22 was subjected to, and not disqualified as a result of, a
23 security background records check by a Federal agency
24 that the Secretary determines is equivalent to or more

1 stringent than the background check requirements for
2 such card.

3 **“SEC. 2107. REDUNDANT BACKGROUND CHECKS.**

4 “(a) IN GENERAL.—After the date of enactment of
5 this title, the Secretary shall prohibit a State or political
6 subdivision thereof from requiring a separate security
7 background check of an individual seeking to transport
8 hazardous materials.

9 “(b) WAIVERS.—The Secretary may waive the appli-
10 cation of subsection (a) with respect to a State or political
11 subdivision thereof if the State or political subdivision
12 demonstrates a compelling homeland security reason that
13 a separate security background check is necessary to en-
14 sure the secure transportation of hazardous materials in
15 the State or political subdivision.

16 “(c) LIMITATION ON STATUTORY CONSTRUCTION.—
17 Nothing in this section shall limit the authority of a State
18 to ensure that an individual has the requisite knowledge
19 and skills to safely transport hazardous materials in com-
20 merce.

21 **“SEC. 2108. TRANSITION.**

22 “(a) TREATMENT OF INDIVIDUALS RECEIVING PRIOR
23 HAZARDOUS MATERIALS ENDORSEMENTS.—The Sec-
24 retary shall treat an individual who has obtained a haz-
25 ardous materials endorsement in accordance with section

1 1572 of title 49, Code of Federal Regulations, before the
2 date of enactment of this title, as having met the back-
3 ground check requirements of a transportation security
4 card under section 70105 of title 46, United States Code,
5 subject to reissuance or expiration dates of the hazardous
6 materials endorsement.

7 “(b) REDUCTION IN FEES.—The Secretary shall re-
8 duce, to the greatest extent practicable, any fees associ-
9 ated with obtaining a transportation security card under
10 section 70105 of title 46, United States Code, for any in-
11 dividual referred to in subsection (a).

12 **“SEC. 2109. SAVINGS CLAUSE.**

13 “Nothing in this title shall be construed as affecting
14 the authority of the Secretary of Transportation to regu-
15 late hazardous materials under chapter 51 of title 49,
16 United States Code.

17 **“SEC. 2110. DEFINITIONS.**

18 “In this title, the following definitions apply:

19 “(1) COMMERCE.—The term ‘commerce’ means
20 trade or transportation in the jurisdiction of the
21 United States—

22 “(A) between a place in a State and a
23 place outside of the State; or

1 “(B) that affects trade or transportation
2 between a place in a State and a place outside
3 of the State.

4 “(2) HAZARDOUS MATERIAL.—The term ‘haz-
5 ardous material’ has the meaning given that term in
6 section 5102 of title 49, United States Code.

7 “(3) PERSON.—The term ‘person’, in addition
8 to its meaning under section 1 of title 1, United
9 States Code—

10 “(A) includes a government, Indian tribe,
11 or authority of a government or tribe offering
12 security sensitive material for transportation in
13 commerce or transporting security sensitive ma-
14 terial to further a commercial enterprise; but

15 “(B) does not include—

16 “(i) the United States Postal Service;
17 and

18 “(ii) in section 2104, a department,
19 agency, or instrumentality of the Govern-
20 ment.

21 “(4) SECURITY SENSITIVE MATERIAL.—The
22 term ‘security sensitive material’ has the meaning
23 given that term in section 1501 of the Implementing
24 Recommendations of the 9/11 Commission Act of
25 2007 (6 U.S.C. 1151).

1 (b) EFFECTIVE DATE OF PROHIBITIONS.—The pro-
2 hibitions contained in sections 2101 and 2106 of the
3 Homeland Security Act of 2002 (as added by this subtitle)
4 shall take effect on the date that is 3 years after the date
5 of enactment of this Act.

6 (c) EFFECTIVE DATE OF SECTION 694 AMEND-
7 MENTS.—The amendments made by section 694 of this
8 Act shall take effect on the date that is 3 years after the
9 date of enactment of this Act.

10 **SEC. 696. TASK FORCE ON DISQUALIFYING CRIMES.**

11 (a) ESTABLISHMENT.—The Secretary shall establish
12 a task force to review the lists of crimes that disqualify
13 individuals from transportation-related employment under
14 current regulations of the Transportation Security Admin-
15 istration and assess whether such lists of crimes are accu-
16 rate indicators of a terrorism security risk.

17 (b) MEMBERSHIP.—The task force shall be composed
18 of representatives of appropriate industries, including
19 labor unions representing employees of such industries,
20 Federal agencies, and other appropriate entities, as deter-
21 mined by the Secretary.

22 (c) REPORT.—Not later than 180 days after the date
23 of enactment of this Act, the task force shall submit to
24 the Secretary and the Committee on Homeland Security
25 of the House of Representatives a report containing the

1 results of the review, including recommendations for a
2 common list of disqualifying crimes and the rationale for
3 the inclusion of each crime on the list.

4 **TITLE VII—MARITIME SECURITY**

5 **Subtitle A—General Provisions**

6 **SEC. 701. AUTHORIZATION OF APPROPRIATIONS.**

7 Of the amount authorized to be appropriated to the
8 Secretary under section 201, funds are authorized to be
9 appropriated to the Commandant of the Coast Guard for
10 fiscal year 2011 for necessary expenses of the Coast
11 Guard as follows:

12 (1) For necessary expenses for the operation
13 and maintenance of the Coast Guard not otherwise
14 provided for; purchase or lease of not to exceed 25
15 passenger motor vehicles, which shall be for replace-
16 ment only; purchase or lease of small boats for con-
17 tingent and emergent requirements (at a unit cost of
18 no more than \$700,000) and repairs and service-life
19 replacements, not to exceed a total of \$26,000,000;
20 minor shore construction projects not exceeding
21 \$1,000,000 in total cost at any location; payments
22 pursuant to section 156 of Public Law 97–377 (42
23 U.S.C. note; 96 Stat. 1920); and recreation and wel-
24 fare; \$6,689,655,000 of which \$340,000,000 shall be
25 for defense-related activities; of which \$24,500,000

1 shall be derived from the Oil Spill Liability Trust
2 Fund to carry out the purposes of section
3 1012(a)(5) of the Oil Pollution Act of 1990 (33
4 U.S.C. 2712(a)(5)); of which not to exceed \$20,000
5 shall be for official reception and representation ex-
6 penses: Provided further, that none of the funds
7 made available by this Act shall be for expenses in-
8 curred for recreational vehicles under section 12114
9 of title 46, United States Code, except to the extent
10 fees are collected from yacht owners and credited to
11 this appropriation.

12 (2) For the acquisition, construction, rebuild-
13 ing, and improvement of aids to navigation, shore
14 and offshore facilities, vessels, and aircraft, includ-
15 ing equipment related thereto, \$1,477,228,000 of
16 which—

17 (A) \$20,000,000 shall be derived from the
18 Oil Spill Liability Trust Fund to carry out the
19 purposes of section 1012(a)(5) of the Oil Pollu-
20 tion Act of 1990, to remain available until ex-
21 pended;

22 (B) \$1,208,502,000 is authorized for the
23 Integrated Deepwater System Program, includ-
24 ing \$96,000,000 for long lead construction ma-
25 terials for National Security Cutter #6; and

1 (C) \$69,200,000 is authorized for shore fa-
2 cilities and aids to navigation.

3 (3) To the Commandant of the Coast Guard for
4 research, development, test, and evaluation of tech-
5 nologies, material, and human factors directly relat-
6 ing to improving the performance of Coast Guard
7 missions, \$25,034,000, to remain available until ex-
8 pended, of which \$500,000 shall be derived from the
9 Oil Spill Liability Trust Fund to carry out the pur-
10 poses of section 1012(a)(5) of the Oil Pollution Act
11 of 1990.

12 (4) For retired pay (including the payment of
13 obligations otherwise chargeable to lapsed appropria-
14 tions of this purpose), payments under the Retired
15 Serviceman's Family Protection and Survivor Ben-
16 efit Plans, and payments for medical care of retired
17 personnel and their dependents under chapter 55 of
18 title 10, United States Code, \$1,400,700,000 to re-
19 main available until expended.

20 (5) For environmental compliance and restora-
21 tion at Coast Guard facilities (other than parts and
22 equipment associated with operation and mainte-
23 nance), \$13,329,000 to remain available until ex-
24 pended.

1 (6) For Coast Guard Reserve Program, includ-
2 ing personnel and training costs, equipment, and
3 services, \$135,675,000.

4 (7) None of the funds authorized by this Act
5 may be used for the decommissioning of a Coast
6 Guard High Endurance Cutter unless the Coast
7 Guard commissions, including in commission special
8 status, a replacement National Security Cutter with-
9 in 90 days after such decommissioning.

10 **SEC. 702. AUTHORIZED LEVELS OF MILITARY STRENGTH**
11 **AND TRAINING.**

12 (a) ACTIVE DUTY STRENGTH.—The Coast Guard is
13 authorized an end-of-year strength for active duty per-
14 sonnel of 47,000 for the fiscal year ending on September
15 30, 2011.

16 (b) MILITARY TRAINING STUDENT LOADS.—For fis-
17 cal year 2011, the Coast Guard is authorized average mili-
18 tary training student loads as follows:

19 (1) For recruit and special training, 2,500 stu-
20 dent years.

21 (2) For flight training, 165 student years.

22 (3) For professional training in military and ci-
23 vilian institutions, 350 student years.

24 (4) For officer acquisition, 1,200 student years.

1 **SEC. 703. ADMIRALS AND VICE ADMIRALS.**

2 (a) ADMIRALS.—Section 41 of title 14, United States
3 Code, is amended by striking “an admiral,” and inserting
4 “admirals;”.

5 (b) VICE COMMANDANT.—Section 47 of title 14,
6 United States Code, is amended—

7 (1) in the section heading by striking “**assign-**
8 **ment**” and inserting “**appointment**”; and

9 (2) in the text by striking “vice admiral” and
10 inserting “admiral”.

11 (c) VICE ADMIRALS.—

12 (1) IN GENERAL.—Section 50 of title 14,
13 United States Code, is amended to read as follows:

14 “**§ 50. Vice admirals**

15 “(a)(1) The President may designate 4 positions of
16 importance and responsibility that shall be held by officers
17 who—

18 “(A) while so serving, shall have the grade of
19 vice admiral, with the pay and allowances of that
20 grade; and

21 “(B) shall perform any duties as the Com-
22 mandant may prescribe.

23 “(2) The 4 vice admiral positions authorized under
24 paragraph (1) are, respectively, the following:

25 “(A) The Deputy Commandant for Mission
26 Support.

1 “(B) The Deputy Commandant for Operations
2 Policy.

3 “(C) The Commander, Force Readiness Com-
4 mand.

5 “(D) The Commander, Operations Command.

6 “(3) The President may appoint, by and with the ad-
7 vice and consent of the Senate, and reappoint, by and with
8 the advice and consent of the Senate, to each of the posi-
9 tions designated under paragraph (1) an officer of the
10 Coast Guard who is serving on active duty above the grade
11 of captain. The Commandant shall make recommendations
12 for those appointments.

13 “(4)(A) Except as provided in subparagraph (B), the
14 Deputy Commandant for Operations Policy must have at
15 least 10 years experience in vessel inspection, marine cas-
16 ualty investigations, mariner licensing, or an equivalent
17 technical expertise in the design and construction of com-
18 mercial vessels, with at least 4 years of leadership experi-
19 ence at a staff or unit carrying out marine safety func-
20 tions.

21 “(B) The requirements of subparagraph (A) do not
22 apply to such Deputy Commandant if the subordinate offi-
23 cer serving in the grade of rear admiral with responsibil-
24 ities for marine safety, security, and stewardship possesses
25 that experience.

1 “(b)(1) The appointment and the grade of vice admiral under this section shall be effective on the date the officer assumes that duty and, except as provided in paragraph (2) of this subsection or in section 51(d) of this title, shall terminate on the date the officer is detached from that duty.

2 “(2) An officer who is appointed to a position designated under subsection (a) shall continue to hold the grade of vice admiral—

3 “(A) while under orders transferring the officer to another position designated under subsection (a), beginning on the date the officer is detached from duty and terminating on the date before the day the officer assumes the subsequent duty, but not for more than 60 days;

4 “(B) while hospitalized, beginning on the day of the hospitalization and ending on the day the officer is discharged from the hospital, but not for more than 180 days; and

5 “(C) while awaiting retirement, beginning on the date the officer is detached from duty and ending on the day before the officer’s retirement, but not for more than 60 days.

1 “(c)(1) An appointment of an officer under sub-
2 section (a) does not vacate the permanent grade held by
3 the officer.

4 “(2) An officer serving in a grade above rear admiral
5 who holds the permanent grade of rear admiral (lower
6 half) shall be considered for promotion to the permanent
7 grade of rear admiral as if the officer was serving in the
8 officer’s permanent grade.

9 “(d) Whenever a vacancy occurs in a position des-
10 ignated under subsection (a), the Commandant shall in-
11 form the President of the qualifications needed by an offi-
12 cer serving in that position to carry out effectively the du-
13 ties and responsibilities of that position.”.

14 (2) APPLICATION OF DEPUTY COMMANDANT
15 QUALIFICATION REQUIREMENT.—The requirement
16 under section 50(a)(4)(A) of title 14, United States
17 Code, as amended by this subsection, shall apply on
18 and after October 1, 2011.

19 (d) REPEAL.—Section 50a of title 14, United States
20 Code, is repealed.

21 (e) CONFORMING AMENDMENT.—Section 51 of that
22 title is amended—

23 (1) by amending subsections (a), (b), and (c) to
24 read as follows:

1 “(a) An officer, other than the Commandant, who,
2 while serving in the grade of admiral or vice admiral, is
3 retired for physical disability shall be placed on the retired
4 list with the highest grade in which that officer served.

5 “(b) An officer, other than the Commandant, who is
6 retired while serving in the grade of admiral or vice admiral,
7 or who, after serving at least two and one-half years
8 in the grade of admiral or vice admiral, is retired while
9 serving in a lower grade, may in the discretion of the
10 President, be retired with the highest grade in which that
11 officer served.

12 “(c) An officer, other than the Commandant, who,
13 after serving less than two and one-half years in the grade
14 of admiral or vice admiral, is retired while serving in a
15 lower grade, shall be retired in his permanent grade.”; and

16 (2) in subsection (d)(2) by striking “Area Com-
17 mander, or Chief of Staff” and inserting “or Vice
18 Admirals”.

19 (f) CONTINUITY OF GRADE.—Section 52 of title 14,
20 United States Code, is amended—

21 (1) in the section heading by inserting “**and**
22 **admirals**” after “**Vice admirals**”; and

23 (2) in the text by inserting “or admiral” after
24 “vice admiral” the first time that term appears.

1 (g) CONTINUATION ON ACTIVE DUTY.—The second
2 sentence of section 290(a) of title 14, United States Code,
3 is amended to read as follows: “Officers, other than the
4 Commandant, serving for the time being or who have
5 served in the grade of vice admiral or admiral are not sub-
6 ject to consideration for continuation under this sub-
7 section, and as to all other provisions of this section shall
8 be considered as having been continued in the grade of
9 rear admiral.”.

10 (h) TREATMENT OF INCUMBENTS; TRANSITION.—

11 (1) VICE COMMANDANT.—Notwithstanding any
12 other provision of law, the officer who, on the date
13 of enactment of this Act, is serving in the Coast
14 Guard as Vice Commandant—

15 (A) shall continue to serve as Vice Com-
16 mandant;

17 (B) shall have the grade of admiral with
18 pay and allowances of that grade; and

19 (C) shall not be required to be reappointed
20 by reason of the enactment of this Act.

21 (2) CHIEF OF STAFF, COMMANDER, ATLANTIC
22 AREA, OR COMMANDER, PACIFIC AREA.—Notwith-
23 standing any other provision of law, an officer who,
24 on the date of enactment of this Act, is serving in

1 the Coast Guard as Chief of Staff, Commander, At-
2 lantic Area, or Commander, Pacific Area—

3 (A) shall continue to have the grade of vice
4 admiral with pay and allowance of that grade
5 until such time that the officer is relieved of his
6 or her duties and appointed and confirmed to
7 another position as a vice admiral or admiral;
8 and

9 (B) for the purposes of transition, may
10 continue, for not more than one year after the
11 date of enactment of this Act, to perform the
12 duties of the officer's former position and any
13 other such duties that the Commandant pre-
14 scribes.

15 (i) CLERICAL AMENDMENTS.—

16 (1) The table of sections at the beginning of
17 chapter 3 of title 14, United States Code, is amend-
18 ed—

19 (A) by striking the item relating to section
20 47 and inserting the following:

“47. Vice Commandant; appointment.”;

21 (B) by striking the item relating to section
22 50 and inserting the following:

“50. Vice admirals.”;

23 (C) by striking the item relating to section
24 50a; and

1 (D) by striking the item relating to section
2 52 and inserting the following:

“52. Vice admirals and admirals, continuity of grade.”.

3 (j) TECHNICAL CORRECTION.—Section 47 of title 14,
4 United States Code, is further amended in the fifth sen-
5 tence by striking “subsection” and inserting “section”.

6 **SEC. 704. COAST GUARD COMMISSIONED OFFICERS: COM-**
7 **PULSORY RETIREMENT.**

8 (a) IN GENERAL.—Chapter 11 of title 14, United
9 States Code, is amended by striking section 293 and in-
10 serting the following:

11 **“§ 293. Compulsory retirement**

12 “(a) REGULAR COMMISSIONED OFFICERS.—Any reg-
13 ular commissioned officer, except a commissioned warrant
14 officer, serving in a grade below rear admiral (lower half)
15 shall be retired on the first day of the month following
16 the month in which the officer becomes 62 years of age.

17 “(b) FLAG-OFFICER GRADES.—(1) Except as pro-
18 vided in paragraph (2), any regular commissioned officer
19 serving in a grade of rear admiral (lower half) or above
20 shall be retired on the first day of the month following
21 the month in which the officer becomes 64 years of age.

22 “(2) The retirement of an officer under paragraph
23 (1) may be deferred—

24 “(A) by the President, but such a deferment
25 may not extend beyond the first day of the month

1 following the month in which the officer becomes 68
2 years of age; or

3 “(B) by the Secretary, but such a deferment
4 may not extend beyond the first day of the month
5 following the month in which the officer becomes 66
6 years of age.”.

7 (b) CLERICAL AMENDMENT.—The analysis at the be-
8 ginning of such chapter is amended by striking the item
9 relating to such section and inserting the following:

“293. Compulsory retirement.”.

10 **SEC. 705. COMMISSIONED OFFICERS.**

11 (a) ACTIVE DUTY PROMOTION LIST.—Section 42 of
12 title 14, United States Code, is amended to read as fol-
13 lows:

14 **“§ 42. Number and distribution of commissioned offi-
15 cers on active duty promotion list**

16 “(a) MAXIMUM TOTAL NUMBER.—The total number
17 of Coast Guard commissioned officers on the active duty
18 promotion list, excluding warrant officers, shall not exceed
19 6,700; except that the Commandant may temporarily in-
20 crease that number by up to 2 percent for no more than
21 60 days following the date of the commissioning of a Coast
22 Guard Academy class.

23 “(b) DISTRIBUTION PERCENTAGES BY GRADE.—

24 “(1) REQUIRED.—The total number of commis-
25 sioned officers authorized by this section shall be

1 distributed in grade in the following percentages:
2 0.375 percent for rear admiral; 0.375 percent for
3 rear admiral (lower half); 6.0 percent for captain;
4 15.0 percent for commander; and 22.0 percent for
5 lieutenant commander.

6 “(2) DISCRETIONARY.—The Secretary shall
7 prescribe the percentages applicable to the grades of
8 lieutenant, lieutenant (junior grade), and ensign.

9 “(3) AUTHORITY OF SECRETARY TO REDUCE
10 PERCENTAGE.—The Secretary—

11 “(A) may reduce, as the needs of the Coast
12 Guard require, any of the percentages set forth
13 in paragraph (1); and

14 “(B) shall apply that total percentage re-
15 duction to any other lower grade or combination
16 of lower grades.

17 “(c) COMPUTATIONS.—

18 “(1) IN GENERAL.—The Secretary shall com-
19 pute, at least once each year, the total number of
20 commissioned officers authorized to serve in each
21 grade by applying the grade distribution percentages
22 established by or under this section to the total
23 number of commissioned officers listed on the cur-
24 rent active duty promotion list.

1 “(2) ROUNDING FRACTIONS.—Subject to sub-
2 section (a), in making the computations under para-
3 graph (1), any fraction shall be rounded to the near-
4 est whole number.

5 “(3) TREATMENT OF OFFICERS SERVING OUT-
6 SIDE COAST GUARD.—The number of commissioned
7 officers on the active duty promotion list below the
8 rank of rear admiral (lower half) serving with other
9 Federal departments or agencies on a reimbursable
10 basis or excluded under section 324(d) of title 49
11 shall not be counted against the total number of
12 commissioned officers authorized to serve in each
13 grade.

14 “(d) USE OF NUMBERS; TEMPORARY INCREASES.—
15 The numbers resulting from computations under sub-
16 section (c) shall be, for all purposes, the authorized num-
17 ber in each grade; except that the authorized number for
18 a grade is temporarily increased during the period between
19 one computation and the next by the number of officers
20 originally appointed in that grade during that period and
21 the number of officers of that grade for whom vacancies
22 exist in the next higher grade but whose promotion has
23 been delayed for any reason.

24 “(e) OFFICERS SERVING COAST GUARD ACADEMY
25 AND RESERVE.—The number of officers authorized to be

1 serving on active duty in each grade of the permanent
2 commissioned teaching staff of the Coast Guard Academy
3 and of the Reserve serving in connection with organizing,
4 administering, recruiting, instructing, or training the re-
5 serve components shall be prescribed by the Secretary.”.

6 (b) CLERICAL AMENDMENT.—The analysis for chap-
7 ter 3 of such title is amended by striking the item relating
8 to section 42 and inserting the following:

“42. Number and distribution of commissioned officers on active duty promotion
list.”.

9 **SEC. 706. ADMINISTRATION OF MARITIME SECURITY.**

10 (a) ESTABLISH MARITIME SECURITY AS A COAST
11 GUARD FUNCTION.—Chapter 5 of title 14, United States
12 Code, is further amended by adding at the end the fol-
13 lowing new section:

14 **“§ 103. Maritime security**

15 “To protect life, property, and the environment on,
16 under, and over waters subject to the jurisdiction of the
17 United States and on vessels subject to the jurisdiction
18 of the United States, the Commandant shall promote mar-
19 itime security as follows:

20 “(1) By taking actions necessary in the public
21 interest to protect such life, property, and the envi-
22 ronment.

23 “(2) Based on priorities established by the
24 Commandant including—

1 “(A) protecting maritime borders from all
2 intrusions, reducing the risk from terrorism to
3 United States passengers at foreign and domes-
4 tic ports and in designated waterfront facilities,
5 and preventing and responding to terrorist at-
6 tacks and other homeland security threats;

7 “(B) protecting critical maritime infra-
8 structure and other key resources; and

9 “(C) preventing, to the maximum extent
10 practicable, a transportation security incident
11 as defined in section 70101 of title 46.”.

12 (b) CLERICAL AMENDMENT.—The analysis at the be-
13 ginning of such chapter is further amended by adding at
14 the end the following new item:

“Sec. 103. Maritime security.”.

15 (c) MARITIME SECURITY STAFF.—

16 (1) IN GENERAL.—Chapter 3 of title 14, United
17 States Code, is further amended by adding at the
18 end the following new sections:

19 **“§ 60. Maritime security workforce**

20 “(a) DESIGNATION OF MARITIME SECURITY WORK-
21 FORCE.—

22 “(1) IN GENERAL.—The Secretary, acting
23 through the Commandant, shall ensure appropriate
24 coverage of maritime security missions within the
25 workforce in each sector.

1 “(2) REQUIRED POSITIONS.—In designating po-
2 sitions under paragraph (1), the Secretary shall in-
3 clude the following maritime security-related posi-
4 tions:

5 “(A) Program oversight.

6 “(B) Counterterrorism functions.

7 “(C) Counterintelligence functions.

8 “(D) Criminal investigations related to
9 maritime security.

10 “(E) Port security enforcement.

11 “(F) Any other activities that the Com-
12 mandant deems as necessary.

13 “(3) MARITIME SECURITY MANAGEMENT AC-
14 TIVITIES.—The Secretary shall also designate under
15 paragraph (1) those maritime security-related man-
16 agement positions located at Coast Guard head-
17 quarters, Coast Guard Readiness Command, Coast
18 Guard Operations Command, the Deployable Oper-
19 ations Group, and the Intelligence Coordination Cen-
20 ter.

21 “(b) CAREER PATHS.—The Secretary, acting
22 through the Commandant, may establish appropriate ca-
23 reer paths for civilian and military Coast Guard personnel
24 who wish to pursue careers in maritime security are identi-
25 fied in terms of the education, training, experience, and

1 assignments necessary for career progression of civilians
2 and member of the Armed Forces to the most senior mari-
3 time security positions. The Secretary shall make available
4 published information on such career paths.

5 “(c) BALANCED WORKFORCE POLICY.—In the devel-
6 opment of maritime security workforce policies under this
7 section with respect to any civilian employees or applicants
8 for employment with the Coast Guard, the Secretary shall,
9 consistent with the merit system principles set out in para-
10 graphs (1) and (2) of section 2301(b) of title 5, take into
11 consideration the need to maintain a balanced workforce
12 in which women and members of racial and ethnic minor-
13 ity groups are appropriately represented in Government
14 service.

15 “(d) SECTOR CHIEF OF MARITIME SECURITY.—

16 “(1) IN GENERAL.—The Commandant may as-
17 sign, as appropriate, a Chief of Maritime Security
18 who shall be at least a Lieutenant Commander or ci-
19 vilian employee within the grade GS–13 of the Gen-
20 eral Schedule in each Coast Guard sector.

21 “(2) FUNCTIONS.—The Chief of Maritime Se-
22 curity for a sector—

23 “(A) is responsible for all individuals who,
24 on behalf of the Coast Guard, conduct port se-
25 curity operations, counterterrorism operations,

1 intelligence and counterintelligence operations,
2 and support national defense operations; and

3 “(B) if not the Coast Guard officer in
4 command of that sector, is the principal advisor
5 to the Sector Commander regarding maritime
6 security matters in that sector.

7 “(e) SIGNATORIES OF LETTER OF QUALIFICATION.—
8 Each individual signing a letter of qualification for mari-
9 time security personnel must hold a letter of qualification
10 for the type being certified.

11 **“§ 61. Centers of expertise for maritime security**

12 “(a) ESTABLISHMENT.—The Commandant may es-
13 tablish and operate one or more centers of Maritime Secu-
14 rity (in this section referred to as a ‘Center’).

15 “(b) MISSIONS.—The Centers shall—

16 “(1) be used to facilitate education, training, and
17 research in maritime security including maritime do-
18 main awareness, counterterrorism policy and oper-
19 ations, and intelligence collection, fusion, and dis-
20 semination;

21 “(2) develop a repository on information on
22 maritime security; and

23 “(3) perform any other function as the Com-
24 mandant may specify.

1 “(c) JOINT OPERATION WITH EDUCATIONAL INSTI-
 2 TUTION AUTHORIZED.—The Commandant may enter into
 3 an agreement with an appropriate official of an institution
 4 of higher education to—

5 “(1) provide for joint operation of a Center;
 6 and

7 “(2) provide necessary administrative service
 8 for a Center, including administration and allocation
 9 of funds.

10 “(d) ACCEPTANCE OF DONATIONS.—

11 “(1) IN GENERAL.—The Commandant may ac-
 12 cept, on behalf of a center, donations to be used to
 13 defray the costs of the Center or to enhance the op-
 14 eration of the Center.

15 “(2) GUIDANCE.—The Commandant shall pre-
 16 scribe written guidance setting forth the criteria to
 17 be used in determining if the acceptance of a dona-
 18 tion is appropriate.”.

19 (2) CLERICAL AMENDMENT.—The analysis at
 20 the beginning of such chapter is further amended by
 21 adding at the end the following new items:

“Sec. 60. Maritime security workforce.

“Sec. 61. Centers of expertise for maritime security.”.

22 (d) POWERS AND DUTIES.—Section 93 of title 14,
 23 United States Code, is amended by adding at the end the
 24 following new subsection:

1 “(e) In exercising the Commandant’s duties and re-
2 sponsibilities with regard to maritime security, the Com-
3 mandant shall designate a flag officer to serve as the prin-
4 cipal advisor to the Commandant for maritime security.
5 The designee shall have at least 10 years combined experi-
6 ence in operations, intelligence, counterterrorism, counter-
7 intelligence, port security, criminal investigations (except
8 maritime casualty investigations), and port security or
9 other maritime security functions, and at least four years
10 of leadership experience at a staff or unit carrying out
11 maritime security functions.”.

12 **SEC. 707. MARITIME SECURITY RESPONSE TEAMS.**

13 Section 70106 of title 46, United States Code, is
14 amended by striking subsection (c) and inserting the fol-
15 lowing:

16 “(c) MARITIME SECURITY RESPONSE TEAMS.—

17 “(1) IN GENERAL.—In addition to the maritime
18 safety and security teams, the Secretary shall estab-
19 lish no less than two maritime security response
20 teams to act as the Coast Guard’s rapidly deployable
21 counterterrorism and law enforcement response
22 units that can apply advanced interdiction skills in
23 response to threats of maritime terrorism.

24 “(2) MINIMIZATION OF RESPONSE TIME.—The
25 maritime security response teams shall be stationed

1 in such a way to minimize, to the extent practicable,
2 the response time to any reported maritime terrorist
3 threat.

4 “(3) DEDICATED AVIATION SUPPORT.—The
5 maritime security response teams required by this
6 subsection shall include a deployable aviation sup-
7 port element capable of providing regular training to
8 ensure a maritime security response team’s pro-
9 ficiency in vertical insertion operations.

10 “(d) COORDINATION WITH OTHER AGENCIES.—To
11 the maximum extent feasible, each maritime safety and
12 security team and maritime security response team shall
13 coordinate its activities with other Federal, State, and
14 local law enforcement and emergency response agencies.”.

15 **SEC. 708. MARITIME SAFETY AND SECURITY TEAMS.**

16 None of the funds authorized in this Act may be used
17 to decommission or otherwise reduce the capabilities of a
18 maritime safety and security team commissioned prior to
19 the date of enactment of this Act unless the Secretary cer-
20 tifies in writing to the Committee on Homeland Security
21 of the House of Representatives and the Committee on
22 Commerce, Science, and Transportation of the Senate that
23 such a decommissioning would not diminish the Coast
24 Guard’s ability to respond in an effective and timely man-
25 ner to a suspected terrorism or other homeland security

1 threat in the port or region where such a maritime safety
2 and security team is located.

3 **SEC. 709. WATERSIDE SECURITY OF CERTAIN DANGEROUS**
4 **CARGO.**

5 (a) NATIONAL STUDY.—

6 (1) IN GENERAL.—The Secretary of Homeland
7 Security, acting through the Commandant of the
8 Coast Guard, shall—

9 (A) initiate a national study to identify
10 measures to improve the security of maritime
11 transportation of certain dangerous cargo; and

12 (B) coordinate with other Federal agen-
13 cies, the National Maritime Security Advisory
14 Committee, and appropriate State and local
15 government officials through the Area Maritime
16 Security Committees and other existing coordi-
17 nating committees, to evaluate the waterside se-
18 curity of vessels carrying, and waterfront facili-
19 ties handling, certain dangerous cargo.

20 (2) MATTERS TO BE INCLUDED.—The study
21 conducted under this subsection shall include—

22 (A) an analysis of existing risk assessment
23 information relating to waterside security gen-
24 erated by the Coast Guard and Area Maritime

1 Security Committees as part of the Maritime
2 Security Risk Assessment Model;

3 (B) a review and analysis of appropriate
4 roles and responsibilities of maritime stake-
5 holders, including Federal, State, and local law
6 enforcement and industry security personnel,
7 responsible for waterside security of vessels car-
8 rying, and waterfront facilities handling, certain
9 dangerous cargo, including—

10 (i) the number of ports in which State
11 and local law enforcement entities are pro-
12 viding any services to enforce Coast
13 Guard-imposed security zones around ves-
14 sels transiting to, through, or from United
15 States ports or to conduct security patrols
16 in United States ports;

17 (ii) the number of formal agreements
18 entered into between the Coast Guard and
19 State and local law enforcement entities to
20 engage State and local law enforcement en-
21 tities in the enforcement of Coast Guard-
22 imposed security zones around vessels
23 transiting to, through, or from United
24 States ports or the conduct of port security
25 patrols in United States ports, the dura-

1 tion of those agreements, and the aid that
2 State and local entities are engaged to pro-
3 vide through such agreements;

4 (iii) the extent to which the Coast
5 Guard has set national standards for train-
6 ing, equipment, and resources to ensure
7 that State and local law enforcement enti-
8 ties engaged in enforcing Coast Guard-im-
9 posed security zones around vessels
10 transiting to, through, or from United
11 States ports or in conducting port security
12 patrols in United States ports (or both)
13 can deter to the maximum extent prac-
14 ticable a transportation security incident;

15 (iv) the extent to which the Coast
16 Guard has assessed the ability of State
17 and local law enforcement entities to carry
18 out the security assignments that they
19 have been engaged to perform, including
20 their ability to meet any national stand-
21 ards for training, equipment, and resources
22 that have been established by the Coast
23 Guard in order to ensure that those enti-
24 ties can deter to the maximum extent prac-
25 ticable a transportation security incident;

1 (v) the extent to which State and local
2 law enforcement entities are able to meet
3 national standards for training, equipment,
4 and resources established by the Coast
5 Guard to ensure that those entities can
6 deter to the maximum extent practicable a
7 transportation security incident;

8 (vi) the differences in law enforcement
9 authority, and particularly boarding au-
10 thority, between the Coast Guard and
11 State and local law enforcement entities,
12 and the impact that these differences have
13 on the ability of State and local law en-
14 forcement entities to provide the same level
15 of security that the Coast Guard provides
16 during the enforcement of Coast Guard-im-
17 posed security zones and the conduct of se-
18 curity patrols in United States ports; and

19 (vii) the extent of resource, training,
20 and equipment differences between State
21 and local law enforcement entities and the
22 Coast Guard units engaged in enforcing
23 Coast Guard-imposed security zones
24 around vessels transiting to, through, or

1 from United States ports or conducting se-
2 curity patrols in United States ports;

3 (C) recommendations for risk-based secu-
4 rity measures to improve waterside security of
5 vessels carrying, and waterfront facilities han-
6 dling, certain dangerous cargo; and

7 (D) identification of security funding alter-
8 natives, including an analysis of the potential
9 for cost-sharing by the public and private sec-
10 tors as well as any challenges associated with
11 such cost-sharing.

12 (3) INFORMATION PROTECTION.—In carrying
13 out the coordination necessary to effectively com-
14 plete the study, the Commandant shall implement
15 measures to ensure the protection of any sensitive
16 security information, proprietary information, or
17 classified information collected, reviewed, or shared
18 during collaborative engagement with maritime
19 stakeholders and other Government entities, except
20 that nothing in this paragraph shall constitute au-
21 thority to withhold information from—

22 (A) the Congress; or

23 (B) first responders requiring such infor-
24 mation for the protection of life or property.

1 (4) REPORT.—Not later than 12 months after
2 the date of enactment of this Act, the Secretary, act-
3 ing through the Commandant, shall submit to the
4 Committees on Homeland Security and Transpor-
5 tation and Infrastructure of the House of Represent-
6 atives and the Committees on Commerce, Science,
7 and Transportation and Homeland Security and
8 Governmental Affairs of the Senate a report on the
9 results of the study under this subsection.

10 (b) NATIONAL STRATEGY.—Not later than 6 months
11 after submission of the report required by subsection (a),
12 the Secretary, acting through the Commandant, shall de-
13 velop, in conjunction with appropriate Federal agencies,
14 a national strategy for the waterside security of vessels
15 carrying, and waterfront facilities handling, certain dan-
16 gerous cargo. The strategy shall utilize the results of the
17 study required by subsection (a).

18 (c) SECURITY OF CERTAIN DANGEROUS CARGO.—

19 (1) ENFORCEMENT OF SECURITY ZONES.—Con-
20 sistent with other provisions of Federal law, the
21 Coast Guard shall coordinate and be responsible for
22 the enforcement of any Federal security zone estab-
23 lished by the Coast Guard around a vessel con-
24 taining certain dangerous cargo. The Coast Guard
25 shall allocate available resources so as to deter and

1 respond to a transportation security incident, to the
2 maximum extent practicable, and to protect lives or
3 protect property in danger.

4 (2) LIMITATION ON RELIANCE ON STATE AND
5 LOCAL GOVERNMENT.—Any security arrangement
6 approved after the date of enactment of this Act to
7 assist in the enforcement of any security zone estab-
8 lished by the Coast Guard around a vessel carrying
9 a certain dangerous cargo or around a waterfront fa-
10 cility handling a certain dangerous cargo may not be
11 based upon the provision of security by a State or
12 local government unless the Secretary, acting
13 through the Commandant of the Coast Guard, en-
14 sures that the waterborne patrols operated as part
15 of that security arrangement by a State or local gov-
16 ernment have the training, resources, personnel, and
17 experience necessary to carry out the security re-
18 sponsibilities that they have been engaged to per-
19 form in order, to the maximum extent practicable, to
20 deter and respond to a transportation security inci-
21 dent.

22 (3) DETERMINATION REQUIRED FOR NEW FA-
23 CILITIES.—The Secretary of Homeland Security,
24 acting through the Commandant of the Coast
25 Guard, may not approve a facility security plan

1 under section 70103 of title 46, United States Code,
2 for a new facility the construction of which is begun
3 after the date of enactment of this Act, that receives
4 or ships through maritime commerce certain dan-
5 gerous cargo unless the Secretary determines that
6 there are sufficient resources available to ensure
7 compliance with the facility security plan.

8 (4) RESOURCE DEFICIENCY REPORTING.—The
9 Secretary, acting through the Commandant of the
10 Coast Guard, shall provide to the Committees on
11 Homeland Security and Transportation and Infra-
12 structure of the House of Representatives and the
13 Committees on Commerce, Science, and Transpor-
14 tation and Homeland Security and Governmental
15 Affairs of the Senate 90 days after the end of each
16 fiscal year a report indicating—

17 (A) the number of security zones estab-
18 lished for certain dangerous cargo shipments;

19 (B) the number of certain dangerous cargo
20 shipments provided a waterborne security es-
21 cort, subdivided by Federal, State, local, or pri-
22 vate security; and

23 (C) an assessment as to any additional ves-
24 sels, personnel, infrastructure, and other re-
25 sources necessary to provide waterborne escorts

1 to those certain dangerous cargo shipments for
2 which a security zone is established.

3 (d) DEFINITIONS.—For the purposes of this section,
4 the follow definitions apply:

5 (1) CERTAIN DANGEROUS CARGO.—The term
6 “certain dangerous cargo” means a material, or a
7 group or class of material, in a particular amount
8 and form that the Secretary, through the Com-
9 mandant, determines by regulation poses a signifi-
10 cant risk of creating a transportation security inci-
11 dent while being transported in maritime commerce.

12 (2) AREA MARITIME SECURITY COMMITTEE.—
13 The term “Area Maritime Security Committee”
14 means each of those committees responsible for pro-
15 ducing Area Maritime Transportation Security Plans
16 under chapter 701 of title 46, United States Code.

17 (3) TRANSPORTATION SECURITY INCIDENT.—
18 The term “transportation security incident” has the
19 same meaning as that term has in section 70101 of
20 title 46, United States Code.

21 **SEC. 710. COAST GUARD VESSELS AND AIRCRAFT.**

22 (a) AUTHORITY TO FIRE AT OR INTO A VESSEL.—
23 Section 637(c) of title 14, United States Code, is amend-
24 ed—

1 (1) in paragraph (1), by striking “; or” and in-
2 serting a semicolon;

3 (2) in paragraph (2), by striking the period at
4 the end and inserting “; or”; and

5 (3) by adding at the end the following:

6 “(3) any other vessel or aircraft on government
7 noncommercial service when—

8 “(A) the vessel or aircraft is under the tac-
9 tical control of the Coast Guard; and

10 “(B) at least one member of the Coast
11 Guard is assigned and conducting a Coast
12 Guard mission on the vessel or aircraft.”.

13 (b) **AUTHORITY TO DISPLAY COAST GUARD ENSIGNS**
14 **AND PENNANTS.**—Section 638(a) of title 14, United
15 States Code, is amended by striking “Coast Guard vessels
16 and aircraft” and inserting “Vessels and aircraft author-
17 ized by the Secretary”.

18 **SEC. 711. LASER TRAINING SYSTEM.**

19 (a) **IN GENERAL.**—Within one year after the date of
20 enactment of this Act, the Secretary shall test an inte-
21 grated laser engagement system for the training of mem-
22 bers of the Coast Guard assigned to small vessels in the
23 use of individual weapons and machine guns on those ves-
24 sels. The test shall be conducted on vessels on the Great
25 Lakes using similar laser equipment used by other Federal

1 agencies. However, that equipment shall be adapted for
2 use in the marine environment.

3 (b) REPORT.—The Secretary shall submit a report to
4 the Committee on Transportation and Infrastructure and
5 the Committee on Homeland Security of the House of
6 Representatives and the Committee on Commerce,
7 Science, and Transportation of the Senate within 6
8 months after the conclusions of the test required under
9 subsection (a) on the costs and benefits of using the sys-
10 tem regionally and nationwide to train members of the
11 Coast Guard in the use of individual weapons and machine
12 guns.

13 **SEC. 712. COAST GUARD DETECTION CANINE TEAM PRO-**
14 **GRAM EXPANSION.**

15 (a) DEFINITIONS.—For purposes of this section:

16 (1) CANINE DETECTION TEAM.—The term “de-
17 tection canine team” means a canine and a canine
18 handler that are trained to detect narcotics or explo-
19 sives, or other threats as defined by the Secretary.

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

22 (b) DETECTION CANINE TEAMS.—

23 (1) INCREASED CAPACITY.—Not later than 240
24 days after the date of enactment of this Act, the
25 Secretary shall—

1 (A) begin to increase the number of detec-
2 tion canine teams certified by the Coast Guard
3 for the purposes of maritime-related security by
4 no fewer than 10 canine teams annually
5 through fiscal year 2013; and

6 (B) encourage owners and operators of
7 port facilities, passenger cruise liners, ocean-
8 going cargo vessels, and other vessels identified
9 by the Secretary to strengthen security through
10 the use of highly trained detection canine
11 teams.

12 (2) CANINE PROCUREMENT.—The Secretary,
13 acting through the Commandant of the Coast
14 Guard, shall—

15 (A) procure detection canine teams as effi-
16 ciently as possible, including, to the greatest ex-
17 tent possible, through increased domestic breed-
18 ing, while meeting the performance needs and
19 criteria established by the Commandant;

20 (B) support expansion and upgrading of
21 existing canine training facilities operated by
22 the Department of Homeland Security; and

23 (C) as appropriate, partner with other
24 Federal, State, or local agencies, nonprofit or-
25 ganizations, universities, or the private sector to

1 increase the breeding and training capacity for
2 Coast Guard canine detection teams.

3 (c) DEPLOYMENT.—The Secretary shall prioritize de-
4 ployment of the additional canine teams to ports based
5 on risk, consistent with the Security and Accountability
6 For Every Port Act of 2006 (Public Law 109–347).

7 **SEC. 713. MARITIME BIOMETRIC IDENTIFICATION.**

8 (a) IN GENERAL.—Within one year after the date of
9 the enactment of this Act, the Secretary of Homeland Se-
10 curity, acting through the Commandant of the Coast
11 Guard, shall conduct, in the maritime environment, a pro-
12 gram for the mobile biometric identification of suspected
13 individuals, including terrorists, to enhance border secu-
14 rity and for other purposes.

15 (b) REQUIREMENTS.—The Secretary shall ensure the
16 program required in this section is coordinated with other
17 biometric identification programs within the Department
18 of Homeland Security.

19 (c) COST ANALYSIS.—Within 90 days after the date
20 of the enactment of this Act, the Secretary shall submit
21 to the Committees on Appropriations and Homeland Secu-
22 rity of the House of Representatives and the Committees
23 on Appropriations and Homeland Security and Govern-
24 mental Affairs of the Senate an analysis of the cost of
25 expanding the Coast Guard’s biometric identification ca-

1 pabilities for use by the Coast Guards Deployable Oper-
2 ations Group, cutters, stations, and other deployable mari-
3 time teams considered appropriate by the Secretary, and
4 any other appropriate Department of Homeland Security
5 maritime vessels and units. The analysis may include a
6 tiered plan for the deployment of this program that gives
7 priority to vessels and units more likely to encounter indi-
8 viduals suspected of making illegal border crossings
9 through the maritime environment.

10 (d) DEFINITION.—For the purposes of this section,
11 the term “biometric identification” means use of finger-
12 print and digital photography images and facial and iris
13 scan technology.

14 (e) STUDY ON COMBINATION OF FACIAL AND IRIS
15 RECOGNITION.—

16 (1) STUDY REQUIRED.—The Secretary of
17 Homeland Security shall carry out a study on the
18 use by the Coast Guard of the combination of facial
19 and iris recognition to rapidly identify individuals
20 for security purposes. Such study shall focus on—

21 (A) increased accuracy of facial recogni-
22 tion;

23 (B) enhancement of existing iris recogni-
24 tion technology; and

1 (C) establishment of integrated face and
2 iris features for accurate identification of indi-
3 viduals.

4 (2) PURPOSE OF STUDY.—The purpose of the
5 study required by paragraph (1) is to facilitate the
6 use of a combination of facial and iris recognition to
7 provide a higher probability of success in identifica-
8 tion than either approach on its own and to achieve
9 transformational advances in the flexibility, authen-
10 ticity, and overall capability of integrated biometric
11 detectors and satisfy one of major issues with war
12 against terrorists. The operational goal of the study
13 should be to provide the capability to nonintrusively
14 collect biometrics (face image, iris) in an accurate
15 and expeditious manner to assist the Coast Guard in
16 fulfilling its mission to protect and support national
17 security.

18 **SEC. 714. REVIEW OF POTENTIAL THREATS.**

19 Not later than 1 year after the date of enactment
20 of this Act, the Secretary of Homeland Security shall sub-
21 mit to the Committee on Homeland Security and the Com-
22 mittee on Transportation and Infrastructure of the House
23 of Representatives and the Committee on Commerce,
24 Science, and Transportation of the Senate a report ana-
25 lyzing the threat, vulnerability, and consequence of a ter-

1 rorist attack on gasoline and chemical cargo shipments in
2 port activity areas in the United States.

3 **SEC. 715. PORT SECURITY PILOT.**

4 The Secretary of Homeland Security shall establish
5 a pilot program to test and deploy preventive radiological
6 or nuclear detection equipment on Coast Guard vessels
7 and other locations in select port regions to enhance bor-
8 der security and for other purposes. The pilot program
9 shall leverage existing Federal grant funding to support
10 this program and the procurement of additional equip-
11 ment.

12 **SEC. 716. SEASONAL WORKERS.**

13 (a) STUDY.—The Comptroller General of the United
14 States shall conduct a study on the effects that the Trans-
15 portation Worker Identification Credential (in this section
16 referred to as “TWIC”) required by section 70105 of title
17 46, United States Code, has on companies that employ
18 seasonal employees.

19 (b) REPORT.—Not later than one year after the date
20 of enactment of this Act, the Comptroller General shall
21 submit a report to the Committee on Homeland Security
22 and the Committee on Transportation and Infrastructure
23 of the House of Representatives and the Committee on
24 Commerce, Science, and Transportation of the Senate on
25 the results of the study, including—

1 (1) costs associated in requiring seasonal em-
2 ployees to obtain TWIC cards on companies;

3 (2) whether the Coast Guard and Transpor-
4 tation Security Administration are processing TWIC
5 applications quickly enough for seasonal workers to
6 obtain TWIC certification;

7 (3) whether TWIC compliance costs or other
8 factors have led to a reduction in service;

9 (4) the impact of TWIC on the recruiting and
10 hiring of seasonal and other temporary employees;
11 and

12 (5) an assessment of possible alternatives to
13 TWIC certification that may be used for seasonal
14 employees including any security vulnerabilities cre-
15 ated by those alternatives.

16 **SEC. 717. PILOT PROGRAM FOR FINGERPRINTING OF MARI-**
17 **TIME WORKERS.**

18 (a) IN GENERAL.—Within 180 days after the date
19 of enactment of this Act, the Secretary of Homeland Secu-
20 rity shall establish procedures providing for an individual
21 who is required to be fingerprinted for purposes of obtain-
22 ing a transportation security card under section 70105 of
23 title 46, United States Code, to be fingerprinted at any
24 facility operated by or under contract with an agency of

1 the Department of Homeland Security that fingerprints
2 the public for the Department.

3 (b) EXPIRATION.—This section expires on December
4 31, 2012.

5 **SEC. 718. TRANSPORTATION SECURITY CARDS ON VESSELS.**

6 Section 70105(b)(2) of title 46, United States Code,
7 is amended—

8 (1) in subparagraph (B), by inserting after
9 “title” the following: “allowed unescorted access to
10 a secure area designated in a vessel security plan ap-
11 proved under section 70103 of this title”; and

12 (2) in subparagraph (D), by inserting after
13 “tank vessel” the following: “allowed unescorted ac-
14 cess to a secure area designated in a vessel security
15 plan approved under section 70103 of this title”.

16 **SEC. 719. INTERNATIONAL LABOR STUDY.**

17 The Comptroller General of the United States shall
18 conduct a study of methods to conduct a background secu-
19 rity investigation of an individual who possesses a biomet-
20 ric identification card that complies with International
21 Labor Convention number 185 that are equivalent to the
22 investigation conducted on individuals applying for a visa
23 to enter the United States. The Comptroller General shall
24 submit a report on the study within 180 days after the
25 date of enactment of this Act to the Committee on Trans-

1 portation and Infrastructure and the Committee on
2 Homeland Security of the House of Representatives and
3 the Committee on Commerce, Science, and Transportation
4 of the Senate.

5 **SEC. 720. MARITIME SECURITY ADVISORY COMMITTEES.**

6 Section 70112 of title 46, United States Code, is
7 amended—

8 (1) by amending subsection (b)(5) to read as
9 follows:

10 “(5)(A) The National Maritime Security Advisory
11 Committee shall be composed of—

12 “(i) at least 1 individual who represents the in-
13 terests of the port authorities;

14 “(ii) at least 1 individual who represents the in-
15 terests of the facilities owners or operators;

16 “(iii) at least 1 individual who represents the
17 interests of the terminal owners or operators;

18 “(iv) at least 1 individual who represents the
19 interests of the vessel owners or operators;

20 “(v) at least 1 individual who represents the in-
21 terests of the maritime labor organizations;

22 “(vi) at least 1 individual who represents the
23 interests of the academic community;

24 “(vii) at least 1 individual who represents the
25 interests of State or local governments; and

1 “(viii) at least 1 individual who represents the
2 interests of the maritime industry.

3 “(B) Each Area Maritime Security Advisory Com-
4 mittee shall be composed of individuals who represents the
5 interests of the port industry, terminal operators, port
6 labor organizations, and other users of the port areas.”;
7 and

8 (2) in subsection (g)—

9 (A) in paragraph (1)(A), by striking
10 “2008;” and inserting “2010;”;

11 (B) by repealing paragraph (2);

12 (C) by striking “(1)”; and

13 (D) by redesignating subparagraphs (A)
14 and (B) as paragraphs (1) and (2).

15 **SEC. 721. SEAMEN’S SHORESIDE ACCESS.**

16 Each facility security plan approved under section
17 70103(c) of title 46, United States Code, shall provide a
18 system for seamen assigned to a vessel at that facility,
19 pilots, and representatives of seamen’s welfare and labor
20 organizations to board and depart the vessel through the
21 facility in a timely manner at no cost to the individual.

22 **SEC. 722. USE OF FORCE AGAINST PIRACY.**

23 (a) IN GENERAL.—Chapter 81 of title 46, United
24 States Code, is amended by adding at the end the fol-
25 lowing new section:

1 **“§ 8107. Use of force against piracy**

2 “A person who uses force at sea to defend a vessel
3 against an act of piracy shall not be liable for monetary
4 damages in any action brought with respect to harm
5 caused by such use of force to anyone engaging in such
6 act of piracy, unless the person using such force knew at
7 the time that it was substantially in excess of what was
8 reasonable in defending the vessel against such act of pi-
9 racy.”.

10 (b) CLERICAL AMENDMENT.—The analysis at the be-
11 ginning of such chapter is amended by adding at the end
12 the following new item:

“8107. Use of force against piracy.”.

13 **SEC. 723. AGREEMENTS.**

14 To carry out the purpose of this title, the Secretary
15 shall work through the International Maritime Organiza-
16 tion to establish agreements to promote coordinated action
17 among flag- and port-states to deter, protect against, and
18 rapidly respond to acts of piracy against the vessels of,
19 and in the waters under the jurisdiction of, those nations,
20 and to ensure limitations on liability similar to those es-
21 tablished by section 8107 of title 46, United States Code,
22 as amended by this title.

1 **SEC. 724. RISK-BASED CARGO SECURITY PROGRAM.**

2 (a) IN GENERAL.—Section 1701 of the Implementing
3 Recommendations of the 9/11 Commission Act of 2007
4 (Public Law 110–53) is amended by—

5 (1) striking section 1701(b)(2);

6 (2) striking “under (2)(B)” in section
7 1701(b)(3); and

8 (3) striking “specified in paragraph (2)(A) or
9 (2)(B)” in section 1701(b)(4).

10 (b) RISK-BASED SCANNING.—The Secretary shall ex-
11 pand the Container Security Initiative program estab-
12 lished in section 205 of the SAFE Port Act (Public Law
13 109–347) to not less than five additional foreign ports not
14 later than December 31, 2012.

15 **Subtitle B—Alien Smuggling and**
16 **Terrorism Prevention**

17 **SEC. 731. SHORT TITLE.**

18 This subtitle may be cited as the “Alien Smuggling
19 and Terrorism Prevention Act of 2010”.

20 **SEC. 732. FINDINGS.**

21 The Congress makes the following findings:

22 (1) Alien smuggling by land, air and sea is a
23 transnational crime that violates the integrity of
24 United States borders, compromises our Nation’s
25 sovereignty, places the country at risk of terrorist
26 activity, and contravenes the rule of law.

1 (2) Aggressive enforcement activity against
2 alien smuggling is needed to protect our borders and
3 ensure the security of our Nation. The border secu-
4 rity and anti-smuggling efforts of the men and
5 women on the Nation's front line of defense are to
6 be commended. Special recognition is due the De-
7 partment of Homeland Security through the United
8 States Border Patrol, Coast Guard, Customs and
9 Border Protection, and Immigration and Customs
10 Enforcement, and the Department of Justice
11 through the Federal Bureau of Investigation.

12 (3) The law enforcement community must be
13 given the statutory tools necessary to address this
14 security threat. Only through effective alien smug-
15 gling statutes can the Justice Department, through
16 the United States Attorneys' Offices and the Domes-
17 tic Security Section of the Criminal Division, pros-
18 ecute these cases successfully.

19 (4) Alien smuggling has a destabilizing effect
20 on border communities. State and local law enforce-
21 ment, medical personnel, social service providers,
22 and the faith community play important roles in
23 combating smuggling and responding to its effects.

1 (5) Existing penalties for alien smuggling are
2 insufficient to provide appropriate punishment for
3 alien smugglers.

4 (6) Existing alien smuggling laws often fail to
5 reach the conduct of alien smugglers, transporters,
6 recruiters, guides, and boat captains.

7 (7) Existing laws concerning failure to heave to
8 are insufficient to appropriately punish boat opera-
9 tors and crew who engage in the reckless transpor-
10 tation of aliens on the high seas and seek to evade
11 capture.

12 (8) Much of the conduct in alien smuggling
13 rings occurs outside of the United States. Extrater-
14 ritorial jurisdiction is needed to ensure that smug-
15 gling rings can be brought to justice for recruiting,
16 sending, and facilitating the movement of those who
17 seek to enter the United States without lawful au-
18 thority.

19 (9) Alien smuggling can include unsafe or reck-
20 lessly dangerous conditions that expose individuals
21 to particularly high risk of injury or death.

22 **SEC. 733. CHECKS AGAINST TERRORIST WATCHLIST.**

23 The Secretary of Homeland Security shall, to the ex-
24 tent practicable, check against all available terrorist
25 watchlists those persons suspected of alien smuggling and

1 smuggled individuals who are interdicted at the land, air,
2 and sea borders of the United States.

3 **SEC. 734. STRENGTHENING PROSECUTION AND PUNISH-**
4 **MENT OF ALIEN SMUGGLERS.**

5 Section 274(a) of the Immigration and Nationality
6 Act (8 U.S.C. 1324(a)) is amended—

7 (1) by amending the subsection heading to read
8 as follows: “BRINGING IN, HARBORING, AND SMUG-
9 GLING OF UNLAWFUL AND TERRORIST ALIENS.—”;
10 and

11 (2) by amending paragraphs (1) through (2) to
12 read as follows:

13 “(1)(A) Whoever, knowing or in reckless disregard of
14 the fact that an individual is an alien who lacks lawful
15 authority to come to, enter, or reside in the United States,
16 knowingly—

17 “(i) brings that individual to the United States
18 in any manner whatsoever regardless of any future
19 official action which may be taken with respect to
20 such individual;

21 “(ii) recruits, encourages, or induces that indi-
22 vidual to come to, enter, or reside in the United
23 States;

1 “(iii) transports or moves that individual in the
2 United States, in furtherance of their unlawful pres-
3 ence; or

4 “(iv) harbors, conceals, or shields from detec-
5 tion the individual in any place in the United States,
6 including any building or any means of transpor-
7 tation;

8 or attempts or conspires to do so, shall be punished as
9 provided in subparagraph (C).

10 “(B) Whoever, knowing that an individual is an alien,
11 brings that individual to the United States in any manner
12 whatsoever at a place, other than a designated port of
13 entry or place designated by the Secretary of Homeland
14 Security, regardless of whether such individual has re-
15 ceived prior official authorization to come to, enter, or re-
16 side in the United States and regardless of any future offi-
17 cial action which may be taken with respect to such indi-
18 vidual, or attempts or conspires to do so, shall be punished
19 as provided in subparagraph (C).

20 “(C) Whoever commits an offense under this para-
21 graph shall, for each individual in respect to whom such
22 a violation occurs—

23 “(i) if the offense results in the death of any
24 person, be fined under title 18, United States Code,

1 and subject to the penalty of death or imprisonment
2 for any term of years or for life;

3 “(ii) if the offense involves kidnaping, an at-
4 tempt to kidnap, the conduct required for aggra-
5 vated sexual abuse (as defined in section 2241 of
6 title 18, United States Code, without regard to
7 where it takes place), or an attempt to commit such
8 abuse, or an attempt to kill, be fined under title 18,
9 United States Code, or imprisoned for any term of
10 years or life, or both;

11 “(iii) if the offense involves an individual who
12 the defendant knew was engaged in or intended to
13 engage in terrorist activity (as defined in section
14 212(a)(3)(B)), be fined under title 18, United States
15 Code, or imprisoned not more than 30 years, or
16 both;

17 “(iv) if the offense results in serious bodily in-
18 jury (as defined in section 1365 of title 18, United
19 States Code) or places in jeopardy the life of any
20 person, be fined under title 18, United States Code,
21 or imprisoned not more than 20 years, or both;

22 “(v) if the offense is a violation of paragraph
23 (1)(A)(i) and was committed for the purpose of prof-
24 it, commercial advantage, or private financial gain,
25 or if the offense was committed with the intent or

1 reason to believe that the individual unlawfully
2 brought into the United States will commit an of-
3 fense against the United States or any State that is
4 punishable by imprisonment for more than 1 year,
5 be fined under title 18, United States Code, and im-
6 prisoned, in the case of a first or second violation,
7 not less than 3 nor more than 10 years, and for any
8 other violation, not less than 5 nor more than 15
9 years;

10 “(vi) if the offense is a violation of paragraph
11 (1)(A)(ii), (iii), or (iv), or paragraph (1)(B), and
12 was committed for the purpose of profit, commercial
13 advantage, or private financial gain, be fined under
14 title 18, United States Code, or imprisoned not more
15 than 10 years, or both;

16 “(vii) if the offense involves the transit of the
17 defendant’s spouse, child, sibling, parent, grand-
18 parent, or niece or nephew, and the offense is not
19 described in any of clauses (i) through (vi), be fined
20 under title 18, United States Code, or imprisoned
21 not more than 1 year, or both; and

22 “(viii) in any other case, be fined under title
23 18, United States Code, or imprisoned not more
24 than 5 years, or both.

1 “(2)(A) There is extraterritorial jurisdiction over the
2 offenses described in paragraph (1).

3 “(B) In a prosecution for a violation of, or an attempt
4 or conspiracy to violate, subsection (a)(1)(A)(i),
5 (a)(1)(A)(ii), or (a)(1)(B), that occurs on the high seas,
6 no defense based on necessity can be raised unless the de-
7 fendant—

8 “(i) as soon as practicable, reported to the
9 Coast Guard the circumstances of the necessity, and
10 if a rescue is claimed, the name, description, registry
11 number, and location of the vessel engaging in the
12 rescue; and

13 “(ii) did not bring, attempt to bring, or in any
14 manner intentionally facilitate the entry of any alien
15 into the land territory of the United States without
16 lawful authority, unless exigent circumstances ex-
17 isted that placed the life of that alien in danger, in
18 which case the reporting requirement set forth in
19 clause (i) is satisfied by notifying the Coast Guard
20 as soon as practicable after delivering the alien to
21 emergency medical or law enforcement personnel
22 ashore.

23 “(C) It is not a violation of, or an attempt or con-
24 spiracy to violate, clause (iii) or (iv) of paragraph (1)(A),
25 or paragraph (1)(A)(ii) (except if a person recruits, en-

1 courages, or induces an alien to come to or enter the
2 United States), for a religious denomination having a bona
3 fide nonprofit, religious organization in the United States,
4 or the agents or officer of such denomination or organiza-
5 tion, to encourage, invite, call, allow, or enable an alien
6 who is present in the United States to perform the voca-
7 tion of a minister or missionary for the denomination or
8 organization in the United States as a volunteer who is
9 not compensated as an employee, notwithstanding the pro-
10 vision of room, board, travel, medical assistance, and other
11 basic living expenses, provided the minister or missionary
12 has been a member of the denomination for at least one
13 year.

14 “(D) For purposes of this paragraph and paragraph
15 (1)—

16 “(i) the term ‘United States’ means the several
17 States, the District of Columbia, the Commonwealth
18 of Puerto Rico, Guam, American Samoa, the United
19 States Virgin Islands, the Commonwealth of the
20 Northern Mariana Islands, and any other territory
21 or possession of the United States; and

22 “(ii) the term ‘lawful authority’ means permis-
23 sion, authorization, or waiver that is expressly pro-
24 vided for in the immigration laws of the United
25 States or the regulations prescribed under those

1 laws and does not include any such authority se-
2 cured by fraud or otherwise obtained in violation of
3 law or authority that has been sought but not ap-
4 proved.”.

5 **SEC. 735. MARITIME LAW ENFORCEMENT.**

6 (a) PENALTIES.—Subsection (b) of section 2237 of
7 title 18, United States Code, is amended to read as fol-
8 lows:

9 “(b) Whoever intentionally violates this section
10 shall—

11 “(1) if the offense results in death or involves
12 kidnaping, an attempt to kidnap, the conduct re-
13 quired for aggravated sexual abuse (as defined in
14 section 2241 without regard to where it takes place),
15 or an attempt to commit such abuse, or an attempt
16 to kill, be fined under such title or imprisoned for
17 any term of years or life, or both;

18 “(2) if the offense results in serious bodily in-
19 jury (as defined in section 1365 of this title) or
20 transportation under inhumane conditions, be fined
21 under this title, imprisoned not more than 15 years,
22 or both;

23 “(3) if the offense is committed in the course
24 of a violation of section 274 of the Immigration and
25 Nationality Act (alien smuggling); chapter 77 (peon-

1 age, slavery, and trafficking in persons), section 111
2 (shipping), 111A (interference with vessels), 113
3 (stolen property), or 117 (transportation for illegal
4 sexual activity) of this title; chapter 705 (maritime
5 drug law enforcement) of title 46, or title II of the
6 Act of June 15, 1917 (Chapter 30; 40 Stat. 220),
7 be fined under this title or imprisoned for not more
8 than 10 years, or both; and

9 “(4) in any other case, be fined under this title
10 or imprisoned for not more than 5 years, or both.”.

11 (b) LIMITATION ON NECESSITY DEFENSE.—Section
12 2237(c) of title 18, United States Code, is amended—

13 (1) by inserting “(1)” after “(c)”; and

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

15 “(2) In a prosecution for a violation of this section,
16 no defense based on necessity can be raised unless the de-
17 fendant—

18 “(A) as soon as practicable upon reaching
19 shore, delivered the person with respect to which the
20 necessity arose to emergency medical or law enforce-
21 ment personnel;

22 “(B) as soon as practicable, reported to the
23 Coast Guard the circumstances of the necessity re-
24 sulting giving rise to the defense; and

1 “(C) did not bring, attempt to bring, or in any
2 manner intentionally facilitate the entry of any alien,
3 as that term is defined in section 101(a)(3) of the
4 Immigration and Nationality Act (8 U.S.C. 1101
5 (a)(3)), into the land territory of the United States
6 without lawful authority, unless exigent circum-
7 stances existed that placed the life of that alien in
8 danger, in which case the reporting requirement of
9 subparagraph (B) is satisfied by notifying the Coast
10 Guard as soon as practicable after delivering that
11 person to emergency medical or law enforcement
12 personnel ashore.”.

13 (c) DEFINITION.—Section 2237(e) of title 18, United
14 States Code, is amended—

15 (1) by striking “and” at the end of paragraph
16 (3);

17 (2) by striking the period at the end of para-
18 graph (4) and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(5) the term ‘transportation under inhumane
21 conditions’ means the transportation of persons in
22 an engine compartment, storage compartment, or
23 other confined space, transportation at an excessive
24 speed, transportation of a number of persons in ex-
25 cess of the rated capacity of the means of transpor-

1 tation, or intentionally grounding a vessel in which
2 persons are being transported.”.

3 **SEC. 736. AMENDMENT TO THE SENTENCING GUIDELINES.**

4 (a) IN GENERAL.—Pursuant to its authority under
5 section 994 of title 28, United States Code, and in accord-
6 ance with this section, the United States Sentencing Com-
7 mission shall review and, if appropriate, amend the sen-
8 tencing guidelines and policy statements applicable to per-
9 sons convicted of alien smuggling offenses and criminal
10 failure to heave to or obstruction of boarding.

11 (b) CONSIDERATIONS.—In carrying out this section,
12 the Sentencing Commission, shall—

13 (1) consider providing sentencing enhancements
14 or stiffening existing enhancements for those con-
15 victed of offenses described in subsection (a) that—

16 (A) involve a pattern of continued and fla-
17 grant violations;

18 (B) are part of an ongoing commercial or-
19 ganization or enterprise;

20 (C) involve aliens who were transported in
21 groups of 10 or more;

22 (D) involve the transportation or abandon-
23 ment of aliens in a manner that endangered
24 their lives; or

1 (E) involve the facilitation of terrorist ac-
2 tivity; and

3 (2) consider cross-references to the guidelines
4 for Criminal Sexual Abuse and Attempted Murder.

5 (c) EXPEDITED PROCEDURES.—The Commission
6 may promulgate the guidelines or amendments under this
7 section in accordance with the procedures set forth in sec-
8 tion 21(a) of the Sentencing Act of 1987, as though the
9 authority under that Act had not expired.

10 **TITLE VIII—INFRASTRUCTURE**
11 **PROTECTION AND CYBERSE-**
12 **CURITY**

13 **Subtitle A—Federal Protective**
14 **Service**

15 **SEC. 801. AUTHORIZATION OF APPROPRIATIONS FOR FED-**
16 **ERAL PROTECTIVE SERVICE.**

17 (a) IN GENERAL.—Of the amount authorized in sec-
18 tion 201, there is authorized to be appropriated to the Di-
19 rector of the Federal Protective Service \$246,000,000 for
20 fiscal year 2011 to carry out Federal Protective Service
21 counterterrorism functions, including—

22 (1) law enforcement on federally controlled
23 property;

24 (2) incident investigations;

25 (3) suspect capture and detention;

- 1 (4) 24-hour security alarm monitoring;
 2 (5) nationwide dispatch services;
 3 (6) facility security assessments; and
 4 (7) terrorism prevention.

5 (b) SUFFICIENT FUNDING TO EFFECTIVELY DOU-
 6 BLE THE SIZE OF THE FEDERAL PROTECTIVE SERVICE
 7 INSPECTOR FORCE.—In addition to amounts authorized
 8 under subsection (a), the Federal Protective Service is au-
 9 thorized 1,200 full-time equivalent positions in the Fed-
 10 eral Protective Service inspector force that monitor per-
 11 formance of security personnel services procured by con-
 12 tract.

13 **SEC. 802. FEDERAL PROTECTIVE SERVICE AUTHORITY TO**
 14 **CARRY OUT BASIC SECURITY FUNCTIONS.**

15 (a) IN GENERAL.—Section 1315(a) of title 40,
 16 United States Code, is amended by—

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

19 “(a) IN GENERAL.—

20 “(1) PROTECTION OF FEDERAL PROPERTY.—”;

21 and

22 (2) by adding at the end the following new
 23 paragraph:

24 “(2) AUTHORITY OVER GSA PROPERTIES.—The
 25 Secretary, acting through the Federal Protective

1 Service, shall have the lead authority in the execu-
2 tive branch to carry out counterterrorism functions
3 on Federal property managed by the General Serv-
4 ices Administration (including property leased by the
5 General Services Administration), including—

6 “(A) law enforcement on federally con-
7 trolled property;

8 “(B) incident investigations;

9 “(C) suspect capture and detention;

10 “(D) 24-hour security alarm monitoring;

11 “(E) nationwide dispatch services;

12 “(F) facility security assessments; and

13 “(G) terrorism prevention.

14 “(3) AGREEMENTS WITH OTHER LAW EN-
15 FORCEMENT AUTHORITIES.—Nothing in this sub-
16 section shall preempt the Federal Protective Service
17 from entering into agreements with other Federal,
18 State, or local law enforcement authorities to provide
19 security or respond to incidents on property that is
20 under the jurisdiction and control of the Adminis-
21 trator of General Services.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 1315(g) of title 40, United States
24 Code, is amended by striking “Nothing” and insert-
25 ing “Subject to subsection (a)(2), nothing”.

1 (2) Section 1706(b)(2) of the Homeland Secu-
2 rity Act of 2002 (40 U.S.C. 1315 note) is amended
3 by striking “The Secretary” and inserting “Subject
4 to subsection (a)(2), the Secretary”.

5 **SEC. 803. STRATEGIC PLAN REQUIREMENT.**

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

11 (1) Estimates of staffing and associated costs
12 the Federal Protective Service requires in order to
13 provide basic security functions.

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

18 (3) Estimates of staffing and associated costs
19 the Federal Protective Service requires for reimburs-
20 able agency-specific security work authorization
21 functions.

22 (4) Reviews of the performance of contractor-
23 provided security guards that assesses both quality
24 and cost of individual private contract guard compa-

1 nies performing Federal Protective Service guard
2 functions under contract.

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

6 **SEC. 804. FACILITY SECURITY RISK ASSESSMENTS.**

7 (a) IN GENERAL.—The Secretary of Homeland Secu-
8 rity, acting through the Director of Federal Protective
9 Service, shall—

10 (1) conduct facility security assessments in con-
11 sultation with the facility security committee estab-
12 lished for a facility;

13 (2) prepare a report on each assessment, in-
14 cluding recommendations of countermeasures
15 against a terrorist attack to ensure the security of
16 the facility concerned; and

17 (3) give the facility security committee estab-
18 lished for such a facility a 60-day period to review
19 and comment on each report.

20 (b) SELECTION OF RECOMMENDATIONS FOR IMPLE-
21 MENTATION.—

22 (1) SELECTION BY GSA.—Upon the completion
23 of the period for review and comment under sub-
24 section (a)(3)—

1 (A) the Director shall submit the assess-
2 ment report to the Administrator of General
3 Services; and

4 (B) the Administrator may select for im-
5 plementation any of the recommendations of
6 countermeasures in the report for implementa-
7 tion.

8 (2) NOTIFICATION OF NONSELECTION.—If the
9 Administrator determines that any of the rec-
10 ommendations of countermeasures in a report sub-
11 mitted under paragraph (1) should not be imple-
12 mented for a facility, the Administrator shall notify
13 the head of each Federal agency in the facility and
14 the facility security committee for the facility that
15 the recommendation will not be implemented, includ-
16 ing the reasons why.

17 (3) SELECTION BY FACILITY SECURITY COM-
18 MITTEE.—If a facility security committee receives
19 notice under paragraph (2) regarding any rec-
20 ommendations, it may select any of the rec-
21 ommendations for implementation.

22 (c) REIMBURSEMENT.—If any of the recommenda-
23 tions in a report submitted under subsection (a) is selected
24 by the Administrator or a facility security committee
25 under subsection (c) for implementation—

1 (1) the Director shall implement the rec-
2 ommendation;

3 (2) the Administrator shall allocate to the Fed-
4 eral agencies in that facility the costs incurred by
5 the Federal Protective Service for such implementa-
6 tion; and

7 (3) each such agency shall reimburse the Fed-
8 eral Protective Service for the costs allocated to the
9 agency by the Administrator.

10 (d) ANNUAL REPORT.—The Director shall submit an
11 annual report to Congress on the disposition of rec-
12 ommendations included in reports under this section that
13 the Administrator did not select for implementation.

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

20 **SEC. 805. CONTRACT GUARD STAFF.**

21 (a) MINIMUM STANDARDS FOR TRAINING AND AN-
22 NUAL RECERTIFICATION.—The Secretary of Homeland
23 Security shall develop minimum standards for training
24 and annual recertification for the Federal Protective Serv-
25 ice’s contract guards including—

- 1 (1) minimum fitness standards;
- 2 (2) annual recertification on access control poli-
3 cies and control equipment, including x-ray and
4 magnetometer training;
- 5 (3) training in arrest and control procedures;
- 6 (4) training in operation of emergency equip-
7 ment;
- 8 (5) basic first aid and CPR training and certifi-
9 cation;
- 10 (6) weapons training, as applicable; and
- 11 (7) behavior detection training.

12 (b) PILOT PROGRAM.—

13 (1) IN GENERAL.—Within 1 year after the date
14 of enactment of this Act, the Director shall establish
15 a 3-year pilot program in not less than 3 level IV
16 facilities to test and evaluate—

17 (A) to what extent efficiencies exist in hav-
18 ing a federalized guard staff; and

19 (B) to what extent such a federalized
20 guard staff provides a measurable improvement
21 in facility or personnel security.

22 (2) REPORT.—Not later than 120 days before
23 the commencement of the program, the Director
24 shall report to Congress regarding what performance
25 metrics will be considered in measuring improvement

1 in efficiencies and security provided by such a fed-
2 eralized guard staff.

3 (3) MONITORING BY GAO.—The Comptroller
4 General of the United States—

5 (A) shall monitor and review the conduct
6 of the pilot program; and

7 (B) shall submit to Congress and the Sec-
8 retary of Homeland Security an interim report
9 6 months after the commencement of the pilot
10 program, and a final report within 120 days
11 after the conclusion of the pilot program, that
12 each addresses whether—

13 (i) the Secretary has established suffi-
14 cient mechanisms to determine whether the
15 pilot program provides efficiencies in pro-
16 tecting Federal facilities;

17 (ii) the pilot program consists of an
18 adequate sample of level IV facilities; and

19 (iii) there are cost savings and secu-
20 rity enhancements realized by having a
21 federalized guard force.

22 **SEC. 806. SITE INSPECTIONS.**

23 (a) RIGHT OF ENTRY.—For purposes of carrying out
24 this Act, the Secretary of Homeland Security shall have,
25 on presentation of credentials, a right of entry to, on, or

1 through any property for which security is provided by the
2 Federal Protective Service.

3 (b) INSPECTIONS AND VERIFICATIONS.—

4 (1) IN GENERAL.—The Secretary shall, at such
5 time and place as the Secretary determines to be
6 reasonable and appropriate, conduct security inspec-
7 tions and verifications for property for which secu-
8 rity is provided by the Federal Protective Service.

9 (2) UNANNOUNCED INSPECTIONS.—In addition
10 to any inspection conducted pursuant to paragraph
11 (1), the Secretary shall require such properties to
12 undergo unannounced security inspections. The in-
13 spections required under this paragraph shall be—

14 (A) conducted without prior notice to the
15 facility;

16 (B) designed to evaluate undergoing in-
17 spection—

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

23 (ii) the ability of the Federal Protec-
24 tive Service security and contract guards
25 to protect against terrorist threats that are

1 required to be addressed by applicable per-
2 formance standards; and

3 (iii) any weaknesses in the security
4 plan of the facility;

5 (C) conducted so as not to affect the ac-
6 tual security, physical integrity, or safety of the
7 property or its employees while the inspection is
8 conducted; and

9 (D) conducted at least—

10 (i) every year in the case of a level IV
11 facility;

12 (ii) every 2 years in the case of a level
13 III facility;

14 (iii) every 3 years in the case of a
15 level II facility; and

16 (iv) every four years in the case of a
17 level I facility.

18 (c) REPORT.—The Secretary shall report annually
19 with the President's budget submission to Congress on
20 covert testing strategy and results of unannounced inspec-
21 tions under this section.

22 **SEC. 807. PROMOTION OF FEDERAL PROTECTIVE SERVICE**
23 **TECHNOLOGY AND TRAINING.**

24 (a) IN GENERAL.—Within 6 months of the date of
25 enactment of this Act, the Director of the Federal Protec-

1 tive Service, in consultation with the Assistant Secretary,
2 Transportation Security Administration, shall publish—

3 (1) a list of qualified vendors and a list of
4 qualified products that would promote common
5 standards of deployment of personnel and tech-
6 nology;

7 (2) standards for training personnel, among all
8 Federal Protective Service protected properties; and

9 (3) best practices for utilizing items on the
10 qualified products list so they are utilized in the
11 most effective manner, including a process to best
12 utilize existing products currently deployed.

13 (b) REQUIREMENT TO USE LISTS.—

14 (1) IN GENERAL.—Following the publication of
15 the qualified vendors list and the qualified products
16 list under subsection (a), the Federal Protective
17 Service may not enter into any contractual arrange-
18 ment for services or products covered by such lists—

19 (A) with any person that is not included on
20 the qualified vendors list;

21 (B) for procurement of any product that is
22 not included on the qualified products list; or

23 (C) under which a subcontract may be
24 awarded to a person that is not included on the
25 qualified vendors list.

1 (2) LIMITATION ON APPLICATION.—

2 (A) IN GENERAL.—Paragraph (1) shall not
3 apply to any contract the Director of the Fed-
4 eral Protective Service determines to be nec-
5 essary to carry out the security missions of the
6 Federal Protective Service.

7 (B) NOTIFICATION TO CONGRESS.—The
8 Director shall notify the Committee on Home-
9 land Security of the House of Representatives
10 and the Committee on Homeland Security and
11 Governmental Affairs of the Senate in writing
12 within 30 days after entering any contract
13 under this paragraph, setting forth the deter-
14 mination under subparagraph (A) and the basis
15 for that determination.

16 (c) COOPERATIVE AGREEMENT.—Within 6 months
17 after the date of enactment of this Act, the Secretary of
18 Homeland Security shall require the Assistant Secretary,
19 Transportation Security Administration, the Under Sec-
20 retary for Science and Technology, and the Under Sec-
21 retary for National Protection and Programs to enter into
22 a memorandum of understanding, or similar cooperative
23 agreement, pursuant to which the Transportation Security
24 Laboratory will provide the Federal Protective Service
25 with expertise, consultation, exchange of information, and

1 testing for technology covered by the qualified vendors list
2 and the qualified products list required by this section.

3 **SEC. 808. PROHIBITED ITEMS LIST.**

4 (a) IN GENERAL.—Not later than the end of the 180-
5 day period beginning on the date of enactment of this Act,
6 the Secretary of Homeland Security, acting through the
7 Under Secretary of the National Protection and Programs
8 Directorate and in consultation with the Administrator of
9 General Services, shall issue and implement a list of items,
10 including component parts, that are prohibited from being
11 brought into facilities protected by the Federal Protective
12 Service, unless specifically authorized on a case-by-case
13 basis by the Secretary or the Secretary’s designee.

14 (b) ADDITIONAL ITEMS.—Nothing in this section
15 prohibits a facility security committee from prohibiting
16 items that are not included on such list from being
17 brought into the facility of that committee.

18 (c) FAILURE TO ISSUE LIST.—If the Secretary of
19 Homeland Security fails to implement a prohibited items
20 list in accordance with subsection (a), then the prohibited
21 items list established by the Transportation Security Ad-
22 ministration for civilian aviation shall apply for facilities
23 protected by the Federal Protective Service—

24 (1) effective upon expiration of the period re-
25 ferred to in subsection (a); and

1 (2) until such time as the Secretary, acting
2 through the Under Secretary of the National Protec-
3 tion and Programs Directorate, issues a prohibited
4 items list described in subsection (a).

5 (d) FACILITY SECURITY COMMITTEE DEFINED.—In
6 this section the term “facility security committee” means
7 a facility security committee established pursuant to the
8 report entitled “Vulnerability Assessment of Federal Fa-
9 cilities”, issued by the Interagency Security Committee es-
10 tablished by Executive Order 12977.

11 **SEC. 809. REPORT REQUIREMENT.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of enactment of this Act, the Secretary shall submit
14 to Congress the following:

15 (1) A strategy for more effectively managing
16 the contract guard program of the Federal Protec-
17 tive Service that ensures there is adequate oversight
18 and monitoring of training for such program.

19 (2) A status report on the implementation of
20 the RAMP program, including an estimated date by
21 which it will be fully operational.

22 (3) Estimates of the additional manpower, re-
23 sources, and funding the Federal Protective Service
24 would need in order to provide security for high-pro-
25 file terror trials in multiple or varying locations.

1 (4) A status report on the implementation of
2 the CADIS program, including an estimated date by
3 which it will be fully operational.

4 (5) A coordinated strategy for cooperation be-
5 tween the Under Secretary of the National Protec-
6 tion and Programs Directorate and the Under Sec-
7 retary for Science and Technology regarding re-
8 search, development, and deployment of security
9 technology conducted by the Transportation Security
10 Laboratory.

11 (b) DEFINITIONS.—In this section:

12 (1) CADIS PROGRAM.—The term “CADIS pro-
13 gram” means the Computer Aided Dispatch Infor-
14 mation System of the Federal Protective Service.

15 (2) RAMP PROGRAM.—The term “RAMP pro-
16 gram” means the Risk Assessment and Management
17 Program of the Federal Protective Service.

18 **Subtitle B—Chemical Facility**
19 **Security**

20 **SEC. 811. EXTENSION OF CHEMICAL FACILITIES**
21 **ANTITERRORISM SECURITY PROGRAM.**

22 (a) IN GENERAL.—Section 550(b) of the Department
23 of Homeland Security Appropriations Act, 2007 (6 U.S.C.
24 121 note) is amended by striking “October 4, 2010” and
25 inserting “October 4, 2015”.

1 (b) CHEMICAL FACILITY SECURITY ENHANCE-
2 MENTS.—

3 (1) IN GENERAL.—The Homeland Security Act
4 of 2002 (6 U.S.C. 101 et seq.) is amended by add-
5 ing at the end the following:

6 **“TITLE XXI—CHEMICAL**
7 **FACILITY SECURITY**

8 **“SEC. 2101. CHEMICAL SECURITY TRAINING PROGRAM.**

9 “(a) ESTABLISHMENT.—Acting through the Admin-
10 istrator of the Federal Emergency Management Agency
11 and in coordination with the Under Secretary for National
12 Protection and Programs, the Secretary shall establish a
13 voluntary chemical security training program (referred to
14 in this section as the ‘training program’) for the purpose
15 of enhancing the capabilities of high-risk chemical facili-
16 ties to prevent, prepare for, respond to, mitigate against,
17 and recover from threatened or actual acts of terrorism,
18 natural disasters, and other man-made disasters.

19 “(b) REQUIREMENTS.—The training program shall
20 provide validated voluntary training that—

21 “(1) reaches multiple disciplines, including Fed-
22 eral, State, and local government officials, commer-
23 cial personnel and management, and governmental
24 and nongovernmental emergency response providers;

1 “(2) provides training at the awareness, per-
2 formance, and management and planning levels;

3 “(3) uses multiple training mediums and meth-
4 ods;

5 “(4) is coordinated with training provided by
6 government training facilities, academic institutions,
7 private organizations, and other entities that provide
8 specialized, state-of-the-art training for govern-
9 mental and nongovernmental emergency responder
10 providers or commercial personnel and management;

11 “(5) uses, as appropriate, government training
12 facilities, courses provided by community colleges,
13 public safety academies, State and private univer-
14 sities, and other facilities;

15 “(6) is consistent with, and supports implemen-
16 tation of, the National Incident Management Sys-
17 tem, the National Response Framework, the Na-
18 tional Infrastructure Protection Plan, the National
19 Preparedness Guidelines, the National Preparedness
20 Goal, the National Maritime Transportation Security
21 Plan, and other such national initiatives, and any
22 successors thereto;

23 “(7) is evaluated against clear and consistent
24 performance measures;

1 “(8) addresses security requirements under
2 chemical facility security plans; and

3 “(9) educates, trains, and involves individuals
4 in neighborhoods around chemical facilities on how
5 to observe and report security risks.

6 **“SEC. 2102. CHEMICAL SECURITY EXERCISE PROGRAM.**

7 “(a) IN GENERAL.—Acting through the Adminis-
8 trator of the Federal Emergency Management Agency and
9 in coordination with Under Secretary for National Protec-
10 tion and Programs, the Secretary shall develop a voluntary
11 chemical security exercise program (referred to in this sec-
12 tion as the ‘exercise program’) for the purpose of offering
13 voluntary testing and evaluation of the capabilities of the
14 Federal Government, State governments, commercial per-
15 sonnel and management, governmental and nongovern-
16 mental emergency response providers, the private sector,
17 or any other organization or entity, as the Secretary deter-
18 mines to be appropriate, to prevent, prepare for, mitigate
19 against, respond to, and recover from acts of terrorism,
20 natural disasters, and other emergencies at chemical facili-
21 ties.

22 “(b) REQUIREMENTS.—Under the exercise program,
23 the Secretary shall conduct, on a periodic basis, voluntary
24 joint security exercises at chemical facilities that are—

1 “(1) scaled and tailored to the needs of each
2 chemical facility;

3 “(2) for the highest risk chemical facilities, as
4 determined by the Secretary, live training exercises;

5 “(3) as realistic as practicable and based on
6 current risk assessments, including credible threats,
7 vulnerabilities, and consequences;

8 “(4) consistent with the National Incident Man-
9 agement System, the National Response Framework,
10 the National Infrastructure Protection Plan, the Na-
11 tional Preparedness Guidelines, the National Pre-
12 paredness Goal, the National Maritime Transpor-
13 tation Security Plan, and other such national initia-
14 tives, and any successors thereto;

15 “(5) evaluated against clear and consistent per-
16 formance measures;

17 “(6) assessed to learn best practices, which
18 shall be shared with appropriate Federal, State, and
19 local officials, commercial personnel and manage-
20 ment, governmental and nongovernmental emergency
21 response providers, and the private sector;

22 “(7) followed by remedial action in response to
23 lessons learned; and

1 “(8) designed to assist State and local govern-
2 ments and chemical facilities in designing, imple-
3 menting, and evaluating exercises that—

4 “(A) conform to the requirements of this
5 paragraph; and

6 “(B) are consistent with any applicable
7 Buffer Zone Protection Plan, State homeland
8 security plan, or urban area homeland security
9 plan.

10 **“SEC. 2103. AUTHORIZATION OF APPROPRIATIONS.**

11 “There are authorized to be appropriated to the Sec-
12 retary such sums as may be necessary to carry out this
13 title.”.

14 (2) TABLE OF CONTENTS.—The table of con-
15 tents in section 2 of the Homeland Security Act of
16 2002 (6 U.S.C. 101 et seq.) is amended by inserting
17 after the item relating to section 2022 the following:

 “TITLE XXI—CHEMICAL FACILITY SECURITY

 “Sec. 2101. Chemical security training program.

 “Sec. 2102. Chemical security exercise program.

 “Sec. 2103. Authorization of appropriations.”.

18 **Subtitle C—Office for Bombing**
19 **Prevention**

20 **SEC. 821. BOMBING PREVENTION.**

21 (a) IN GENERAL.—Subtitle A of title II of the Home-
22 land Security Act of 2002 (6 U.S.C. 121 et seq.) is amend-
23 ed by adding at the end the following new section:

1 **“SEC. 210F. OFFICE FOR BOMBING PREVENTION.**

2 “(a) IN GENERAL.—The Secretary shall establish
3 within the Protective Security Coordination Division of the
4 Office of Infrastructure Protection of the Department an
5 Office for Bombing Prevention (in this section referred to
6 as ‘the Office’).

7 “(b) RESPONSIBILITIES.—The Office shall have the
8 primary responsibility for enhancing the ability, and co-
9 ordinating the efforts, of the United States to deter, de-
10 tect, prevent, protect against, and respond to terrorist ex-
11 plosive attacks in the United States, including by—

12 “(1) serving as the lead agency of the Depart-
13 ment for ensuring that programs designed to
14 counter terrorist explosive attacks in the United
15 States function together efficiently to meet the evol-
16 ving threat from explosives and improvised explosive
17 devices;

18 “(2) coordinating national and intergovern-
19 mental bombing prevention activities to ensure those
20 activities work toward achieving common national
21 goals;

22 “(3) conducting analysis of the capabilities and
23 requirements necessary for Federal, State, local, and
24 tribal governments to deter, prevent, detect, protect
25 against, and assist in any response to terrorist ex-
26 plosive attacks in the United States by—

1 “(A) maintaining a national analysis data-
2 base on the capabilities of bomb squads, explo-
3 sive detection canine teams, tactics teams, and
4 public safety dive teams; and

5 “(B) applying the analysis derived from
6 the database described in subparagraph (A)
7 in—

8 “(i) evaluating progress toward clos-
9 ing identified gaps relating to national
10 strategic goals and standards; and

11 “(ii) informing decisions relating to
12 homeland security policy, assistance, train-
13 ing, research, development efforts, testing
14 and evaluation, and related requirements;

15 “(4) promoting secure information sharing of
16 sensitive material and promoting security awareness,
17 including by—

18 “(A) operating and maintaining a secure
19 information sharing system that allows the
20 sharing of critical information relating to ter-
21 rorist explosive attack tactics, techniques, and
22 procedures;

23 “(B) educating the public and private sec-
24 tors about explosive precursor chemicals;

1 “(C) working with international partners,
2 in coordination with the Office for International
3 Affairs of the Department, to develop and share
4 effective practices to deter, prevent, detect, pro-
5 tect, and respond to terrorist explosive attacks
6 in the United States; and

7 “(D) executing national public awareness
8 and vigilance campaigns relating to terrorist ex-
9 plosive threats, preventing explosive attacks,
10 and activities and measures underway to safe-
11 guard the United States;

12 “(5) assisting State, local, and tribal govern-
13 ments in developing multi-jurisdictional improvised
14 explosive devices security plans for high-risk jurisdic-
15 tions;

16 “(6) helping to ensure, in coordination with the
17 Under Secretary for Science and Technology and the
18 Administrator of the Federal Emergency Manage-
19 ment Agency, the identification and availability of
20 effective technology applications through field pilot
21 testing and acquisition of such technology applica-
22 tions by Federal, State, local, and tribal govern-
23 ments to deter, prevent, detect, protect, and respond
24 to terrorist explosive attacks in the United States;

1 “(7) coordinating the efforts of the Department
2 relating to, and assisting departments and agencies
3 of Federal, State, local, and tribal governments, and
4 private sector business in, developing and imple-
5 menting national explosives detection training, cer-
6 tification, and performance standards;

7 “(8) ensuring the implementation of any rec-
8 ommendations in the national strategy required
9 under section 210G, including developing, maintain-
10 ing, and tracking progress toward achieving objec-
11 tives to reduce the vulnerability of the United States
12 to terrorist explosive attacks;

13 “(9) developing, in coordination with the Ad-
14 ministrator of the Federal Emergency Management
15 Agency, programmatic guidance and permitted uses
16 for bombing prevention activities funded by home-
17 land security assistance administered by the Depart-
18 ment; and

19 “(10) establishing and executing a public
20 awareness campaign to inform the general public
21 and private sector businesses on ways they can
22 deter, detect, prevent, protect against, and respond
23 to terrorist explosive attacks in the United States,
24 that—

1 “(A) utilizes a broad spectrum of both
2 mainstream and specialty print, radio, television
3 outlets, and the Internet;

4 “(B) utilizes small and disadvantaged busi-
5 nesses, as defined under the Small Business Act
6 (15 U.S.C. 631 et seq.); and

7 “(C) ensures that the public awareness
8 messages under the campaign reach and are
9 understandable to underserved populations, in-
10 cluding—

11 “(i) persons with physical and mental
12 disabilities, health problems, visual impair-
13 ments, hearing impairments, limited
14 English proficiency, and literacy barriers;

15 “(ii) socially and economically dis-
16 advantaged households and communities;

17 “(iii) the elderly; and

18 “(iv) children.

19 “(c) LIMITATION ON STATUTORY CONSTRUCTION.—
20 Nothing in this section shall be construed to affect the
21 authority of the Administrator of the Federal Emergency
22 Management Agency, the Director of the United States
23 Secret Service, or the Attorney General of the United
24 States.

25 “(d) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) IN GENERAL.—Of the amount authorized
2 in section 201 of the Counterterrorism Enhancement
3 and Department of Homeland Security Authoriza-
4 tion Act, there is authorized to be appropriated to
5 carry out this section \$25,000,000 for fiscal year
6 2011.

7 “(2) AVAILABILITY.—Amounts made available
8 pursuant to paragraph (1) are authorized to remain
9 available until expended.

10 “(e) ENHANCEMENT OF EXPLOSIVES DETECTION
11 CANINE RESOURCES AND CAPABILITIES.—To enhance the
12 Nation’s explosives detection canine resources and capa-
13 bilities the Secretary of Homeland Security shall, by
14 partnering with other Federal, State, local, and tribal
15 agencies, nonprofit organizations, universities including
16 historically black colleges and universities and minority
17 serving institutions, and the private sector—

18 “(1) within 270 days after the date of the en-
19 actment of this subsection—

20 “(A) develop a pilot program that includes
21 a domestic breeding program for purpose-bred
22 explosives detection canines; and

23 “(B) increase the current number of capa-
24 bility assessments of explosives detection canine
25 units to identify common challenges and gaps in

1 canine explosives detection, to provide for effective
2 domestic preparedness and collective response
3 to terrorism, and to inform grant guidance
4 and priorities, consistent with national capabilities
5 database efforts;

6 “(2) continue development of a scientifically
7 based training curriculum to enhance consensus-
8 based national training and certification standards
9 to provide for effective domestic preparedness and
10 collective response to terrorism through the effective
11 use of explosives detection canines for explosives de-
12 tection canines; and

13 “(3) continue engagement in explosives detec-
14 tion canine research and development activities
15 through partnerships with the Science and Tech-
16 nology Directorate and the Technical Support Work-
17 ing Group.

18 **“SEC. 210G. NATIONAL STRATEGY.**

19 “(a) IN GENERAL.—The Secretary shall develop and
20 periodically update a national strategy to prevent and pre-
21 pare for terrorist explosive attacks in the United States.

22 “(b) DEVELOPMENT.—Not later than 90 days after
23 the date of the enactment of this section, the Secretary
24 shall develop the national strategy required under sub-
25 section (a).

1 “(c) REPORTING.—Not later than six months after
2 the date of the submission of the report regarding each
3 quadrennial homeland security review conducted under
4 section 707, the Secretary shall submit to the Committee
5 on Homeland Security of the House of Representatives
6 and the Committee on Homeland Security and Govern-
7 mental Affairs of the Senate a report regarding the na-
8 tional strategy required under subsection (a), which shall
9 include recommendations, if any, for deterring, pre-
10 venting, detecting, protecting against, and responding to
11 terrorist attacks in the United States using explosives or
12 improvised explosive devices, including any such rec-
13 ommendations relating to coordinating the efforts of Fed-
14 eral, State, local, and tribal governments, emergency re-
15 sponse providers, and the private sector.”.

16 (b) TECHNICAL AND CONFORMING AMENDMENT.—
17 The table of contents in section 1(b) of the Homeland Se-
18 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
19 inserting after the item relating to section 210E the fol-
20 lowing new items:

“Sec. 210F. Office for Bombing Prevention.

“Sec. 210G. National strategy.”.

1 **SEC. 822. EXPLOSIVES TECHNOLOGY DEVELOPMENT AND**
2 **TRANSFER.**

3 (a) IN GENERAL.—Title III of the Homeland Secu-
4 rity Act of 2002 (6 U.S.C. 181 et seq.) is amended by
5 adding at the end the following new sections:

6 **“SEC. 318. EXPLOSIVES RESEARCH AND DEVELOPMENT.**

7 “(a) IN GENERAL.—The Secretary, acting through
8 the Under Secretary for Science and Technology, and in
9 coordination with the Under Secretary for National Pro-
10 tection and Programs, the Attorney General, the Secretary
11 of Defense, and the head of any other relevant Federal
12 department or agency, shall ensure coordination and infor-
13 mation sharing regarding nonmilitary research, develop-
14 ment, testing, and evaluation activities of the Federal Gov-
15 ernment relating to the detection and prevention of, pro-
16 tection against, and response to terrorist attacks in the
17 United States using explosives or improvised explosive de-
18 vices, and the development of tools and technologies nec-
19 essary to neutralize and disable explosive devices.

20 “(b) LEVERAGING MILITARY RESEARCH.—The Sec-
21 retary, acting through the Under Secretary for Science
22 and Technology, and in coordination with the Under Sec-
23 retary for National Protection and Programs, shall coordi-
24 nate with the Secretary of Defense and the head of any
25 other relevant Federal department or agency to ensure
26 that, to the maximum extent possible, military policies and

1 procedures, and research, development, testing, and eval-
2 uation activities relating to the detection and prevention
3 of, protection against, and response to terrorist attacks
4 using explosives or improvised explosive devices, and the
5 development of tools and technologies necessary to neu-
6 tralize and disable explosive devices, are adapted to non-
7 military uses.

8 **“SEC. 319. TECHNOLOGY TRANSFER.**

9 “(a) IN GENERAL.—The Secretary, acting through
10 the Under Secretary for Science and Technology, and in
11 coordination with the Under Secretary for National Pro-
12 tection and Programs, shall establish a technology trans-
13 fer program to facilitate the identification, modification,
14 and commercialization of technology and equipment for
15 use by Federal, State, and local governmental agencies,
16 emergency response providers, and the private sector to
17 deter, prevent, detect, protect, and respond to terrorist at-
18 tacks in the United States using explosives or improvised
19 explosive devices.

20 “(b) PROGRAM.—The activities under the program
21 established under subsection (a) shall include—

22 “(1) applying the analysis conducted under sec-
23 tion 210F(b)(3) of the capabilities and requirements
24 of bomb squad, explosive detection canine teams,
25 tactical teams, and public safety dive teams of Fed-

1 eral, State, and local governments, to determine the
2 training and technology requirements for Federal,
3 State, and local governments, emergency response
4 providers, and the private sector;

5 “(2) identifying available technologies designed
6 to deter, prevent, detect, protect, or respond to ter-
7 rorist attacks using explosives or improvised explo-
8 sive devices that have been, or are in the process of
9 being, developed, tested, evaluated, or demonstrated
10 by the Department, other Federal agencies, the pri-
11 vate sector, foreign governments, or international or-
12 ganizations;

13 “(3) reviewing whether a technology described
14 in paragraph (2) may be useful in assisting Federal,
15 State, or local governments, emergency response
16 providers, or the private sector in detecting, deter-
17 ring, preventing, or responding to terrorist attacks
18 using explosives or improvised explosive devices; and

19 “(4) communicating to Federal, State, and local
20 governments, emergency response providers, and the
21 private sector the availability of any technology de-
22 scribed in paragraph (2), including providing the
23 specifications of any such technology, indicating
24 whether any such technology satisfies appropriate
25 standards, and identifying grants, if any, available

1 from the Department to purchase any such tech-
2 nology.

3 “(c) WORKING GROUP.—To facilitate the transfer of
4 military technologies, the Secretary, acting through the
5 Under Secretary for Science and Technology, in coordina-
6 tion with the Secretary of Defense, and in a manner con-
7 sistent with protection of sensitive sources and methods,
8 shall establish a working group to advise and assist in the
9 identification of military technologies designed to deter,
10 prevent, detect, protect, or respond to terrorist explosive
11 attacks that are in the process of being developed, or are
12 developed, by the Department of Defense or the private
13 sector.”.

14 (b) TECHNICAL AND CONFORMING AMENDMENT.—
15 The table of contents in section 1(b) of the Homeland Se-
16 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
17 inserting after the item relating to section 317 the fol-
18 lowing new items:

“Sec. 318. Explosives research and development.

“Sec. 319. Technology transfer.”.

19 **SEC. 823. GAO STUDY OF EXPLOSIVES DETECTION CANINE**
20 **TEAMS.**

21 Section 1307(f) of the Implementing Recommenda-
22 tions of the 9/11 Commission Act of 2007 (Public Law
23 110–53; 121 Stat. 395) is amended by striking “utiliza-
24 tion” and all that follows through the end of the sentence

1 and inserting “utilization of explosives detection canine
2 teams, by the Transportation Security Administration and
3 all other agencies of the Department of Homeland Secu-
4 rity that utilize explosives detection canines, to strengthen
5 security and the capacity of explosive detection canine de-
6 tection teams of the Department.”.

7 **SEC. 824. REPORT ON CANINE PROCUREMENT ACTIVITIES.**

8 The Secretary of Homeland Security shall submit a
9 report to the Committee on Homeland Security of the
10 House of Representatives and the Committee on Home-
11 land Security and Governmental Affairs of the Senate by
12 not later than 180 days after the date of the enactment
13 of this Act examining the administration of canine pro-
14 curement activities by the Department of Homeland Secu-
15 rity to deter, prevent, detect, and protect against terrorist
16 explosive attacks in the United States, that includes con-
17 sideration of the feasibility of reducing the price paid for
18 the procurement of untrained canines, including by uti-
19 lizing an expanded pool of breeds, procuring canines from
20 domestic breeders, and acquiring canines from animal
21 shelters, rescue societies, and other not-for-profit entities.

22 **Subtitle D—Cybersecurity**

23 **SEC. 831. ANNUAL CYBERSECURITY THREAT ASSESSMENT.**

24 The Secretary, in coordination with the Director of
25 National Intelligence, shall submit to the Committee on

1 Homeland Security of the House of Representatives an
2 annual assessment of cybersecurity threats to and
3 vulnerabilities of national critical infrastructure informa-
4 tion systems and networks.

5 **SEC. 832. CYBERSECURITY RESEARCH AND DEVELOPMENT.**

6 (a) IN GENERAL.—The Under Secretary for Science
7 and Technology of the Department shall support research,
8 development, testing, evaluation, and transition of cyber-
9 security technology, including fundamental, long-term re-
10 search to improve the ability of the United States to pre-
11 vent, protect against, detect, respond to, and recover from
12 cyber attacks that threaten national critical infrastructure
13 information systems and networks, with an emphasis on
14 research and development relevant to large scale, high-im-
15 pact attacks.

16 (b) ACTIVITIES.—The research and development sup-
17 ported under subsection (a) shall include work to—

18 (1) advance the development and deployment
19 Internet protocols and architectures, including for
20 the domain name system and routing protocols;

21 (2) improve and create technologies for detect-
22 ing attacks or intrusions, including real-time moni-
23 toring technologies;

24 (3) improve and create mitigation and recovery
25 methodologies, including techniques for containment

1 of attacks and development of resilient networks and
2 systems that degrade gracefully;

3 (4) develop and support infrastructure for cy-
4 bersecurity research and development, including
5 modeling, testbeds, and data sets for assessment of
6 new cybersecurity technologies;

7 (5) assist the development and support of tech-
8 nologies to reduce vulnerabilities in process control
9 systems;

10 (6) develop and support cyber forensics and at-
11 tack attribution; and

12 (7) test, evaluate, and facilitate the transfer of
13 technologies associated with the engineering of less
14 vulnerable software and securing the information
15 technology software development lifecycle.

16 (c) COORDINATION.—In carrying out this section, the
17 Under Secretary shall coordinate activities with the Under
18 Secretary for National Protection and Programs and the
19 heads of other relevant Federal departments and agencies,
20 including the National Science Foundation, the Defense
21 Advanced Research Projects Agency, the Information As-
22 surance Directorate of the National Security Agency, the
23 National Institute of Standards and Technology, the De-
24 partment of Commerce, and other appropriate working

1 groups established by the President to identify unmet
2 needs and cooperatively support activities, as appropriate.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—Of the
4 amount authorized by section 201, there is authorized to
5 be appropriated \$75,000,000 to the Department for fiscal
6 year 2011 for the cybersecurity research and development
7 activities of the Directorate of Science and Technology to
8 prevent, detect, and respond to acts of terrorism and other
9 large-scale disruptions to information infrastructure.

10 **SEC. 833. NATIONAL RESEARCH COUNCIL STUDY OF CY-**
11 **BERSECURITY INCENTIVES.**

12 (a) IN GENERAL.—Not later than 90 days after the
13 date of enactment of this Act, the Under Secretary for
14 Science and Technology and the Under Secretary for Na-
15 tional Protection and Programs of the Department shall
16 seek to enter into an agreement with the National Re-
17 search Council of the National Academy of Sciences to
18 conduct a study to assess methods that might be used to
19 promote market mechanisms that further cybersecurity.

20 (b) SUBJECTS.—The study required under subsection
21 (a) shall include assessment of—

22 (1) mandated reporting of security breaches
23 that could threaten critical functions, including pro-
24 vision of electricity and resiliency of the financial
25 sector;

1 (2) financial incentives to encourage operators
2 of critical infrastructure to maximize protections for
3 their systems;

4 (3) certification from standards bodies about
5 conformance to relevant cybersecurity standards that
6 can be used as a marketplace differentiation;

7 (4) accounting practices that require companies
8 to report their cybersecurity practices and postures
9 and the results of independently conducted red team
10 simulated attacks or exercises; and

11 (5) cybersecurity risk insurance, including anal-
12 ysis of the current marketplace and recommenda-
13 tions to promote cybersecurity insurance.

14 (c) REPORT.—Not later than two years after the date
15 of enactment of this Act, the Secretary shall submit to
16 the Committee on Homeland Security of the House of
17 Representatives a report containing the results of the
18 study required under subsection (a), together with any
19 recommendations of the Secretary related thereto.

20 **SEC. 834. RESEARCH ON CYBER COMPROMISE OF INFRA-**
21 **STRUCTURE.**

22 (a) IN GENERAL.—Pursuant to section 201 of the
23 Homeland Security Act of 2002 (6 U.S.C. 121) and in
24 furtherance of domestic preparedness for and collective re-
25 sponse to a cyber attack by a terrorist or other person,

1 the Secretary, working with the heads of other national
2 security and intelligence agencies, shall conduct research
3 and determine if the security of federally owned program-
4 mable electronic devices and communication networks, in-
5 cluding hardware, software, and data, essential to the reli-
6 able operation of critical electric infrastructure has been
7 compromised.

8 (b) SCOPE OF RESEARCH.—The scope of the research
9 required under subsection (a) shall include the following:

10 (1) The extent of any compromise.

11 (2) An identification of any attackers.

12 (3) The method of penetration.

13 (4) Ramifications of any such compromise on
14 future operations of critical electric infrastructure.

15 (5) Secondary ramifications of any such com-
16 promise on other critical infrastructure sectors and
17 the functioning of civil society.

18 (6) Ramifications of any such compromise on
19 national security, including war fighting capability.

20 (7) Recommended mitigation activities.

21 (c) REPORT.—Not later than 30 days after the date
22 a determination has been made under subsection (a), the
23 Secretary shall submit to the Committee on Homeland Se-
24 curity of the House of Representatives a report on the
25 findings of such determination. The report may contain

1 a classified annex if the Secretary determines it to be ap-
2 propriate.

3 **SEC. 835. ASSESSMENTS OF EMERGING CYBER THREATS IN**
4 **TELECOMMUNICATIONS.**

5 Within 180 days after the date of enactment of this
6 Act, the Secretary, in collaboration with other relevant
7 Federal departments or agencies as the Secretary con-
8 siders appropriate, shall issue a report providing a threat
9 assessment, to be updated on an annual basis, to the Com-
10 mittee on Homeland Security of the House of Representa-
11 tives that examines vulnerabilities and policies to mitigate
12 those vulnerabilities arising from global supply chain re-
13 lated to the production, manufacturing, and distribution
14 of telecommunications devices, including potential threats
15 to national security or critical infrastructure arising from
16 foreign investment in United States telecommunications
17 assets.

18 **SEC. 836. DEPARTMENT OF HOMELAND SECURITY**
19 **CYBERCRIME COORDINATION.**

20 (a) REPORT ON CYBER COORDINATION.—Within 180
21 days after the date of enactment of this Act, the Secretary
22 shall submit to the Committee on Homeland Security of
23 the House of Representatives a report assessing—

24 (1) how the sub-components of the Department
25 that have a cybersecurity mission, including the

1 United States Secret Service, U.S. Immigration and
2 Customs Enforcement, and the National Protection
3 Programs Directorate, will coordinate their cyberse-
4 curity activities;

5 (2) the development of Department-wide proce-
6 dures and standards for addressing cybercrime, as
7 well as metrics to track the effectiveness of the De-
8 partment's efforts to combat cybercrime; and

9 (3) recommendations to Congress for improving
10 the authority of the Federal Government for ad-
11 dressing cybercrime.

12 (b) PRIVATE SECTOR POST-CRIME CONSULTA-
13 TION.—The Under Secretary for the National Protection
14 and Programs Directorate, in coordination with the
15 United States Secret Service and U.S. Immigration and
16 Customs Enforcement, shall establish an outreach pro-
17 gram for victims of cyber attacks that assists, on a vol-
18 untary basis, in providing cyber risk management, devel-
19 oping best practices for establishing mitigation and protec-
20 tive measures against cyber attacks, and otherwise coordi-
21 nates the Department's response to cyber attacks.

1 **TITLE IX—PREPAREDNESS AND**
2 **RESPONSE**

3 **SEC. 901. CENTER FOR DOMESTIC PREPAREDNESS.**

4 (a) ACCEPTANCE OF GIFTS FOR FIRST RESPONDER
5 TERRORISM PREPAREDNESS AND RESPONSE TRAIN-
6 ING.—Section 1204 of the Implementing Recommenda-
7 tions of the 9/11 Commission Act of 2007 (6 U.S.C. 1102)
8 is amended by adding at the end the following new sub-
9 section:

10 “(f) ACCEPTANCE OF GIFTS.—

11 “(1) AUTHORITY.—Notwithstanding section
12 873(b) of the Homeland Security Act of 2002 (6
13 U.S.C. 453(b)), the Secretary may accept and use
14 gifts of property, both real and personal, and may
15 accept gifts of services, including from guest lec-
16 turers, for otherwise authorized activities of the Cen-
17 ter for Domestic Preparedness that are related to
18 preparedness for and response to terrorism.

19 “(2) REPORT.—The Secretary shall report an-
20 nually to the Committee on Homeland Security of
21 the House of Representatives and the Committee on
22 Homeland Security and Governmental Affairs of the
23 Senate—

24 “(A) any gifts that were accepted under
25 this subsection in the preceding year;

1 “(B) how such gifts contribute to the mis-
2 sion of the Center for Domestic Preparedness;
3 and

4 “(C) the amount of Federal savings that
5 were generated from the acceptance of such
6 gifts.”.

7 (b) TRAINING OF OTHER EMERGENCY RESPONSE
8 PROVIDERS.—

9 (1) IN GENERAL.—The Center for Domestic
10 Preparedness may provide training to emergency re-
11 sponse providers of the Federal Government, foreign
12 governments, or private entities, if the Center for
13 Domestic Preparedness is reimbursed for the cost of
14 such training.

15 (2) USE OF REIMBURSEMENT.—Any reimburse-
16 ment under paragraph (1) shall be credited to the
17 account from which the expenditure being reim-
18 bursed was made and shall be available, without fis-
19 cal year limitation, for the purposes for which
20 amounts in the account may be expended.

21 (3) PROTECTION OF PRIMARY MISSION.—The
22 head of the Center for Domestic Preparedness shall
23 ensure that the training provided under paragraph
24 (1) does not interfere with the primary mission of

1 the Center to train State and local emergency re-
2 sponse providers.

3 **SEC. 902. RECOVERY FROM RADIOLOGICAL AND NUCLEAR**
4 **ATTACKS.**

5 (a) ASSESSMENT.—

6 (1) IN GENERAL.—To facilitate recovery from a
7 radiological or nuclear attack or other incident, the
8 Secretary, acting through the Administrator of the
9 Federal Emergency Management Agency, shall as-
10 sess capability gaps in recovery preparedness and
11 provide guidance to State and local officials to re-
12 cover from a radiological or nuclear incident.

13 (2) SUBJECTS.—The assessment shall include a
14 review of—

15 (A) decontamination standards, gaps in
16 such standards, and recommendations for re-
17 search to minimize these gaps;

18 (B) environmental remediation methods;
19 and

20 (C) such other components as are deter-
21 mined by the Secretary to be appropriate.

22 (3) REPORT.—The Secretary shall report to the
23 appropriate congressional committees on the find-
24 ings of the assessment by not later than 180 days
25 after the date of enactment of this Act.

1 (b) GUIDANCE.—

2 (1) IN GENERAL.—The Secretary, acting
3 through the Administrator of the Federal Emer-
4 gency Management Agency, shall issue detailed guid-
5 ance to assist State and local governments in pre-
6 paring for recovery and in conducting environmental
7 remediation of contaminated areas, including—

8 (A) clarification of Federal roles and re-
9 sponsibilities for assisting State and local gov-
10 ernments; and

11 (B) such other guidance as determined by
12 the Secretary to be appropriate.

13 (2) ALIGNMENT WITH NATIONAL DISASTER RE-
14 COVERY STRATEGY GOALS.—The guidance shall
15 align with the goals of the National Disaster Recov-
16 ery Strategy as required in Public Law 109–295 and
17 the findings of the assessment under subsection (a).

18 (c) EXERCISES.—The Secretary, acting through the
19 Administrator of the Federal Emergency Management
20 Agency and in partnership with State and local govern-
21 ments and other Federal agencies, shall conduct exercises
22 that address recovery from radiological and nuclear inci-
23 dents, including exercises that address analysis, environ-
24 mental cleanup methods, and decontamination standards.

1 **SEC. 903. CITIZEN AND COMMUNITY PREPAREDNESS.**

2 (a) COMMUNITY PREPAREDNESS DIVISION.—

3 (1) ESTABLISHMENT OF COMMUNITY PRE-
4 PAREDNESS DIVISION.—The Homeland Security Act
5 of 2002 (6 U.S.C. 101 et seq.) is amended by add-
6 ing at the end the following:

7 **“TITLE XXI—DOMESTIC PRE-**
8 **PAREDNESS AND COLLEC-**
9 **TIVE RESPONSE TO TER-**
10 **RORISM AND OTHER EMER-**
11 **GENCIES**

12 **“SEC. 2101. COMMUNITY PREPAREDNESS DIVISION.**

13 “(a) IN GENERAL.—There is in the Department a
14 Community Preparedness Division.

15 “(b) DIRECTOR.—The Community Preparedness Di-
16 vision shall be headed by a Director, who shall be ap-
17 pointed by the Secretary.

18 “(c) RESPONSIBILITIES.—The Director of the Com-
19 munity Preparedness Division, shall have the primary re-
20 sponsibility within the Department for assisting the efforts
21 of State, local, and tribal governments in preparing citi-
22 zens in the United States for acts of terrorism and other
23 emergencies, including primary responsibility for each of
24 the following:

25 “(1) Administration of the Citizen Corps Pro-
26 gram under section 2102.

1 “(2) Supporting public and community pre-
2 paredness efforts.

3 “(3) Serving as the principal advisor to the Sec-
4 retary of Homeland Security on public and commu-
5 nity preparedness issues.

6 “(4) Providing Citizen Corps Councils with
7 tools, information, and technical assistance to con-
8 nect local and national citizen preparedness efforts.

9 “(5) Establishing specialized preparedness pro-
10 grams for underserved populations under subsection
11 (d).

12 “(6) Ensuring coordination with, and leveraging
13 to the greatest extent feasible, efforts by private sec-
14 tor entities, faith-based groups, research and edu-
15 cational institutions, other nongovernmental organi-
16 zations, including such organizations that work with
17 the disabled and others with special needs, and
18 emergency response provider organizations to pro-
19 mote citizen preparedness and participation.

20 “(7) Assisting in the implementation of national
21 strategies for public and community preparedness,
22 including the development of individual preparedness
23 skills and capabilities, assembling preparedness kits,
24 developing emergency communications plans, train-
25 ing in basic first aid, and learning how to react to

1 a variety of emergencies, including an act of ter-
2 rorism involving chemical, biological, radiological, or
3 nuclear weapons, and natural disasters, including
4 hurricanes, floods, earthquakes, and tsunamis.

5 “(8) Establishing and maintaining a community
6 preparedness resource center to compile and dissemi-
7 nate best practices of citizen preparedness programs.

8 “(d) UNDERSERVED POPULATIONS.—In carrying out
9 the responsibilities under this section, the Director shall
10 consider the unique preparedness challenges faced by—

11 “(1) persons with physical and mental disabil-
12 ities, health problems, visual impairments, hearing
13 impairments, limited English proficiency, and lit-
14 eracy barriers;

15 “(2) socially and economically disadvantaged
16 households and communities;

17 “(3) the elderly;

18 “(4) children; and

19 “(5) individuals with pets or service animals.

20 **“SEC. 2102. CITIZEN CORPS PROGRAM.**

21 “(a) ESTABLISHMENT.—There is in the Community
22 Preparedness Division a Citizen Corps Program, through
23 which the Secretary shall bring community and govern-
24 ment leaders together to coordinate and leverage efforts
25 to strengthen community involvement in emergency pre-

1 paredness, planning, mitigation, response, and recovery
2 for acts of terrorism and natural disasters.

3 “(b) GRANT PROGRAM.—

4 “(1) IN GENERAL.—As part of the Citizen
5 Corps Program, the Secretary shall carry out a
6 grant program to make grants to States.

7 “(2) APPLICATION.—To be eligible to receive a
8 grant under this subsection, a State shall submit an
9 application containing such information and assur-
10 ances as the Secretary may require.

11 “(3) USE OF FUNDS.—A grant under this sub-
12 section may be used for any of the following pur-
13 poses:

14 “(A) To form and sustain a State or local
15 Citizen Corps Council.

16 “(B) To develop and implement edu-
17 cational programs for the public on both ter-
18 rorism and natural disaster preparedness and
19 volunteer responsibilities.

20 “(C) To develop and implement a plan or
21 to amend an existing plan to facilitate citizen
22 preparedness and participation.

23 “(D) To facilitate citizen participation in
24 preparedness training and exercises.

1 “(E) To implement volunteer programs
2 and activities to support emergency response
3 providers.

4 “(4) CONDITIONS OF RECEIPT OF FUNDS.—
5 Each State that receives a grant under this sub-
6 section shall ensure that in carrying out any of the
7 purposes under paragraph (3) outreach efforts ex-
8 tend, as appropriate, to—

9 “(A) underserved populations specified in
10 section 2101(d);

11 “(B) neighborhoods bordering critical in-
12 frastructure;

13 “(C) urban and rural communities;

14 “(D) border communities; and

15 “(E) faith-based and volunteer community
16 service organizations.

17 “(c) ADMINISTRATION AND COORDINATION.—As
18 part of the Citizen Corps Program, the Secretary shall—

19 “(1) administer—

20 “(A) the Community Emergency Response
21 Team Program under section 2103, or any suc-
22 cessor thereto; and

23 “(B) the Fire Corps Program under sec-
24 tion 2104, or any successor thereto;

1 “(2) coordinate with the Secretary of Health
2 and Human Services in the administration of the
3 Medical Reserve Corps, or any successor thereto,
4 which is a program to educate and train citizens and
5 medical professionals to assist with medical and pub-
6 lic health outreach and administration before, dur-
7 ing, and after acts of terrorism and other emer-
8 gencies; and

9 “(3) coordinate with the Attorney General in
10 the administration of—

11 “(A) Neighborhood Watch, or any suc-
12 cessor thereto, which is a program to provide
13 information, training, and resources to citizens
14 and law enforcement agencies throughout the
15 country to identify potential terrorist activities
16 and other threats; and

17 “(B) Volunteers In Police Services, or any
18 successor thereto, which is a program to edu-
19 cate and train citizens to increase the capacity
20 of volunteer State and local law enforcement of-
21 ficials to assist before, during, and after an act
22 of terrorism or other emergency.

23 “(d) COOPERATIVE AGREEMENTS WITH NON-PROF-
24 IT ENTITIES.—The Secretary may enter into cooperative
25 agreements with non-profit entities to enhance citizen pre-

1 paredness and outreach programs that the Secretary has
2 determined have a proven track record of success on a na-
3 tional or regional basis.

4 “(e) REPORTS TO CONGRESS.—Not later than one
5 year after the date of the enactment of this section, and
6 every two years thereafter, the Director of the Community
7 Preparedness Division shall submit to Congress a report
8 that evaluates the management and effectiveness of the
9 Fire Corps Program under section 2104 and the Commu-
10 nity Emergency Response Team Program under section
11 2103.

12 “(f) AUTHORIZATION OF APPROPRIATIONS.—Of the
13 amount appropriated in section 201 of the Counterter-
14 rorism Enhancement and Department of Homeland Secu-
15 rity Authorization Act of 2010 there is authorized to be
16 appropriated to carry out this section \$40,000,000 for fis-
17 cal year 2011.

18 **“SEC. 2103. COMMUNITY EMERGENCY RESPONSE TEAM**
19 **PROGRAM.**

20 “(a) ESTABLISHMENT.—There is in the Community
21 Preparedness Division a Community Emergency Response
22 Team Program, through which the Secretary shall educate
23 citizens about preparedness and mitigation and train citi-
24 zens in basic response skills, including fire safety, light

1 search and rescue, and medical operations in preparation
2 for acts of terrorism and other emergencies.

3 “(b) AUTHORIZATION OF APPROPRIATIONS.—Of the
4 amounts authorized to be appropriated under section
5 2102(f) for any fiscal year, \$1,750,000 is authorized to
6 carry out this section.

7 **“SEC. 2104. FIRE CORPS PROGRAM.**

8 “(a) ESTABLISHMENT.—There is in the Community
9 Preparedness Division a Fire Corps Program, through
10 which the Secretary shall facilitate the use of volunteers
11 in non-emergency roles at fire and rescue departments to
12 better prepare local communities to respond to acts of ter-
13 rorism and other emergencies.

14 “(b) FIRE CORPS ADVISORY COMMITTEE.—

15 “(1) ESTABLISHMENT.—The Secretary shall es-
16 tablish an advisory committee to be known as the
17 ‘Fire Corps Advisory Committee’ (hereinafter re-
18 ferred to in this section as the ‘Committee’) to pro-
19 vide guidance and assistance to the Secretary in car-
20 rying out the Fire Corps Program.

21 “(2) MEMBERSHIP.—The members of the Com-
22 mittee shall be appointed by the Secretary and shall
23 include—

24 “(A) representatives of fire and emergency
25 service organizations;

1 “(B) representatives of the United States
2 Fire Administration; and

3 “(C) other individuals that the Secretary
4 determines are appropriate.

5 “(3) TERMS OF SERVICE; PAY AND ALLOW-
6 ANCES.—The Secretary shall determine the number,
7 terms of service, and pay and allowances of members
8 of the Committee appointed by the Secretary, except
9 that the term of service of any such member may
10 not exceed three years.

11 “(4) APPLICABILITY OF FEDERAL ADVISORY
12 COMMITTEE ACT.—Section 14(a)(2)(B) of the Fed-
13 eral Advisory Committee Act (5 U.S.C. App.) shall
14 not apply to the Committee.

15 “(c) AUTHORIZATION OF APPROPRIATIONS.—Of the
16 amounts authorized to be appropriated under section
17 2012(f) for any fiscal year, \$1,500,000 is authorized to
18 carry out this section.”.

19 “(2) CLERICAL AMENDMENT.—The table of con-
20 tents in section 1(b) of such Act is amended by add-
21 ing at the end the following:

“TITLE XXI—DOMESTIC PREPAREDNESS AND COLLECTIVE
RESPONSE TO TERRORISM AND OTHER EMERGENCIES

“Sec. 2101. Community Preparedness Division.

“Sec. 2102. Citizen Corps Program.

“Sec. 2103. Community Emergency Response Team Program.

“Sec. 2104. Fire Corps Program.”.

1 (b) REPORT TO CONGRESS.—Not later than 90 days
2 after the date of the enactment of this Act, and annually
3 thereafter, the Secretary shall submit to the Committee
4 on Homeland Security of the House of Representatives
5 and the Committee on Homeland Security and Govern-
6 mental Affairs of the Senate a report specifying the
7 amount of grant funds awarded to each State under sec-
8 tion 2102(b) of the Homeland Security Act of 2002, as
9 added by subsection (b), and the purposes for which such
10 funds were awarded.

11 **SEC. 904. METROPOLITAN MEDICAL RESPONSE SYSTEM**
12 **PROGRAM.**

13 (a) METROPOLITAN MEDICAL RESPONSE SYSTEM
14 PROGRAM.—

15 (1) AMENDMENT.—Title V of the Homeland
16 Security Act of 2002 (6 U.S.C. 311 et seq.) is
17 amended by adding at the end the following:

18 **“SEC. 525. METROPOLITAN MEDICAL RESPONSE SYSTEM**
19 **PROGRAM.**

20 “(a) IN GENERAL.—The Secretary shall conduct a
21 Metropolitan Medical Response System Program, that
22 shall assist State and local governments in preparing for
23 and responding to public health and mass casualty inci-
24 dents resulting from natural disasters, acts of terrorism,
25 and other man-made disasters.

1 “(b) FINANCIAL ASSISTANCE.—

2 “(1) AUTHORIZATION OF GRANTS.—

3 “(A) IN GENERAL.—The Secretary,
4 through the Administrator of the Federal
5 Emergency Management Agency, may make
6 grants under this section to State and local gov-
7 ernments to assist in preparing for and re-
8 sponding to mass casualty incidents resulting
9 from natural disasters, acts of terrorism, and
10 other man-made disasters.

11 “(B) CONSULTATION.—In developing guid-
12 ance for grants authorized under this section,
13 the Administrator shall consult with the Assist-
14 ant Secretary, Office of Health Affairs.

15 “(2) USE OF FUNDS.—A grant made under this
16 section may be used to support the integration of
17 emergency management, health, and medical sys-
18 tems into a coordinated response to mass casualty
19 incidents caused by any hazard, including—

20 “(A) to strengthen medical surge capacity;

21 “(B) to strengthen mass prophylaxis capa-
22 bilities including development and maintenance
23 of an initial pharmaceutical stockpile sufficient
24 to protect first responders, their families, and

1 immediate victims from a chemical or biological
2 event;

3 “(C) to strengthen chemical, biological, ra-
4 diological, nuclear, and explosive detection, re-
5 sponse, and decontamination capabilities;

6 “(D) to develop and maintain mass triage
7 and pre-hospital treatment plans and capabili-
8 ties;

9 “(E) for planning;

10 “(F) to support efforts to strengthen infor-
11 mation sharing and collaboration capabilities of
12 regional, State, and urban areas in support of
13 public health and medical preparedness;

14 “(G) for medical supplies management and
15 distribution;

16 “(H) for training and exercises;

17 “(I) for integration and coordination of the
18 activities and capabilities of public health per-
19 sonnel and medical care providers with those of
20 other emergency response providers as well as
21 other Federal agencies, the private sector, and
22 nonprofit organizations, for the forward move-
23 ment of patients; and

24 “(J) for such other activities as the Ad-
25 ministrator provides.

1 “(3) ELIGIBILITY.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (C), any jurisdiction that received
4 funds through the Metropolitan Medical Re-
5 sponse System Program in fiscal year 2010
6 shall be eligible to receive a grant under this
7 section.

8 “(B) ADDITIONAL JURISDICTIONS.—

9 “(i) UNREPRESENTED STATES.—

10 “(I) IN GENERAL.—Except as
11 provided in subparagraph (C), for any
12 State in which no jurisdiction received
13 funds through the Metropolitan Med-
14 ical Response System Program in fis-
15 cal year 2010, or in which funding
16 was received only through another
17 State, the metropolitan statistical area
18 in such State with the largest popu-
19 lation of all such areas in such State
20 shall be eligible to receive a grant
21 under this section.

22 “(II) LIMITATION.—For each of
23 fiscal years 2012 through 2014, no
24 jurisdiction that would otherwise be
25 eligible to receive grants under sub-

1 clause (I) shall receive a grant under
2 this section if it would result in any
3 jurisdiction under subparagraph (A)
4 receiving less funding than such juris-
5 diction received in fiscal year 2010.

6 “(ii) OTHER JURISDICTIONS.—

7 “(I) IN GENERAL.—Subject to
8 subparagraph (C), the Administrator
9 may determine that additional juris-
10 dictions are eligible to receive grants
11 under this section.

12 “(II) LIMITATION.—For each of
13 fiscal years 2012 through 2014, the
14 eligibility of any additional jurisdic-
15 tion to receive grants under this sec-
16 tion is subject to the availability of
17 appropriations beyond that necessary
18 to—

19 “(aa) ensure that each juris-
20 diction eligible to receive a grant
21 under subparagraph (A) does not
22 receive less funding than such juris-
23 diction received in fiscal year
24 2010; and

1 “(bb) provide grants to ju-
2 risdictions eligible under clause
3 (i).

4 “(C) PERFORMANCE REQUIREMENT AFTER
5 FISCAL YEAR 2012.—A jurisdiction shall not be
6 eligible for a grant under this subsection from
7 funds available after fiscal year 2012 unless the
8 Secretary determines that the jurisdiction main-
9 tains a sufficient measured degree of capability
10 in accordance with the performance measures
11 issued under subsection (c).

12 “(4) DISTRIBUTION OF FUNDS.—

13 “(A) IN GENERAL.—The Administrator
14 shall distribute grant funds under this section
15 to the State in which the jurisdiction receiving
16 a grant under this section is located.

17 “(B) PASS THROUGH.—Subject to sub-
18 paragraph (C), not later than 45 days after the
19 date on which a State receives grant funds
20 under subparagraph (A), the State shall provide
21 the jurisdiction receiving the grant 100 percent
22 of the grant funds, and not later than 45 days
23 after the State releases the funds, all fiscal
24 agents shall make the grant funds available for
25 expenditure.

1 “(C) EXCEPTION.—The Administrator
2 may permit a State to provide to a jurisdiction
3 receiving a grant under this section 97 percent
4 of the grant funds awarded if doing so would
5 not result in any jurisdiction eligible for a grant
6 under paragraph (3)(A) receiving less funding
7 than such jurisdiction received in fiscal year
8 2010.

9 “(5) REGIONAL COORDINATION.—The Adminis-
10 trator shall ensure that each jurisdiction that re-
11 ceives a grant under this section, as a condition of
12 receiving such grant, is actively coordinating its pre-
13 paredness efforts with surrounding jurisdictions,
14 with the official with primary responsibility for
15 homeland security (other than the Governor) of the
16 government of the State in which the jurisdiction is
17 located, and with emergency response providers from
18 all relevant disciplines, as determined by the Admin-
19 istrator, to effectively enhance regional prepared-
20 ness.

21 “(c) PERFORMANCE MEASURES.—The Adminis-
22 trator, in coordination with the Assistant Secretary, Office
23 of Health Affairs, and the National Metropolitan Medical
24 Response System Working Group, shall issue performance
25 measures within one year after the date of enactment of

1 this section that enable objective evaluation of the per-
2 formance and effective use of funds provided under this
3 section in any jurisdiction.

4 “(d) METROPOLITAN MEDICAL RESPONSE SYSTEM
5 WORKING GROUP DEFINED.—In this section, the term
6 ‘National Metropolitan Medical Response System Working
7 Group’ means—

8 “(1) 10 Metropolitan Medical Response System
9 Program grant managers, who shall—

10 “(A) include one such grant manager from
11 each region of the Agency;

12 “(B) comprise a population-based cross
13 section of jurisdictions that are receiving grant
14 funds under the Metropolitan Medical Response
15 System Program; and

16 “(C) include—

17 “(i) 3 selected by the Administrator;
18 and

19 “(ii) 3 selected by the Assistant Sec-
20 retary, Office of Health Affairs; and

21 “(2) 3 State officials who are responsible for
22 administration of State programs that are carried
23 out with grants under this section, who shall be se-
24 lected by the Administrator.

1 “(e) AUTHORIZATION OF APPROPRIATIONS.—Of the
2 amount authorized in section 201 of the Counterterrorism
3 Enhancement and Department of Homeland Security Au-
4 thorization Act of 2010, there is authorized to be appro-
5 priated \$75,000,000 to carry out the program for fiscal
6 year 2011.”.

7 (2) CLERICAL AMENDMENT.—The table of con-
8 tents in section 1(b) of such Act is amended by add-
9 ing at the end of the items relating to title V the
10 following new item:

“Sec. 525. Metropolitan Medical Response System Program.”.

11 (b) METROPOLITAN MEDICAL RESPONSE PROGRAM
12 REVIEW.—

13 (1) IN GENERAL.—The Administrator of the
14 Federal Emergency Management Agency, the Assist-
15 ant Secretary, Office of Health Affairs, and the Na-
16 tional Metropolitan Medical Response System Work-
17 ing Group shall conduct a review of the Metropolitan
18 Medical Response System Program authorized under
19 section 525 of the Homeland Security Act of 2002,
20 as added by subsection (b), including an examination
21 of—

22 (A) the goals and objectives of the Metro-
23 politan Medical Response System Program;

24 (B) the extent to which the goals and ob-
25 jectives are being met;

1 (C) the performance metrics that can best
2 help assess whether the Metropolitan Medical
3 Response System Program is succeeding;

4 (D) how the Metropolitan Medical Re-
5 sponse System Program can be improved;

6 (E) how the Metropolitan Medical Re-
7 sponse System Program complements and en-
8 hances other preparedness programs supported
9 by the Department of Homeland Security and
10 the Department of Health and Human Services;

11 (F) the degree to which the strategic goals,
12 objectives, and capabilities of the Metropolitan
13 Medical Response System Program are incor-
14 porated in State and local homeland security
15 plans;

16 (G) how eligibility for financial assistance,
17 and the allocation of financial assistance, under
18 the Metropolitan Medical Response System Pro-
19 gram should be determined, including how allo-
20 cation of assistance could be based on risk;

21 (H) whether the Metropolitan Medical Re-
22 sponse System Program would be more effective
23 if it were managed as a contractual agreement;
24 and

1 (I) the resource requirements of the Metro-
2 politan Medical Response System Program.

3 (2) REPORT.—Not later than 1 year after the
4 date of enactment of this Act, the Administrator and
5 the Assistant Secretary, Office of Health Affairs
6 shall submit to the Committee on Homeland Secu-
7 rity of the House of Representatives and the Com-
8 mittee on Homeland Security and Governmental Af-
9 fairs of the Senate a report on the results of the re-
10 view under this subsection.

11 (3) CONSULTATION.—The Administrator of the
12 Federal Emergency Management Agency shall con-
13 sult with the Secretary of Health and Human Serv-
14 ices in the implementation of paragraph (1)(E).

15 (4) DEFINITION.—In this subsection the term
16 “National Metropolitan Medical Response System
17 Working Group” has the meaning that term has in
18 section 525 of the Homeland Security Act of 2002,
19 as amended by this section.

20 (c) TECHNICAL AND CONFORMING AMENDMENT.—
21 Section 635 of the Post-Katrina Management Reform Act
22 of 2006 (6 U.S.C. 723) is repealed.

1 **SEC. 905. TRANSPARENCY IN HOMELAND SECURITY GRANT**
2 **FUNDING.**

3 (a) IN GENERAL.—The Assistant Administrator of
4 the Grant Programs Directorate of the Federal Emer-
5 gency Management Agency shall establish the position of
6 Authorization Liaison Officer to provide timely informa-
7 tion on all grants administered by the Federal Emergency
8 Management Agency upon the request of the Committee
9 on Homeland Security of the House of Representatives or
10 the Committee on Homeland Security and Governmental
11 Affairs of the Senate. The Authorization Liaison Officer
12 shall report directly to the Assistant Administrator of the
13 Grant Programs Directorate.

14 (b) SUBMISSION OF REPORTS TO CONGRESS.—In ad-
15 dition to the information required under subsection (a),
16 the Authorization Liaison Officer shall provide reports on
17 not less than a semiannual basis and ensure, to the great-
18 est extent practicable, that such reports are submitted
19 concurrently to the Committee on Homeland Security of
20 the House of Representatives and the Committee on
21 Homeland Security and Governmental Affairs of the Sen-
22 ate.

23 (c) SCOPE OF REPORTS.—The Authorization Liaison
24 Officer shall ensure, to the greatest extent practicable,
25 that reports under subsection (b) include a full accounting
26 of funds awarded by the Department under all homeland

1 security grant programs administered by the Federal
2 Emergency Management Agency for the previous five fis-
3 cal years, ending with the year in which the report is pro-
4 vided, including—

5 (1) the number and type of projects approved,
6 by grantee;

7 (2) the amount of funds awarded for each
8 project;

9 (3) the amount of funds available for each
10 project;

11 (4) the date on which those funds were made
12 available;

13 (5) the amount of funds not yet released by the
14 Department, by project; and

15 (6) the reasons funds have not been released,
16 by project.

17 **SEC. 906. SENSE OF CONGRESS REGARDING INTEROPER-**
18 **ABILITY.**

19 (a) FINDINGS.—Congress finds the following:

20 (1) The National Commission on Terrorist At-
21 tacks Upon the United States (in this section re-
22 ferred to as the “9/11 Commission”) determined
23 that the inability of first responders to communicate
24 effectively on September 11, 2001 was a critical ob-
25 stacle to an effective multijurisdictional response.

1 (2) Over eight years have passed since the ter-
2 rorist attacks of September 11, 2001, and many ju-
3 risdictions across the country still experience dif-
4 ficulties communicating that may contribute to con-
5 fusion, delays, or added risks when responding to a
6 terrorist attack or a natural disaster.

7 (3) In the years since September 11, 2001, the
8 need for a national wireless first responder inter-
9 operable communications network has remained, but
10 the Nation has not yet completed building this vital
11 resource for public safety.

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that improving first responder interoperable commu-
14 nications and initiating the construction of a national
15 wireless first responder interoperable communications net-
16 work should move forward as expeditiously as possible.

17 **SEC. 907. AUDIT OF THE NATIONAL LEVEL EXERCISE.**

18 (a) IN GENERAL.—Not later than 180 days after the
19 date of enactment of this Act, the Inspector General of
20 the Department of Homeland Security shall conduct—

21 (1) an audit of expenses associated with the
22 2010 National Level Exercise, including costs of
23 planning for the initial exercise scenario; and

24 (2) a review of whether the Federal Emergency
25 Management Agency is incorporating lessons learned

1 from national exercises into training, planning, and
2 other operations.

3 (b) REPORT.—The Inspector General shall submit a
4 report on the findings of the audit and review to the Com-
5 mittee on Homeland Security of the House of Representa-
6 tives and the Committee on Homeland Security and Gov-
7 ernmental Affairs in the Senate.

8 **SEC. 908. FEMA REPORT TO CONGRESS ON SOURCING AND**
9 **DISTRIBUTION OF DISASTER RESPONSE**
10 **GOODS AND SERVICES.**

11 Not later than 90 days after the date of enactment
12 of this Act, the Administrator of the Federal Emergency
13 Management Agency shall submit to Congress a report on
14 the Agency's progress in improving sourcing for disaster
15 response goods and services, including on—

16 (1) the adoption of a single-point ordering con-
17 cept as recommended by the Department of Home-
18 land Security Inspector General;

19 (2) investment in information technology sys-
20 tems to support single-point ordering and make
21 sourcing and supply movement transparent as rec-
22 ommended by the Department of Homeland Security
23 Inspector General;

1 (3) development of an overarching strategy for
2 the sourcing of disaster response goods and services;
3 and

4 (4) other steps taken by the Agency to promote
5 efficiency in sourcing and distribution, and to elimi-
6 nate duplication and waste of essential goods and
7 services during response to a disaster.

8 **TITLE X—SCIENCE AND**
9 **TECHNOLOGY**

10 **SEC. 1001. DEFINITIONS.**

11 In this title:

12 (1) **APPROPRIATE CONGRESSIONAL COM-**
13 **MITTEE.**—The term “appropriate congressional com-
14 mittee” means the Committee on Homeland Security
15 of the House of Representatives and any committee
16 of the House of Representatives or the Senate hav-
17 ing legislative jurisdiction under the rules of the
18 House of Representatives or Senate, respectively,
19 over the matter concerned.

20 (2) **DIRECTORATE.**—The term “Directorate”
21 means the Directorate of Science and Technology of
22 the Department.

23 (3) **UNDER SECRETARY.**—The term “Under
24 Secretary” means the Under Secretary for Science
25 and Technology of the Department.

1 **SEC. 1002. REFERENCES.**

2 Except as otherwise specifically provided, whenever in
3 this title an amendment or repeal is expressed in terms
4 of an amendment to, or repeal of, a provision, the ref-
5 erence shall be considered to be made to a provision of
6 the Homeland Security Act of 2002 (6 U.S.C. 101 et
7 seq.).

8 **Subtitle A—Authorization of**
9 **Appropriations**

10 **SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.**

11 Of the amount authorized in section 201, there is au-
12 thorized to be appropriated to the Under Secretary
13 \$995,664,000 for fiscal year 2011 for the necessary ex-
14 penses of the Directorate.

15 **Subtitle B—Management and**
16 **Administration**

17 **SEC. 1021. RESEARCH PRIORITIZATION AND REQUIRE-**
18 **MENTS; PROFESSIONAL DEVELOPMENT;**
19 **MILESTONES AND FEEDBACK.**

20 (a) IN GENERAL.—Subtitle D of title II (6 U.S.C.
21 161 et seq.) is amended—

22 (1) in the subtitle heading, by striking “**Office**
23 **of**”; and

24 (2) in the heading for section 231, by inserting
25 “**OF SCIENCE AND TECHNOLOGY**” after “**OF-**
26 **FICE**”.

1 (b) CLERICAL AMENDMENTS.—The table of contents
2 in section 1(b) is amended in the items relating to subtitle
3 D of title II—

4 (1) in the item relating to the heading for the
5 subtitle, by striking “Office of”; and

6 (2) in the item relating to section 231, by strik-
7 ing “office” and inserting “Office of Science and
8 Technology”.

9 **SEC. 1022. TESTING, EVALUATION, AND STANDARDS.**

10 Section 308 (6 U.S.C. 188) is amended by adding
11 at the end of the following new subsection:

12 “(d) TEST, EVALUATION, AND STANDARDS DIVI-
13 SION.—

14 “(1) ESTABLISHMENT.—There is established in
15 the Directorate of Science and Technology a Test,
16 Evaluation, and Standards Division.

17 “(2) DIRECTOR.—The Test, Evaluation, and
18 Standards Division shall be headed by a Director of
19 Test, Evaluation, and Standards, who shall be ap-
20 pointed by the Secretary and report to the Under
21 Secretary for Science and Technology.

22 “(3) RESPONSIBILITIES, AUTHORITIES, AND
23 FUNCTIONS.—The Director of Test, Evaluation, and
24 Standards—

1 “(A) is the principal adviser to the Sec-
2 retary, the Under Secretary of Management,
3 and the Under Secretary for Science and Tech-
4 nology on all test and evaluation or standards
5 activities in the Department; and

6 “(B) shall—

7 “(i) prescribe test and evaluation poli-
8 cies for the Department, which shall in-
9 clude policies to ensure that operational
10 testing is done at facilities that already
11 have relevant and appropriate safety and
12 material certifications to the extent such
13 facilities are available;

14 “(ii) oversee and ensure that adequate
15 test and evaluation activities are planned
16 and conducted by or on behalf of compo-
17 nents of the Department in major acquisi-
18 tion programs of the Department, as des-
19 ignated by the Secretary, based on risk,
20 acquisition level, novelty, complexity, and
21 size of the acquisition program, or as oth-
22 erwise established in statute;

23 “(iii) review major acquisition pro-
24 gram test reports and test data to assess
25 the adequacy of test and evaluation activi-

1 ties conducted by or on behalf of compo-
2 nents of the Department; and

3 “ (iv) review available test and evalua-
4 tion infrastructure to determine whether
5 the Department has adequate resources to
6 carry out its testing and evaluation respon-
7 sibilities, as established under this title.

8 “(4) DEPUTY DIRECTOR OF OPERATIONAL TEST
9 AND EVALUATION.—Within the Division there shall
10 be a Deputy Director of Operational Test and Eval-
11 uation, who—

12 “(A) is the principal operational test and
13 evaluation official for the Department; and

14 “(B) shall—

15 “(i) monitor and review the oper-
16 ational testing and evaluation activities
17 conducted by or on behalf of components
18 of the Department in major acquisition
19 programs of the Department, as des-
20 ignated by the Secretary, based on risk,
21 acquisition level, novelty, complexity, and
22 size of the acquisition program, or as oth-
23 erwise established in statute;

24 “(ii) provide the Department with
25 independent and objective assessments of

1 the adequacy of testing and evaluation ac-
2 tivities conducted in support of major ac-
3 quisitions programs; and

4 “(iii) have prompt and full access to
5 test and evaluation documents, data, and
6 test results of the Department that the
7 Deputy Director considers necessary to re-
8 view in order to carry out the duties of the
9 Deputy Director under this section.

10 “(5) STANDARDS EXECUTIVE.—Within this Di-
11 vision, there shall be a Standards Executive as de-
12 scribed in Office of Management and Budget Cir-
13 cular A–119. The Standards Executive shall—

14 “(A) implement the Department’s stand-
15 ards policy as described in section 102(g); and

16 “(B) support the development and adop-
17 tion of voluntary standards in accordance with
18 section 12(d) of the National Technology
19 Transfer and Advancement Act of 1995 (15
20 U.S.C. 272 note).

21 “(6) LIMITATION.—The Division is not required
22 to carry out operational testing.

23 “(7) EVALUATION OF DEPARTMENT OF DE-
24 FENSE TECHNOLOGIES.—The Director of Test,
25 Evaluation, and Standards may evaluate tech-

1 nologies currently in use or being developed by the
2 Department of Defense to assess whether they can
3 be leveraged to address homeland security capability
4 gaps.”.

5 **SEC. 1023. PEER REVIEW.**

6 (a) RESPONSIBILITIES AND AUTHORITIES OF THE
7 UNDER SECRETARY.—Section 302 (6 U.S.C. 183) is
8 amended by striking “and” after the semicolon at the end
9 of paragraph (13), by striking the period at the end of
10 paragraph (14) and inserting “; and”, and by adding at
11 the end the following new paragraph:

12 “(15) developing and overseeing the administra-
13 tion of guidelines for peer review of research and de-
14 velopment projects, including by—

15 “(A) consulting with experts, including sci-
16 entists and practitioners, about the research
17 and development conducted by the Directorate
18 of Science and Technology; and

19 “(B) performing ongoing independent, ex-
20 ternal, scientific peer review—

21 “(i) initially at the division level; or

22 “(ii) when divisions conduct multiple
23 programs focused on significantly different
24 subjects, at the program level.”.

1 (b) REPORT.—The Secretary shall report to Congress
2 not later than 60 days after the completion of the first
3 review under section 302(15)(B) of the Homeland Secu-
4 rity Act of 2002, as amended by subsection (a) of this
5 section on—

6 (1) the findings of the review; and

7 (2) any future efforts to ensure that the De-
8 partment’s research projects are peer reviewed, as
9 appropriate.

10 **SEC. 1024. DIRECTORATE OF SCIENCE AND TECHNOLOGY**

11 **STRATEGIC PLAN.**

12 (a) IN GENERAL.—Title III (6 U.S.C. 181 et seq.)
13 is amended by adding at the end the following new section:

14 **“SEC. 318. STRATEGIC PLAN.**

15 “(a) REQUIREMENT FOR STRATEGIC PLAN.—Not
16 later than 1 year after the date of enactment of this sec-
17 tion and every other year thereafter, the Under Secretary
18 for Science and Technology shall prepare a strategic plan
19 for the activities of the Directorate.

20 “(b) CONTENTS.—The strategic plan required by
21 subsection (a) shall be prepared in accordance with appli-
22 cable Federal requirements, and shall include the following
23 matters:

24 “(1) The long-term strategic goals of the Direc-
25 torate.

1 “(2) Identification of the research programs of
2 the Directorate that support achievement of those
3 strategic goals.

4 “(3) The connection of the activities and pro-
5 grams of the Directorate to requirements or home-
6 land security capability gaps identified by customers
7 within the Department and outside of the Depart-
8 ment, including the first responder community.

9 “(4) The role of the Department’s risk analysis
10 in the activities and programs of the Directorate.

11 “(5) A technology transition strategy for the
12 programs of the Directorate.

13 “(6) A description of the policies of the Direc-
14 torate on the management, organization, and per-
15 sonnel of the Directorate.

16 “(c) SUBMISSION OF PLAN TO CONGRESS.—The Sec-
17 retary shall submit to Congress any update to the stra-
18 tegic plan most recently prepared under subsection (a) at
19 the same time that the President submits to Congress the
20 budget for each even-numbered fiscal year.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 in section 1(b) is amended by adding at the end of the
23 items relating to title III the following new item:

“Sec. 318. Strategic plan.”.

1 **Subtitle C—Directorate of Science**
2 **and Technology Programs**

3 **SEC. 1031. LIMITATIONS ON RESEARCH.**

4 Section 302(4) is amended by inserting after “extra-
5 mural programs,” the following: “that, to the greatest ex-
6 tent possible, addresses a prioritized risk to the homeland
7 as identified by a risk analysis under section 226(e) of
8 this Act”.

9 **SEC. 1032. UNIVERSITY-BASED CENTERS.**

10 (a) **AUTHORIZATION OF APPROPRIATIONS.**—Of the
11 amount authorized by section 1011, there is authorized
12 to be appropriated \$40,000,000 for fiscal year 2011 to
13 the Secretary to carry out the university-based centers
14 program of the Department.

15 (b) **CRITERIA FOR DESIGNATION.**—Section
16 308(b)(2)(B)(iii) (6 U.S.C. 188(b)(2)(B)(iii)) is amended
17 by inserting before the period at the end the following:
18 “, including medical readiness training and research, and
19 community resiliency for public health and healthcare crit-
20 ical infrastructure”.

21 (c) **EXPLOSIVE COUNTERMEASURES OR DETEC-**
22 **TION.**—Section 308(b)(2)(B)(iv) (6 U.S.C.
23 188(b)(2)(B)(iv)) is amended by striking “and nuclear”
24 and inserting “nuclear, and explosive”.

1 **SEC. 1033. REVIEW OF UNIVERSITY-BASED CENTERS.**

2 (a) GAO STUDY OF UNIVERSITY-BASED CENTERS.—
3 Not later than 120 days after the date of enactment of
4 this Act, the Comptroller General of the United States
5 shall initiate a study to assess the university-based centers
6 for homeland security program authorized by section
7 308(b)(2) of the Homeland Security Act of 2002 (6
8 U.S.C. 188(b)(2)), and provide recommendations to the
9 appropriate congressional committees for appropriate im-
10 provements.

11 (b) SUBJECT MATTERS.—The study under sub-
12 section (a) shall include the following:

13 (1) A review of key areas of study needed to
14 support the homeland security mission, and criteria
15 that should be utilized to determine those key areas
16 for which the Department should maintain, estab-
17 lish, or eliminate university-based centers.

18 (2) A review of the method by which university-
19 based centers, federally funded research and develop-
20 ment centers, and Department of Energy national
21 laboratories receive tasking from the Department,
22 including a review of how university-based research
23 is identified, prioritized, and funded.

24 (3) A review of selection criteria for designating
25 university-based centers and a weighting of such cri-
26 teria.

1 (4) An examination of the optimal organization
2 and role of the university-based centers in sup-
3 porting the mission of the Directorate and the De-
4 partment components.

5 (5) An identification of the most appropriate
6 review criteria and metrics to measure demonstrable
7 progress achieved by university-based centers in ful-
8 filling Department taskings, and mechanisms for de-
9 livering and disseminating the research results of
10 designated university-based centers within the De-
11 partment and to other Federal, State, and local
12 agencies.

13 (6) An examination of the means by which aca-
14 demic institutions that are not designated or associ-
15 ated with the designated university-based centers
16 can optimally contribute to the research mission of
17 the Directorate.

18 (7) An assessment of the interrelationship be-
19 tween the different university-based centers.

20 (8) A review of any other essential elements of
21 the programs determined in the conduct of the
22 study.

23 (c) MORATORIUM ON NEW UNIVERSITY-BASED CEN-
24 TERS.—The Secretary may not designate any new univer-
25 sity-based centers to research new areas in homeland secu-

1 rity prior to the completion of the Comptroller General's
2 review.

3 **SEC. 1034. DUAL-USE TERRORIST RISKS FROM SYNTHETIC**
4 **GENOMICS.**

5 (a) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that the field of synthetic genomics has the potential
7 to facilitate enormous gains in fundamental discovery and
8 biotechnological applications, but it also has inherent dual-
9 use homeland security risks that must be managed.

10 (b) REQUIREMENT.—The Under Secretary shall ex-
11 amine and report to the appropriate congressional com-
12 mittees by not later than one year after the date of enact-
13 ment of this Act on the homeland security implications
14 of the dual-use nature of synthetic genomics and, if the
15 Under Secretary determines that such research is appro-
16 priate, may conduct research in that area, including—

17 (1) determining the current capability of syn-
18 thetic nucleic acid providers to effectively differen-
19 tiate a legitimate customer from a potential terrorist
20 or other malicious actor;

21 (2) determining the current capability of syn-
22 thetic nucleic acid providers to effectively screen or-
23 ders for sequences of homeland security concern;
24 and

1 (3) making recommendations regarding screen-
2 ing software, protocols, and other remaining capa-
3 bility gaps uncovered by the study.

4 **SEC. 1035. UNDERWATER TUNNEL SECURITY DEMONSTRATION PROJECT.**
5

6 (a) IN GENERAL.—The Under Secretary, in consulta-
7 tion with the Assistant Secretary of the Transportation
8 Security Administration, shall conduct a demonstration
9 project to test and assess the feasibility and effectiveness
10 of certain technologies to enhance the security of under-
11 water public transportation tunnels against terrorist at-
12 tacks involving the use of improvised explosive devices.

13 (b) INFLATABLE PLUGS.—At least one of the tech-
14 nologies tested under subsection (a) shall be inflatable
15 plugs that may be rapidly deployed to prevent flooding of
16 an underwater public transportation tunnel.

17 **SEC. 1036. THREATS RESEARCH AND DEVELOPMENT.**

18 (a) IN GENERAL.—The Under Secretary, in carrying
19 out responsibilities under section 302 of the Homeland Se-
20 curity Act of 2002 (6 U.S.C. 182), may support research,
21 development, testing, evaluation, and transition of tech-
22 nology that increases the Nation’s preparedness against
23 chemical and biological threats and strengthens the Na-
24 tion’s preparedness and collective response against those
25 threats through improved threat awareness and advanced

1 surveillance, detection, and protective countermeasures,
2 and to enhance the development of border security tech-
3 nology.

4 (b) BIOLOGICAL SECURITY.—To carry out subsection
5 (a), the Under Secretary may conduct research to develop
6 understanding, technologies, and systems needed to pro-
7 tect against biological attacks on the Nation’s population
8 or infrastructure, including—

9 (1) providing advanced planning tools, concepts
10 of operations (including alarm resolution protocols),
11 and training exercises for responding to and recover-
12 ing from biological attacks;

13 (2) developing biological assays and improved
14 detection technology that will operate with faster de-
15 tection times, lower costs, and the potential for in-
16 creased geographical coverage to the Nation when
17 compared to existing homeland security technologies;

18 (3) characterizing threats posed by biological
19 weapons, anticipating future threats, conducting
20 comprehensive threat and risk assessments to guide
21 prioritization of the Nation’s biodefense investments,
22 and developing population threat assessments that
23 inform the issuance of material threat determina-
24 tions;

1 (4) conducting bioforensics research in support
2 of criminal investigations to aid attribution, appre-
3 hension, and prosecution of a terrorist or other per-
4 petrator of a biological attack, and providing tools
5 and facilities that Federal law enforcement inves-
6 tigators need to analyze biological threat evidence re-
7 covered, including operation of the National Bio-
8 forensic Analysis Center; and

9 (5) conducting appropriate research and studies
10 that will increase our understanding of and uncer-
11 tainties associated with risk and threats posed by bi-
12 ological agents through the Biological Threat Char-
13 acterization Center and other means as determined
14 by the Secretary.

15 (c) AGRICULTURAL SECURITY.—The Under Sec-
16 retary may conduct research and development to enhance
17 the protection of the Nation’s agriculture and food system
18 against terrorist attacks, and other emergency events
19 through enhancement of current agricultural counter-
20 measures, development of new agricultural counter-
21 measures, and provision of safe, secure, state-of-the-art
22 biocontainment laboratories for researching foreign animal
23 and zoonotic diseases, including—

24 (1) developing technologies to defend the Na-
25 tion against the natural and intentional introduction

1 of selected foreign animal diseases, developing next-
2 generation vaccines and diagnostics in coordination
3 with the Department of Agriculture, and modeling
4 the spread of foreign animal diseases and their eco-
5 nomic impact to evaluate strategies for controlling
6 outbreaks; and

7 (2) leading the Department effort to enhance
8 interagency coordination of research and develop-
9 ment of agricultural disease countermeasures.

10 (d) CHEMICAL SECURITY.—The Under Secretary
11 may develop technology to reduce the Nation’s vulner-
12 ability to chemical warfare agents and commonly used
13 toxic industrial chemicals, including—

14 (1) developing a robust and enduring analytical
15 capability in support of chemical countermeasures
16 development, including developing and validating fo-
17 rensic methodologies and analytical tools, conducting
18 risk and vulnerability assessments based on chemical
19 threat properties, and maintaining infrastructure in-
20 cluding the Chemical Security Analysis Center;

21 (2) developing technology to detect a chemical
22 threat release; and

23 (3) developing technologies and guidance docu-
24 ments to foster a coordinated approach to returning
25 a chemically contaminated area to a normal condi-

1 tion, and to foster analysis of contaminated areas
2 both before and after the restoration process.

3 (e) RISK ASSESSMENTS.—

4 (1) IN GENERAL.—The Under Secretary shall
5 produce risk assessments for biological and chemical
6 threats, and shall coordinate with the Director of the
7 Domestic Nuclear Detection Office of the Depart-
8 ment, the Assistant Secretary of the Office of
9 Health Affairs of the Department, and the Assistant
10 Secretary of Infrastructure Protection of the De-
11 partment on an integrated risk assessment, includ-
12 ing regarding chemical, biological, radiological, nu-
13 clear, and explosive threats.

14 (2) USAGE.—The assessments required under
15 paragraph (1) shall be used to inform and guide the
16 threat assessments and determinations by the Sec-
17 retary of Homeland Security regarding agents and
18 toxins pursuant to section 302(9) of the Homeland
19 Security Act of 2002 (6 U.S.C. 182(9)), and to
20 guide prioritization of other homeland defense activi-
21 ties, as appropriate.

22 (3) TASK FORCE.—The Under Secretary for
23 Science and Technology shall convene an interagency
24 task force of relevant subject matter experts to as-
25 sess the proposed methodology to be used for each

1 assessment required under paragraph (1), and to
2 provide recommendations to the Under Secretary as
3 to the adequacy of such methodology.

4 (f) **BORDER SECURITY.**—The Under Secretary may
5 develop technology, in coordination with the Commissioner
6 of Customs and Border Protection, to gain effective con-
7 trol of the international land borders of the United States
8 within 5 years after the date of enactment of this Act.
9 In carrying out such development activities, the Under
10 Secretary shall ensure coordination and integration be-
11 tween new technologies developed and those already uti-
12 lized by U.S. Customs and Border Protection.

13 **SEC. 1037. MARITIME DOMAIN AWARENESS AND MARITIME**
14 **SECURITY TECHNOLOGY TEST, EVALUATION,**
15 **AND TRANSITION CAPABILITIES.**

16 (a) **GLOBAL MARITIME DOMAIN AWARENESS AND**
17 **MARITIME SECURITY TECHNOLOGY TEST, EVALUATION,**
18 **AND TRANSITION CAPABILITIES.**—

19 (1) **ESTABLISHMENT.**—The Secretary shall es-
20 tablish capabilities for conducting global maritime
21 domain awareness and maritime security technology
22 test, evaluation, and transition, as provided in this
23 subsection.

24 (2) **PURPOSE.**—The purpose of such capabili-
25 ties shall be to—

1 (A) direct technology test, evaluation, and
2 transition activities in furtherance of border
3 and maritime security; and

4 (B) evaluate such technology in diverse en-
5 vironments including coastal, seaport, and off-
6 shore locations.

7 (b) COORDINATION.—The Secretary, acting through
8 the Under Secretary, shall ensure that—

9 (1) technology test, evaluation, and transition
10 efforts funded by the Department in furtherance of
11 border and maritime security avoid duplication of ef-
12 forts, reduce unnecessary redundancies, streamline
13 processes, increase efficiencies, and otherwise com-
14 plement existing Department and other efforts in
15 border and maritime security; and

16 (2) the results of such efforts are shared with
17 the appropriate congressional committees and others
18 as determined appropriate by the Secretary.

19 **SEC. 1038. RAPID BIOLOGICAL THREAT DETECTION AND**
20 **IDENTIFICATION.**

21 (a) IN GENERAL.—Notwithstanding section 302(4)
22 of the Homeland Security Act of 2002 (6 U.S.C. 182(4)),
23 the Secretary shall require the Under Secretary, in con-
24 sultation with other relevant operational components of
25 the Department, to assess whether the development of

1 screening capabilities for pandemic influenza and other in-
2 fectious diseases should be undertaken by the Directorate
3 to support entry and exit screening at ports of entry and
4 for other purposes.

5 (b) DEVELOPMENT OF METHODS.—If the Under
6 Secretary determines that the development of such screen-
7 ing capabilities should be undertaken, the Secretary shall,
8 to the extent possible, initiate development of safe and ef-
9 fective methods to rapidly screen incoming travelers at
10 ports of entry for pandemic influenza and other infectious
11 diseases.

12 (c) COLLABORATION.—In developing methods under
13 subsection (b), the Secretary may collaborate with other
14 Federal agencies, as appropriate.

15 **SEC. 1039. RURAL RESILIENCE INITIATIVE.**

16 (a) IN GENERAL.—The Under Secretary shall con-
17 duct research intended to assist State, local, and tribal
18 leaders and the private sector in developing the tools and
19 methods to enhance preparation for, and response and re-
20 silience to, terrorist events and other incidents.

21 (b) INCLUDED ACTIVITIES.—Activities under this
22 section may include—

23 (1) research and implementation through out-
24 reach activities with rural communities;

1 (2) an examination of how communities employ
2 resilience capabilities and response assets;

3 (3) a community resilience baseline template for
4 determining the resilience capacity of a rural com-
5 munity;

6 (4) a plan to address community needs for re-
7 silience;

8 (5) an education program for community lead-
9 ers and first responders about their resilience capac-
10 ity and mechanisms for mitigation, including via dis-
11 tance learning; and

12 (6) a mechanism by which this research can
13 serve as a model for adoption by communities across
14 the Nation.

15 **SEC. 1040. HOMELAND SECURITY SCIENCE AND TECH-**
16 **NOLOGY FELLOWS PROGRAM.**

17 (a) IN GENERAL.—Title III of the Homeland Secu-
18 rity Act of 2002 (6 U.S.C. 181 et seq.) is further amended
19 by adding at the end the following new section:

20 **“SEC. 319. HOMELAND SECURITY SCIENCE AND TECH-**
21 **NOLOGY FELLOWS PROGRAM.**

22 “(a) ESTABLISHMENT.—The Secretary, acting
23 through the Under Secretary for Science and Technology,
24 shall establish a fellows program, to be known as the
25 Homeland Security Science and Technology Fellows Pro-

1 gram, under which the Under Secretary shall facilitate the
2 temporary placement of scientists in relevant scientific or
3 technological fields for up to two years in components of
4 the Department with a need for scientific and techno-
5 logical expertise.

6 “(b) UTILIZATION OF FELLOWS.—

7 “(1) IN GENERAL.—Under the Program, the
8 Under Secretary may employ fellows—

9 “(A) for the use of the Directorate of
10 Science and Technology; or

11 “(B) for the use of Department compo-
12 nents outside the Directorate, under an agree-
13 ment with the head of such a component under
14 which the component will reimburse the Direc-
15 torate for the costs of such employment.

16 “(2) RESPONSIBILITIES.—Under such an
17 agreement—

18 “(A) the Under Secretary shall—

19 “(i) solicit and accept applications
20 from individuals who are currently enrolled
21 in or who are graduates of post-graduate
22 programs in scientific and engineering
23 fields related to the promotion of securing
24 the homeland, including—

1 “(I) biological, chemical, physical,
2 behavioral, social, health, medical, and
3 computational sciences;
4 “(II) geosciences;
5 “(III) all fields of engineering;
6 and
7 “(IV) such other disciplines as
8 are determined relevant by the Sec-
9 retary;
10 “(ii) screen applicant candidates and
11 interview them as appropriate to ensure
12 that they possess the appropriate level of
13 scientific and engineering expertise and
14 qualifications;
15 “(iii) provide a list of qualified appli-
16 cants to the heads of Department compo-
17 nents seeking to utilize qualified fellows;
18 “(iv) pay financial compensation to
19 such fellows;
20 “(v) coordinate with the Chief Secu-
21 rity Officer to facilitate and expedite provi-
22 sion of security clearances to fellows, as
23 appropriate; and

1 “(vi) otherwise administer all aspects
2 of the fellows’ employment with the De-
3 partment; and

4 “(B) the head of the component utilizing
5 the fellow shall—

6 “(i) select a fellow from the list of
7 qualified applicants provided by the Under
8 Secretary;

9 “(ii) reimburse the Under Secretary
10 for the costs of employing the fellow se-
11 lected; and

12 “(iii) be responsible for the day-to-day
13 management of the fellow.

14 “(c) APPLICATIONS FROM ASSOCIATIONS.—The
15 Under Secretary may accept applications under subsection
16 (b)(2)(A) that are submitted by science or policy associa-
17 tions on behalf of individuals whom such an association
18 has determined may be qualified applicants under the pro-
19 gram.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 1(b) of such Act is further amended by adding
22 at the end of the items relating to title III the following
23 new item:

“Sec. 319. Homeland Security Science and Technology Fellows Program.”.

1 **SEC. 1041. BIOLOGICAL THREAT AGENT ASSAY EQUIVA-**
2 **LENCY.**

3 (a) IN GENERAL.—Title III (6 U.S.C. 181 et seq.)
4 is further amended by adding at the end the following new
5 section:

6 **“SEC. 320. BIOLOGICAL THREAT AGENT ASSAY EQUIVA-**
7 **LENCY PROGRAM.**

8 “(a) IN GENERAL.—To facilitate equivalent biological
9 threat agent identification among federally operated bio-
10 monitoring programs, the Under Secretary, in consulta-
11 tion with the Director of the Centers for Disease Control
12 and Prevention, may implement an assay equivalency pro-
13 gram for biological threat assays.

14 “(b) FEATURES.—In order to establish assay per-
15 formance equivalency to support homeland security and
16 public health security decisions, the program may—

17 “(1) evaluate biological threat detection assays,
18 their protocols for use, and their associated response
19 algorithms for confirmation of biological threat
20 agents, taking performance measures and concepts
21 of operation into consideration; and

22 “(2) develop assay equivalency standards based
23 on the findings of the evaluation under paragraph
24 (1).

25 “(c) UPDATE.—The Under Secretary shall update
26 the program as necessary.

1 “(d) IMPLEMENTATION.—The Secretary shall—

2 “(1) require implementation of the standards
3 developed under subsection (b)(2) for all Depart-
4 ment biomonitoring programs; and

5 “(2) make such standards available to support
6 all other Federal biomonitoring programs.

7 “(e) ASSAY DEFINED.—In this section the term
8 ‘assay’ means any scientific test that is—

9 “(1) designed to detect the presence of a bio-
10 logical threat agent; and

11 “(2) of a type selected under criteria estab-
12 lished by the Secretary.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
14 in section 1(b) is further amended by adding at the end
15 of the items relating to title III the following new item:

“Sec. 320. Biological threat agent assay equivalency program.”.

16 **SEC. 1042. STUDY OF FEASIBILITY AND BENEFIT OF EX-**
17 **PANDING OR ESTABLISHING PROGRAM TO**
18 **CREATE A NEW CYBERSECURITY CAPACITY**
19 **BUILDING TRACK AT CERTAIN INSTITUTIONS**
20 **OF HIGHER EDUCATION.**

21 (a) IN GENERAL.—Within 90 days after the date of
22 enactment of this Act, the Secretary, in coordination with
23 the National Science Foundation, shall commission a
24 study by a nonprofit research institution to determine the
25 feasibility and potential benefit of expanding the Federal

1 Cyber Service Scholarship for Service Program, or estab-
2 lishing a parallel program, as methods to create a new
3 cybersecurity or information assurance capacity building
4 track at institutions of higher education that are not cur-
5 rently designated as a National Center of Academic Excel-
6 lence in Information Assurance Education or a National
7 Center of Academic Excellence in Research.

8 (b) SUBJECT MATTERS.—The study under sub-
9 section (a) shall include examinations of the following:

10 (1) The feasibility and potential benefit of al-
11 lowing the following types of institutions into the ex-
12 isting Federal Cyber Service program:

13 (A) Community colleges.

14 (B) Institutions offering an undergraduate
15 degree, graduate degree, or post-graduate de-
16 gree, but do not qualify under the existing pro-
17 gram.

18 (C) Institutions offering a certificate or in-
19 dustry-recognized credential.

20 (2) The feasibility and potential benefit of es-
21 tablishing a new program modeled after the Federal
22 Cyber Service program to build capacity at—

23 (A) community colleges;

24 (B) institutions offering an undergraduate
25 degree, graduate degree, or post-graduate de-

1 gree, but do not qualify under the existing pro-
2 gram; or

3 (C) institutions offering a certificate or in-
4 dustry-recognized credential.

5 (3) The projected extent to which an expansion
6 of the existing Federal Cyber Service program as de-
7 scribed in paragraph (1) would—

8 (A) expand the availability of qualified in-
9 dividuals to work in information assurance and
10 cybersecurity within the Department and other
11 Federal, State, local, and tribal agencies, and
12 the private sector;

13 (B) encourage institutions of higher edu-
14 cation to develop a new information assurance
15 or cybersecurity education undergraduate de-
16 gree programs, graduate degree programs, or
17 programs conferring a certificate or industry-
18 recognized credential;

19 (C) increase the number of students grad-
20 uating annually from existing information as-
21 surance or cybersecurity education under-
22 graduate degree programs, graduate degree
23 programs, or programs conferring a certificate
24 or industry-recognized credential; or

1 (D) improve existing information assur-
2 ance or cybersecurity education undergraduate
3 degree programs, graduate degree programs, or
4 programs conferring a certificate or industry-
5 recognized credential.

6 (4) The projected extent to which the establish-
7 ment of a new program modeled after the Federal
8 Cyber Service program as described in paragraph
9 (2) would—

10 (A) expand the availability of qualified in-
11 dividuals to work in information assurance and
12 cybersecurity within the Department and other
13 Federal, State, local, and tribal agencies, and
14 the private sector;

15 (B) encourage institutions of higher edu-
16 cation to develop a new information assurance
17 or cybersecurity education undergraduate de-
18 gree programs, graduate degree programs, or
19 programs conferring a certificate or industry-
20 recognized credential;

21 (C) increase the number of students grad-
22 uating annually from existing information as-
23 surance or cybersecurity education under-
24 graduate degree programs, graduate degree

1 programs, or programs conferring a certificate
2 or industry-recognized credential; or

3 (D) improve existing information assur-
4 ance or cybersecurity education undergraduate
5 degree programs, graduate degree programs, or
6 programs conferring a certificate or industry-
7 recognized credential.

8 (c) REPORT.—Not later than 30 days after receiving
9 the findings of the study, the Secretary shall transmit the
10 findings, together with any comments thereon by the Sec-
11 retary, to the appropriate congressional committees.

12 **SEC. 1043. ASSESSMENT, RESEARCH, TESTING, AND EVAL-**
13 **UATION OF TECHNOLOGIES TO MITIGATE**
14 **THE THREAT OF SMALL VESSEL ATTACK.**

15 The Under Secretary may—

16 (1) assess what technologies are available to
17 mitigate the threat of small vessel attack in secure
18 zones of ports, including the use of transponders or
19 radio frequency identification devices to track small
20 vessels; and

21 (2) conduct research, testing, and evaluation of
22 new technologies that might be capable of tracking
23 small vessels.

24 **SEC. 1044. OTHER TRANSACTION AUTHORITY.**

25 Section 831 (6 U.S.C. 391) is amended—

1 (1) in subsection (a), by striking “2010,” and
2 inserting 2011;

3 (2) in subsection (a), by adding at the end the
4 following new paragraph:

5 “(3) PRIOR APPROVAL.—In any case in which
6 the Under Secretary for Science and Technology in-
7 tends to exercise other transaction authority, the
8 Under Secretary must receive prior approval from
9 the Secretary after submitting to the Secretary a
10 proposal that includes the rationale for why a grant
11 or contract issued in accordance with the Federal
12 Acquisition Regulation is not feasible or appropriate
13 and the amount to be expended for such project. In
14 such a case, the authority for evaluating the pro-
15 posal may not be delegated by the Secretary to any-
16 one other than the Under Secretary for Manage-
17 ment.”; and

18 (3) by redesignating subsection (e) as sub-
19 section (i), and by inserting after subsection (d) the
20 following new subsections:

21 “(e) ANNUAL REPORT ON EXERCISE OF OTHER
22 TRANSACTION AUTHORITY.—

23 “(1) IN GENERAL.—The Secretary shall submit
24 to the appropriate congressional committees an an-

1 nual report on the exercise of other transaction au-
2 thority.

3 “(2) CONTENT.—The report shall include the
4 following:

5 “(A) The subject areas in which research
6 projects were conducted using other transaction
7 authority.

8 “(B) The extent of cost-sharing for such
9 projects among Federal and non-Federal
10 sources.

11 “(C) The extent to which use of other
12 transaction authority has addressed a homeland
13 security capability gap identified by the Depart-
14 ment of Homeland Security.

15 “(D) The total amount of payments, if
16 any, that were received by the Federal Govern-
17 ment as a result of such exercise of other trans-
18 action authority during the period covered by
19 the report.

20 “(E) The rationale for using other trans-
21 action authority, including why grants or con-
22 tracts issued in accordance with the Federal
23 Acquisition Regulation were not feasible or ap-
24 propriate.

1 “(F) the amount expended for each such
2 project.

3 “(f) TRAINING.—The Secretary shall develop a train-
4 ing program for acquisitions staff in the use of other
5 transaction authority to help ensure the appropriate use
6 of such authority.

7 “(g) REVIEW AUTHORITY.—The exercise of other
8 transaction authority shall be subject to review by the
9 Comptroller General of the United States to ensure that
10 an agency is not attempting to avoid the requirements of
11 procurement statutes and regulations.

12 “(h) OTHER TRANSACTION AUTHORITY DEFINED.—
13 In this section the term ‘other transaction authority’
14 means authority under subsection (a).”.

15 **SEC. 1045. NATIONAL URBAN SECURITY TECHNOLOGY LAB-**
16 **ORATORY.**

17 (a) IN GENERAL.—The National Urban Security
18 Technology Laboratory (formerly the Environmental
19 Measurements Laboratory) is authorized within the Direc-
20 torate for fiscal year 2011.

21 (b) RESPONSIBILITIES.—The Under Secretary shall
22 utilize the National Urban Security Technology Labora-
23 tory to test, evaluate, and analyze homeland security capa-
24 bilities and serve as a technical authority to first respond-
25 ers and State and local entities, including by—

1 (1) conducting test programs, pilots projects,
2 demonstrations, and other forms of evaluations of
3 homeland security technologies both in the field and
4 in the laboratory;

5 (2) applying knowledge of operational end-user
6 environments and support for operational integration
7 to technology development, including—

8 (A) training;

9 (B) exercises;

10 (C) equipment;

11 (D) tactics;

12 (E) techniques; and

13 (F) procedures;

14 (3) representing interests and requirements be-
15 tween technology developers and operational end-
16 users; and

17 (4) supporting development and use of home-
18 land security equipment and operational standards.

19 **Subtitle D—Domestic Nuclear**
20 **Detection Office**

21 **SEC. 1051. AUTHORIZATION OF APPROPRIATIONS.**

22 There is authorized to be appropriated for the Do-
23 mestic Nuclear Detection Office of the Department
24 \$305,840,000 for fiscal year 2011.

1 **SEC. 1052. DOMESTIC NUCLEAR DETECTION OFFICE OVER-**
2 **SIGHT.**

3 (a) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that the Directorate should conduct basic and inno-
5 vative research and nondevelopmental testing on behalf of
6 the Domestic Nuclear Detection Office (in this section re-
7 ferred to as “DNDO”), in order to advance next genera-
8 tion nuclear detection technologies.

9 (b) INTERNAL REVIEW OF PROJECT SELECTION AND
10 EVALUATION METHODOLOGY.—Not later than 90 days
11 after the date of enactment of this Act, the Director of
12 the DNDO shall begin an internal review of the method-
13 ology by which research, development, testing, and evalua-
14 tion is identified, prioritized, and funded by the DNDO.
15 In conducting such review, the Director shall consult with
16 the Under Secretary and the heads of all operational com-
17 ponents of the Department that own, operate, or maintain
18 nuclear or radiological detection technologies.

19 (c) CONTENTS OF REVIEW.—In carrying out the re-
20 view under subsection (b), the Director of the DNDO
21 shall—

22 (1) identify the process by which basic and ap-
23 plied research and operational testing that should be
24 conducted in concert and under agreement with the
25 Directorate;

1 (2) describe the roles, responsibilities, common
2 definitions, standard operating procedures, and deci-
3 sion process for research, development, testing, and
4 evaluation activities;

5 (3) describe and implement a transparent sys-
6 tem for tracking research, development, testing, and
7 evaluation requirements;

8 (4) describe and implement a mechanism to
9 provide regular updates to components of the De-
10 partment on the progress of such research;

11 (5) evaluate the degree to which needs of the
12 operational components of the Department and
13 State and local first responders are being adequately
14 addressed by the existing project selection process,
15 and if not, how such process can be improved;

16 (6) establish a method to collect and evaluate
17 Department component feedback;

18 (7) utilize departmental matrices and systems
19 to determine if technologies produced by the Direc-
20 torate have enhanced the ability of Department com-
21 ponents to perform their missions;

22 (8) identify appropriate five-year levels of in-
23 vestment in basic and applied research and develop-
24 ment, in particular among the Department labora-
25 tories, federally funded research and development

1 centers, university-based centers, Department of En-
2 ergy national laboratories, and other Federal labora-
3 tories;

4 (9) project balance of use of the entities re-
5 ferred to in paragraph (8) among the Directorate
6 and other Department components; and

7 (10) establish a formal merit review process,
8 with external peer review where appropriate.

9 (d) REPORT.—Not later than one year after the com-
10 pletion of the review required by subsection (b), the Direc-
11 tor of the DNDO shall submit to the Secretary and the
12 appropriate congressional committees a report containing
13 the findings of such review, together with information on
14 the systems, methods, and mechanisms established, and
15 recommendations for additional improvements.

16 (e) UPDATES ON IMPLEMENTATION.—One hundred
17 and twenty days after the date of enactment of this Act,
18 and annually thereafter, the Inspector General of the De-
19 partment shall submit to the appropriate congressional
20 committees an update on the status of implementation of
21 this section and activities in support of such implementa-
22 tion.

1 **SEC. 1053. STRATEGIC PLAN AND FUNDING ALLOCATIONS**
2 **FOR GLOBAL NUCLEAR DETECTION ARCHI-**
3 **TECTURE.**

4 Not later than 180 days after the date of enactment
5 of this Act, the Secretary shall submit to the appropriate
6 congressional committees a report containing the fol-
7 lowing:

8 (1) A strategic plan for the global nuclear de-
9 tection architecture to deter and detect the transport
10 of nuclear or radioactive materials by all means pos-
11 sible, with specific focus on establishing the goals,
12 objectives, and cost projections for the next five
13 years, including a discussion of—

14 (A) technological and nontechnological
15 methods to increase detection capabilities;

16 (B) the preventive nature of the global nu-
17 clear detection architecture, including projected
18 impact on would-be terrorists;

19 (C) detection capability enhancements for
20 the various transportation modes, at ports of
21 entry and between ports of entry;

22 (D) balanced risk-based deployment of de-
23 tection assets across all border and other path-
24 ways; and

1 (E) any emerging threat vectors identified
2 by the Director of the Domestic Nuclear Detec-
3 tion Office.

4 (2) In consultation with the Secretary of De-
5 fense, the Secretary of Energy, the Secretary of
6 State, the Nuclear Regulatory Commission, the In-
7 telligence Community, and the Attorney General, an
8 analysis of overall budget allocations that determines
9 whether Government-wide nuclear detection re-
10 sources clearly align with identified priorities to
11 maximize results and minimize duplication of efforts.

12 **SEC. 1054. RADIATION PORTAL MONITOR ALTERNATIVES.**

13 (a) SENSE OF CONGRESS.—It is the sense of Con-
14 gress that in view of the Secretary’s decision not to certify
15 advanced spectroscopic portal monitors for primary
16 screening applications because they do not offer a signifi-
17 cant increase in operational effectiveness over existing
18 technology, the Director must attempt to identify viable
19 alternatives.

20 (b) ANALYSIS AND REPORT.—The Director of the
21 Domestic Nuclear Detection Office shall analyze and re-
22 port to the appropriate congressional committees by not
23 later than 90 days after the date of enactment of this Act
24 on both existing and developmental alternatives to existing
25 radiation portal monitors and advanced spectroscopic por-

1 tal monitors that would provide the Department with a
2 significant increase in operational effectiveness for pri-
3 mary screening for radioactive materials.

4 **Subtitle E—Clarifying Amendments**

5 **SEC. 1061. FEDERALLY FUNDED RESEARCH AND DEVELOP-** 6 **MENT CENTERS.**

7 Section 305 (6 U.S.C. 184) is amended—

8 (1) by inserting “(a) ESTABLISHMENT.—” be-
9 fore the first sentence; and

10 (2) by adding at the end the following new sub-
11 sections:

12 “(b) CONFLICTS OF INTEREST.—The Secretary shall
13 review and revise, as appropriate, the policies of the De-
14 partment relating to personnel conflicts of interest to en-
15 sure that such policies specifically address employees of
16 federally funded research and development centers estab-
17 lished under this section who are in a position to make
18 or materially influence research findings or agency deci-
19 sionmaking.

20 “(c) ANNUAL REPORTS.—Each federally funded re-
21 search and development center established under this sec-
22 tion shall transmit to the Secretary and appropriate con-
23 gressional committees an annual report on the activities
24 of the center.”.

1 **SEC. 1062. ELIMINATION OF HOMELAND SECURITY INSTI-**
2 **TUTE.**

3 (a) **REPEAL.**—Section 312 (6 U.S.C. 192) is re-
4 pealed.

5 (b) **CLERICAL AMENDMENT.**—The table of contents
6 in section 1(b) is amended by striking the item relating
7 to such section.

8 **SEC. 1063. GAO STUDY OF THE IMPLEMENTATION OF THE**
9 **STATUTORY RELATIONSHIP BETWEEN THE**
10 **DEPARTMENT AND THE DEPARTMENT OF EN-**
11 **ERGY NATIONAL LABORATORIES.**

12 (a) **IN GENERAL.**—Not later than 120 days after the
13 date of the enactment of this Act, the Comptroller General
14 of the United States shall—

15 (1) conduct a study to assess the implementa-
16 tion of the statutory relationship between the De-
17 partment and the Department of Energy national
18 laboratories, as established by section 309(a)(2) of
19 the Homeland Security Act of 2002 (6 U.S.C.
20 189(a)(2)); and

21 (2) submit recommendations to the appropriate
22 congressional committees for appropriate improve-
23 ments to such relationship.

24 (b) **STUDY SUBJECTS.**—The study shall include the
25 following:

1 (1) Review of how the Department and the De-
2 partment of Energy national laboratories—

3 (A) communicate needs and capabilities;

4 and

5 (B) select projects to be performed by the

6 Department of Energy national laboratories

7 under such statutory relationship.

8 (2) Review of contracting mechanisms that the

9 Department and the Department of Energy national

10 laboratories use to initiate and track work under

11 such statutory relationship.

12 (3) Review of the fraction of Department of

13 Energy national laboratory work performed for the

14 Department under such statutory relationship, com-

15 pared to other Department of Energy national lab-

16 oratory work performed for the Department on a

17 “work for others” basis.

18 (4) Review of the cost savings to the Depart-

19 ment and the Department of Energy achieved

20 through use of such statutory relationship, compared

21 to other Department of Energy national laboratory

22 work performed for the Department on a “work for

23 others” basis.

1 **Subtitle F—Commission on the**
2 **Protection of Critical Electric**
3 **and Electronic Infrastructures**

4 **SEC. 1071. COMMISSION ON THE PROTECTION OF CRITICAL**
5 **ELECTRIC AND ELECTRONIC INFRASTRUC-**
6 **TURES.**

7 (a) ESTABLISHMENT.—There is established the Com-
8 mission on the Protection of Critical Electric and Elec-
9 tronic Infrastructures (in this section referred to as the
10 “Commission”).

11 (b) PURPOSES.—

12 (1) IN GENERAL.—The purposes of the Com-
13 mission are to—

14 (A) assess vulnerabilities of electric and
15 electronic infrastructures, including—

16 (i) all components of the United
17 States electric grid, including electricity
18 generation, transmission, distribution and
19 metering; and

20 (ii) all computerized control systems
21 used in all United States critical infra-
22 structure sectors;

23 (B) provide a clear and comprehensive
24 strategy and specific recommendations for pro-

1 tecting these critical electric and electronic in-
2 frastructures; and

3 (C) test, evaluate, and report on specific
4 mitigation protection and recovery devices or
5 methods.

6 (2) IN PARTICULAR.—The Commission shall
7 give particular attention to threats that can disrupt
8 or damage critical electric and electronic infrastruc-
9 tures, including—

10 (A) cyber attacks or unintentional cyber
11 disruption;

12 (B) electromagnetic phenomena such as
13 geomagnetically induced currents, intentional
14 electromagnetic interference, and electro-
15 magnetic pulses caused by nuclear weapons;
16 and

17 (C) other physical attack, act of nature, or
18 accident.

19 (c) COMPOSITION OF COMMISSION.—

20 (1) MEMBERS.—The Commission shall be com-
21 posed of 9 members, of whom—

22 (A) 1 member shall be appointed by the
23 Chairman of the House of Representatives
24 Committee on Homeland Security;

1 (B) 1 member shall be appointed by the
2 ranking minority member of the House of Rep-
3 resentatives Committee on Homeland Security;

4 (C) 1 member shall be appointed by the
5 Chairman of the House of Representatives
6 Committee on Energy and Commerce;

7 (D) 1 member shall be appointed by the
8 ranking minority member of the House of Rep-
9 resentatives Committee on Energy and Com-
10 merce;

11 (E) 1 member shall be appointed by the
12 Chairman of the Senate Committee on Home-
13 land Security and Governmental Affairs;

14 (F) 1 member shall be appointed by the
15 ranking minority member of the Senate Com-
16 mittee on Homeland Security and Govern-
17 mental Affairs;

18 (G) 1 member shall be appointed by the
19 Chairman of the Senate Committee on Energy
20 and Natural Resources;

21 (H) 1 member shall be appointed by the
22 ranking minority member of the Senate Com-
23 mittee on Energy and Natural Resources; and

24 (I) 1 member who shall serve as the Chair-
25 man of the Commission, and who shall be ap-

1 pointed by the Speaker of the House of Rep-
2 presentatives with the concurrence of the Presi-
3 dent Pro Tempore of the Senate.

4 (2) QUALIFICATIONS.—It is the sense of Con-
5 gress that individuals appointed to the Commission
6 should be United States citizens, with significant
7 depth of experience in electric and electronic infra-
8 structures, their function, and their protection, as
9 well as the threats to these infrastructures as identi-
10 fied in subsection (b)(2).

11 (3) DEADLINE FOR APPOINTMENT.—All mem-
12 bers of the Commission shall be appointed within 30
13 days after the date of enactment of this Act.

14 (4) INITIAL MEETING.—The Commission shall
15 meet and begin the operations of the Commission as
16 soon as practicable.

17 (5) QUORUM; VACANCIES.—After its initial
18 meeting, the Commission shall meet upon the call of
19 the Chairman or a majority of its members. Six
20 members of the Commission shall constitute a
21 quorum. Any vacancy in the Commission shall not
22 affect its powers, but shall be filled in the same
23 manner in which the original appointment was
24 made.

1 (d) RESPONSIBILITIES OF COMMISSION.—The Com-
2 mission shall address—

3 (1) the quantification of the threats identified
4 in subsection (b)(2) to the United States electric and
5 electronic infrastructure, and a cost-benefit analysis
6 of possible protection and recovery strategies;

7 (2) the roles, missions, and structure of all rel-
8 evant Federal, State, and local government depart-
9 ments and agencies with responsibilities for ensuring
10 protection and reliability for electric and electronic
11 infrastructures;

12 (3) the roles, missions, and structure of all rel-
13 evant private sector entities with responsibilities for
14 ensuring protection and reliability for electric and
15 electronic infrastructures;

16 (4) inter-agency coordination between and
17 among the entities identified in paragraphs (2) and
18 (3); and

19 (5) recommendations for protections and recov-
20 ery devices and measures.

21 (e) POWERS OF COMMISSION.—

22 (1) HEARINGS AND EVIDENCE.—The Commis-
23 sion or, on the authority of the Commission, any
24 subcommittee or member thereof, may, for the pur-
25 pose of carrying out this section, hold such hearings

1 and sit and act at such times and places, take such
2 testimony, receive such evidence, and administer
3 such oaths as the Commission or such designated
4 subcommittee or designated member may determine
5 advisable.

6 (2) CONTRACTING.—The Commission may, to
7 such extent and in such amounts as are provided in
8 appropriations Acts, enter into contracts to enable
9 the Commission to discharge its duties under this
10 subtitle.

11 (3) STAFF OF COMMISSION.—

12 (A) APPOINTMENT AND COMPENSATION.—

13 The Chairman of the Commission, in accord-
14 ance with rules agreed upon by the Commis-
15 sion, may appoint and fix the compensation of
16 a staff director and such other personnel as
17 may be necessary to enable the Commission to
18 carry out its functions, without regard to the
19 provisions of title 5, United States Code, gov-
20 erning appointments in the competitive service,
21 and without regard to the provisions of chapter
22 51 and subchapter III of chapter 53 of such
23 title relating to classification and General
24 Schedule pay rates, except that no rate of pay
25 fixed under this subsection may exceed the

1 equivalent of that payable for a position at level
2 I of the Executive Schedule under section 5316
3 of title 5, United States Code.

4 (B) PERSONNEL AS FEDERAL EMPLOY-
5 EES.—

6 (i) IN GENERAL.—The executive di-
7 rector and any employees of the Commis-
8 sion shall be employees under section 2105
9 of title 5, United States Code, for purposes
10 of chapters 63, 81, 83, 84, 85, 87, 89, and
11 90 of that title.

12 (ii) MEMBERS OF COMMISSION.—Sub-
13 paragraph (A) shall not be construed to
14 apply to members of the Commission.

15 (C) DETAILEES.—Any Federal Govern-
16 ment employee may be detailed to the Commis-
17 sion without reimbursement from the Commis-
18 sion, and such detailee shall retain the rights,
19 status, and privileges of his or her regular em-
20 ployment without interruption.

21 (D) CONSULTANT SERVICES.—The Com-
22 mission may procure the services of experts and
23 consultants in accordance with section 3109 of
24 title 5, United States Code, but at rates not to
25 exceed the daily rate paid a person occupying a

1 position at level I of the Executive Schedule
2 under section 5315 of title 5, United States
3 Code.

4 (E) SECURITY CLEARANCES.—The Chair-
5 man shall place an emphasis on hiring and re-
6 taining employees, contractors, and detailees
7 with active security clearances. For employees
8 who do not have security clearances but are de-
9 termined by the Chairman to need them, the
10 Central Intelligence Agency, Department of En-
11 ergy, Department of Defense, and any other
12 relevant agency shall expedite the necessary
13 clearance processes.

14 (F) FORMER EMP COMMISSION STAFF AND
15 RESOURCES.—The Chairman may make use of
16 any existing and viable staff and resources pre-
17 viously employed by the Commission to Assess
18 the Threat to the United States from Electro-
19 magnetic Pulse Attack established by section
20 1401 of Public Law 106–398 (114 Stat.
21 1654A–345).

22 (4) INFORMATION FROM FEDERAL AGENCIES.—

23 (A) IN GENERAL.—The Commission may
24 secure directly from any executive department,
25 bureau, agency, board, commission, office, inde-

1 pendent establishment, or instrumentality of the
2 Government, information, suggestions, esti-
3 mates, and statistics for the purposes of this
4 section. Each department, bureau, agency,
5 board, commission, office, independent estab-
6 lishment, or instrumentality shall, to the extent
7 authorized by law, furnish such information,
8 suggestions, estimates, and statistics directly to
9 the Commission, upon request made by the
10 Chairman, the chairman of any subcommittee
11 created by a majority of the Commission, or
12 any member designated by a majority of the
13 Commission.

14 (B) RECEIPT, HANDLING, STORAGE, AND
15 DISSEMINATION.—Information shall only be re-
16 ceived, handled, stored, and disseminated by
17 members of the Commission and its staff con-
18 sistent with all applicable statutes, regulations,
19 and Executive orders.

20 (5) ASSISTANCE FROM FEDERAL AGENCIES.—

21 (A) GENERAL SERVICES ADMINISTRA-
22 TION.—The Administrator of General Services
23 shall provide to the Commission on a reimburs-
24 able basis and as necessary, administrative sup-

1 port and other services for the performance of
2 the Commission's functions.

3 (B) OTHER DEPARTMENTS AND AGEN-
4 CIES.—In addition to the assistance prescribed
5 in paragraph (1), departments and agencies of
6 the United States may provide to the Commis-
7 sion such services, funds, facilities, staff, and
8 other support services as they may determine
9 advisable and as may be authorized by law.

10 (6) GIFTS.—The Commission may accept, use,
11 and dispose of gifts or donations of services or prop-
12 erty.

13 (7) POSTAL SERVICES.—The Commission may
14 use the United States mails in the same manner and
15 under the same conditions as departments and agen-
16 cies of the United States.

17 (f) PUBLIC MEETINGS AND RELEASE OF PUBLIC
18 VERSIONS OF REPORTS.—The Commission shall—

19 (1) hold public hearings and meetings to the ex-
20 tent appropriate;

21 (2) release public versions of the report re-
22 quired under subsection (g); and

23 (3) conduct any public hearing in a manner
24 consistent with the protection of sensitive or classi-
25 fied information provided to or developed for or by

1 the Commission as required by any applicable stat-
2 ute, regulation, or Executive order.

3 (g) REPORT.—Not later than 180 days after the ap-
4 pointment of the Commission, and annually thereafter, the
5 Commission shall submit to the President and Congress
6 a report containing such findings, conclusions, and rec-
7 ommendations for protection and recovery measures for
8 electric and electronic infrastructures as have been agreed
9 to by a majority of Commission members.

10 (h) FUNDING.—Of the amounts authorized by section
11 1011, there is authorized to be appropriated for the activi-
12 ties of the Commission under this section \$4,000,000 for
13 fiscal year 2011.

14 **Subtitle G—Securing the Cities** 15 **Initiative**

16 **SEC. 1081. SECURING THE CITIES INITIATIVE.**

17 (a) IN GENERAL.—Title XIX of the Homeland Secu-
18 rity Act of 2002 is amended by adding at the end the fol-
19 lowing new section:

20 **“SEC. 1908. AUTHORIZATION OF SECURING THE CITIES INI-** 21 **TIATIVE.**

22 “(a) FINDINGS.—Congress finds the following:

23 “(1) The Securing the Cities Initiative of the
24 Department uses next generation radiation detection
25 technology to detect the transport of nuclear and ra-

1 diological material in urban areas by terrorists or
2 other unauthorized individuals.

3 “(2) The technology used by partners in the Se-
4 curing the Cities Initiative leverages radiation detec-
5 tion technology used at ports of entry.

6 “(3) The Securing the Cities Initiative has fos-
7 tered unprecedented collaboration and coordination
8 among its Federal, State, and local partners.

9 “(4) The Securing the Cities Initiative is a crit-
10 ical national capability to detect the dangerous intro-
11 duction of nuclear and radiological material.

12 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
13 is authorized to be appropriated to the Secretary for the
14 Securing the Cities Initiative such sums as may be nec-
15 essary for each fiscal year, including—

16 “(1) of the amounts authorized by section 201
17 of the Counterterrorism Enhancement and Depart-
18 ment of Homeland Security Authorization Act of
19 2010 for each city in which it has been implemented
20 by fiscal year 2009 \$20,000,000 for fiscal year
21 2011;

22 “(2) not less than \$10,000,000 in sustainment
23 assistance for the cities referred to in paragraph (1)
24 for each fiscal year thereafter; and

1 “(3) for additional Securing the Cities initia-
 2 tives to be implemented in not fewer than 2 sites
 3 participating in the Urban Area Security Initiative,
 4 such sums as may be necessary each fiscal year to
 5 implement and sustain each additional initiative.”.

6 (b) CONFORMING AMENDMENT.—The table of con-
 7 tents in section 1(b) of the Homeland Security Act of
 8 2002 is amended by inserting after the item relating to
 9 section 1907 the following new item:

 “Sec. 1908. Authorization of Securing the Cities Initiative.”.

10 **TITLE XI—MANAGEMENT**
 11 **IMPROVEMENTS**

12 **SEC. 1101. DIRECT LINE AUTHORITY FOR CHIEF OPER-**
 13 **ATING OFFICERS.**

14 (a) IN GENERAL.—Title VII of the Homeland Secu-
 15 rity Act of 2002 (6 U.S.C. 341 et seq.) is amended by
 16 adding at the end the following new section:

17 **“SEC. 708. CHIEF OPERATING OFFICERS.**

18 “(a) IN GENERAL.—The Chief Operating Officers of
 19 the Department include the following officials of the De-
 20 partment:

21 “(1) The Chief Financial Officer.

22 “(2) The Chief Procurement Officer.

23 “(3) The Chief Information Officer.

24 “(4) The Chief Human Capital Officer.

25 “(5) The Chief Administrative Officer.

1 “(6) The Chief Security Officer.

2 “(b) DELEGATION.—The Secretary shall delegate to
3 each Chief Operating Officer direct authority over that Of-
4 ficer’s counterparts in component agencies to ensure that
5 the component agencies adhere to the laws, rules, regula-
6 tions, and departmental policies for which such Officer is
7 responsible for implementing. In coordination with the
8 head of the relevant component agency, such authorities
9 shall include, with respect to the Officer’s counterparts
10 within component agencies of the Department, the fol-
11 lowing:

12 “(1) The authority to direct the activities of
13 personnel.

14 “(2) The authority to direct planning, oper-
15 ations, and training.

16 “(3) The authority to direct the budget and
17 other financial resources.

18 “(c) COORDINATION WITH HEADS OF COMPONENT
19 AGENCIES.—In reporting to a Chief Operating Officer of
20 the Department as required under subsection (b), a Chief
21 Operating Officer of a component agency shall coordinate
22 with the head of that component agency.”.

23 “(b) CLERICAL AMENDMENT.—The table of contents
24 in section 1(b) of such Act is amended by inserting after
25 the item relating to section 707 the following:

“Sec. 708. Chief Operating Officers.”.

1 **SEC. 1102. DEPARTMENT OF HOMELAND SECURITY HEAD-**
2 **QUARTERS CONSOLIDATION PROJECT.**

3 (a) FINDINGS.—Relating to the consolidation of the
4 operations of the Department in a secure location, Con-
5 gress finds the following:

6 (1) The Department of Homeland Security and
7 its component headquarters facilities are currently
8 scattered widely throughout the National Capital
9 Region.

10 (2) This geographic dispersal disrupts the De-
11 partment’s ability to operate in an efficient manner,
12 and could impair its ability to prevent, deter, pre-
13 pare for, and respond to a terrorist attack, major
14 disaster, or other emergency.

15 (3) The Government Accountability Office con-
16 tinues to list “Implementing and Transforming the
17 Department of Homeland Security” on its “High
18 Risk List”.

19 (4) Consolidating the Department’s head-
20 quarters and component facilities, to the greatest ex-
21 tent practicable, would be an important step in fa-
22 cilitating the transformation and integration of the
23 Department.

24 (5) The General Services Administration has
25 determined that the only site under the control of
26 the Federal Government within the National Capital

1 Region with the size, capacity, and security features
2 to meet the minimum consolidation needs of the De-
3 partment as identified in the National Capital Re-
4 gion Housing Master Plan of the Department sub-
5 mitted to the Congress on October 24, 2006, is the
6 West Campus of St. Elizabeths Hospital in the Dis-
7 trict of Columbia.

8 (b) CONSOLIDATION.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law and not later than the end of fiscal
11 year 2016, the Secretary shall consolidate key head-
12 quarters offices and components of the Department,
13 as determined by the Secretary, in accordance with
14 this subsection.

15 (2) ST. ELIZABETHS HOSPITAL.—The Secretary
16 shall ensure that at the West Campus of St. Eliza-
17 beths Hospital in the District of Columbia, in a se-
18 cure setting, there are—

19 (A) not less than 4,500,000 gross square
20 feet of office space for use by the Department;
21 and

22 (B) all necessary parking and infrastruc-
23 ture to support approximately 14,000 employ-
24 ees.

25 (3) OTHER MISSION SUPPORT ACTIVITIES.—

1 tion Professional Career Program for the recruitment,
2 training, and retention of acquisition professionals for the
3 Department of Homeland Security.

4 “(b) PROGRAM.—The program established under
5 subsection (a) shall include three single-year rotations
6 through various headquarters and component acquisition
7 and program offices to provide the experience and training
8 necessary to attain the status of a journeyman level acqui-
9 sition professional.

10 “(c) PARTICIPATION.—The Secretary may recruit
11 and hire up to 100 interns for the program established
12 under subsection (a) in each of fiscal years 2011 though
13 2015.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 in section 1(b) of such Act is further amended by adding
16 at the end of the items relating to such title the following
17 new item:

“Sec. 709. Acquisition Professional Career Program.”.

18 **SEC. 1104. ANNUITANTS FOR ACQUISITION POSITIONS.**

19 (a) DEFINITIONS.—For purposes of this section—

20 (1) the term “procurement office” means the
21 Office of Procurement Operations and any other
22 procurement office within any agency or other com-
23 ponent of the Department;

24 (2) the term “annuitant” means an annuitant
25 under a Government retirement system;

1 (3) the term “Government retirement system”
2 means a retirement system established by law for
3 employees of the Government of the United States;
4 and

5 (4) the term “employee” has the meaning given
6 such term by section 2105 of title 5, United States
7 Code.

8 (b) APPOINTMENT AUTHORITY.—The Secretary (act-
9 ing through the Chief Procurement Officer) may, for the
10 purpose of supporting the Department’s acquisition capa-
11 bilities and enhancing contract management throughout
12 the Department, appoint annuitants to positions in pro-
13 curement offices in accordance with succeeding provisions
14 of this section.

15 (c) NONCOMPETITIVE PROCEDURES; EXEMPTION
16 FROM OFFSET.—An appointment made under subsection
17 (b) shall not be subject to the provisions of title 5, United
18 States Code, governing appointments in the competitive
19 service, and any annuitant serving pursuant to such an
20 appointment shall be exempt from sections 8344 and 8468
21 of such title 5 (relating to annuities and pay on reemploy-
22 ment) and any other similar provision of law under a Gov-
23 ernment retirement system.

24 (d) LIMITATIONS.—No appointment under subsection
25 (b) may be made if such appointment would result in the

1 displacement of any employee or would cause the total
2 number of positions filled by annuitants appointed under
3 such subsection to exceed 250 as of any time (determined
4 on a full-time equivalent basis).

5 (e) **RULE OF CONSTRUCTION.**—An annuitant as to
6 whom an exemption under subsection (c) is in effect shall
7 not be considered an employee for purposes of any Govern-
8 ment retirement system.

9 (f) **TERMINATION.**—Upon the expiration of the 5-
10 year period beginning on the date of the enactment of this
11 Act—

12 (1) any authority to make appointments under
13 subsection (b) shall cease to be available; and

14 (2) all exemptions under subsection (c) shall
15 cease to be effective.

16 **SEC. 1105. ACQUISITION REVIEW BOARD.**

17 (a) **IN GENERAL.**—Title VII of the Homeland Secu-
18 rity Act of 2002 (6 U.S.C. 341 et seq.) is further amended
19 by adding at the end the following:

20 **“SEC. 710. DEPARTMENT INVESTMENT REVIEW.**

21 “(a) **ESTABLISHMENT.**—The Secretary shall estab-
22 lish a process for the review of proposed investments by
23 the Department.

24 “(b) **PURPOSE.**—The Secretary shall use the process
25 established under subsection (a) to inform investment de-

1 cisions, strengthen acquisition oversight, and improve re-
2 source management across the Department.

3 “(c) BOARDS AND COUNCILS.—

4 “(1) ESTABLISHMENT.—The Secretary shall es-
5 tablish a Department-wide Acquisition Review Board
6 for the purpose of carrying out the investment re-
7 view process established under subsection (a).

8 “(2) MEMBERSHIP.—The Secretary shall des-
9 ignate appropriate officers of the Department to
10 serve on the Acquisition Review Board.

11 “(3) SUBORDINATE BOARDS AND COUNCILS.—
12 The Secretary may establish subordinate boards and
13 councils reporting to the Acquisition Review Board
14 to review certain categories of investments on a De-
15 partment-wide basis.

16 “(d) INVESTMENT THRESHOLDS.—The Secretary
17 shall establish threshold amounts for the review of invest-
18 ments by the Acquisition Review Board and any subordi-
19 nate boards and councils.”.

20 (b) REPORTING REQUIREMENTS.—

21 (1) IN GENERAL.—Not later than 90 days after
22 the date of enactment of this Act, the Secretary
23 shall submit a report on the implementation of the
24 amendments made by this section, including pro-
25 viding all directives, instructions, memoranda, manu-

1 als, guidebooks, and other materials relevant to the
2 implementation of the amendments made by this
3 section to—

4 (A) the Committee on Homeland Security
5 and Governmental Affairs of the Senate; and

6 (B) the Committee on Homeland Security
7 of the House of Representatives.

8 (2) ANNUAL REPORT.—

9 (A) IN GENERAL.—The Secretary shall
10 submit an annual report on the activities of the
11 Acquisition Review Board and subordinate
12 boards and councils established within the De-
13 partment for the purpose of Department-wide
14 investment review and acquisition oversight
15 under section 710 of the Homeland Security
16 Act of 2002, as added by this section, including
17 detailed statistics on programs and activities re-
18 viewed, to—

19 (i) the Committee on Homeland Secu-
20 rity and Governmental Affairs of the Sen-
21 ate; and

22 (ii) the Committee on Homeland Se-
23 curity of the House of Representatives.

24 (B) ANNUAL FINANCIAL REPORT.—The re-
25 port under this paragraph may be included as

1 part of the performance and accountability re-
2 port submitted by the Department under sec-
3 tion 3516(f) of title 31, United States Code.

4 (c) **TECHNICAL AND CONFORMING AMENDMENT.**—

5 The table of contents in section 1(b) of the Homeland Se-
6 curity Act of 2002 (6 U.S.C. 101 et seq.) is amended by
7 inserting after the item relating to section 709 the fol-
8 lowing:

“Sec. 710. Department investment review.”.

9 **SEC. 1106. OFFICE OF INSPECTOR GENERAL.**

10 Of the amount authorized by section 201, there is
11 authorized to be appropriated to the Secretary
12 \$129,806,000 for fiscal year 2011 for operations of the
13 Office of the Inspector General of the Department of
14 Homeland Security.

15 **SEC. 1107. ESTABLISHMENT OF PRIVACY OFFICIAL WITHIN**
16 **EACH COMPONENT OF DEPARTMENT OF**
17 **HOMELAND SECURITY.**

18 (a) **ESTABLISHMENT OF PRIVACY OFFICIAL WITHIN**
19 **EACH COMPONENT OF DEPARTMENT OF HOMELAND SE-**
20 **CURITY.**—

21 (1) **IN GENERAL.**—Subtitle C of title II of the
22 Homeland Security Act of 2002 (6 U.S.C. 141 et
23 seq.) is amended by inserting after section 222 the
24 following new section:

1 **“SEC. 222A. PRIVACY OFFICIALS.**

2 “(a) DESIGNATION.—

3 “(1) IN GENERAL.—For each component of the
4 Department under paragraph (2), the Secretary
5 shall, in consultation with the head of the compo-
6 nent, designate a full-time privacy official, who shall
7 report directly to the senior official appointed under
8 section 222. Each such component privacy official
9 shall have primary responsibility for its component
10 in implementing the privacy policy for the Depart-
11 ment established by the senior official appointed
12 under section 222.

13 “(2) COMPONENTS.—The components of the
14 Department referred to in this subparagraph are as
15 follows:

16 “(A) The Transportation Security Admin-
17 istration.

18 “(B) The Bureau of Citizenship and Immi-
19 gration Services.

20 “(C) Customs and Border Protection.

21 “(D) Immigration and Customs Enforce-
22 ment.

23 “(E) The Federal Emergency Management
24 Agency.

25 “(F) The Coast Guard.

1 “(G) The Directorate of Science and Tech-
2 nology.

3 “(H) The Office of Intelligence and Anal-
4 ysis.

5 “(I) The Directorate for National Protec-
6 tion and Programs.

7 “(b) RESPONSIBILITIES.—Each privacy official des-
8 ignated under subsection (a) shall report directly to both
9 the head of the official’s component and the senior official
10 appointed under section 222, and shall have the following
11 responsibilities with respect to the component:

12 “(1) Serve as such senior official’s main point
13 of contact at the component to implement the polices
14 and directives of such senior official in carrying out
15 section 222.

16 “(2) Advise the head of that component on pri-
17 vacy considerations when any law, regulation, pro-
18 gram, policy, procedure, or guideline is proposed, de-
19 veloped, or implemented.

20 “(3) Assure that the use of technologies by the
21 component sustain or enhance privacy protections
22 relating to the use, collection, and disclosure of per-
23 sonal information within the component.

24 “(4) Identify privacy issues related to compo-
25 nent programs and apply appropriate privacy poli-

1 cies in accordance with Federal privacy law and De-
2 partmental policies developed to ensure that the
3 component protects the privacy of individuals af-
4 fected by its activities.

5 “(5) Monitor the component’s compliance with
6 all applicable Federal privacy laws and regulations,
7 implement corrective, remedial, and preventive ac-
8 tions and notify the senior official appointed under
9 section 222 of privacy issues or non-compliance,
10 whenever necessary.

11 “(6) Ensure that personal information con-
12 tained in Privacy Act systems of records is handled
13 in full compliance with section 552a of title 5,
14 United States Code.

15 “(7) Assist in drafting and reviewing privacy
16 impact assessments, privacy threshold assessments,
17 and system of records notices, in conjunction with
18 and under the direction of the senior official ap-
19 pointed under section 222, for any new or substan-
20 tially changed program or technology that collects,
21 maintains, or disseminates personally identifiable in-
22 formation within the official’s component.

23 “(8) Assist in drafting and reviewing privacy
24 impact assessments, privacy threshold assessments,
25 and system of records notices in conjunction with

1 and under the direction of the senior official ap-
2 pointed under section 222, for proposed rulemakings
3 and regulations within the component.

4 “(9) Conduct supervision of programs, regula-
5 tions, policies, procedures, or guidelines to ensure
6 the component’s protection of privacy and, as nec-
7 essary, promulgate guidelines and conduct oversight
8 to ensure the protection of privacy.

9 “(10) Implement and monitor privacy training
10 for component employees and contractors in coordi-
11 nation with the senior official appointed under sec-
12 tion 222.

13 “(11) Provide the senior official appointed
14 under section 222 with written materials and infor-
15 mation regarding the relevant activities of the com-
16 ponent, including privacy violations and abuse, that
17 are needed by the senior official to successfully pre-
18 pare the reports the senior official submits to Con-
19 gress and prepares on behalf of the Department.

20 “(12) Any other responsibilities assigned by the
21 Secretary or the senior official appointed under sec-
22 tion 222.

23 “(c) ROLE OF COMPONENT HEADS.—The head of a
24 component identified in subsection (a)(2) shall ensure that

1 the privacy official designated under subsection (a) for
2 that component—

3 “(1) has the information, material, and re-
4 sources necessary to fulfill the responsibilities of
5 such official under this section;

6 “(2) is advised of proposed policy changes and
7 the development of new programs, rules, regulations,
8 procedures, or guidelines during the planning stage
9 and is included in the decisionmaking process; and

10 “(3) is given access to material and personnel
11 the privacy official deems necessary to carry out the
12 official’s responsibilities.

13 “(d) LIMITATION.—Nothing in this section shall be
14 considered to abrogate the role and responsibilities of the
15 senior official appointed under section 222.”.

16 (2) CLERICAL AMENDMENT.—The table of con-
17 tents in section 1(b) of such Act is amended by in-
18 serting after the item related to section 222 the fol-
19 lowing new item:

“Sec. 222A. Privacy officials.”.

20 **SEC. 1108. HOMELAND SECURE DATA NETWORK.**

21 Of the funds authorized in section 201, \$3,500,000
22 is authorized for the purchase and deployment of the
23 Homeland Secure Data Network computer systems to
24 agencies within the Department.

1 **SEC. 1109. CONGRESSIONAL ACCESS TO INFORMATION.**

2 (a) IN GENERAL.—The Homeland Security Act of
3 2002 (6 U.S.C. 101 et seq.) is amended by inserting after
4 section 4 the following new section:

5 **“SEC. 5. CONGRESSIONAL ACCESS TO INFORMATION, DOC-
6 UMENTS, ETC.**

7 “Unless specifically authorized by law, the Constitu-
8 tion of the United States, or the rules governing the con-
9 duct of the House of Representatives and the Senate, the
10 Department may not withhold any information, document,
11 report, or other media from an appropriate congressional
12 committee, and may not impose any training requirements
13 on the receipt of such information, document, report, or
14 other media.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 in section 1(b) of such Act is amended by inserting after
17 the item relating to section 4 the following new item:

“Sec. 5. Congressional access to information, documents, etc.”.

18 **TITLE XII—MISCELLANEOUS
19 PROVISIONS**

20 **SEC. 1201. IMMUNITY FOR REPORTS OF SUSPECTED TER-
21 RORIST ACTIVITY OR SUSPICIOUS BEHAVIOR
22 AND RESPONSE.**

23 (a) IN GENERAL.—Subtitle H of title VIII of the
24 Homeland Security Act of 2002 (6 U.S.C. 451 et seq.)
25 is amended by adding at the end the following:

1 **“SEC. 890A. IMMUNITY FOR REPORTS OF SUSPECTED TER-**
2 **RORIST ACTIVITY OR SUSPICIOUS BEHAVIOR**
3 **AND RESPONSE.**

4 “(a) IMMUNITY FOR REPORTS OF SUSPECTED TER-
5 RORIST ACTIVITY OR SUSPICIOUS BEHAVIOR AND RE-
6 SPONSE.—

7 “(1) IN GENERAL.—Any person who, in good
8 faith and based on objectively reasonable suspicion,
9 makes, or causes to be made, a voluntary report of
10 covered activity to an authorized official shall be im-
11 mune from civil liability under Federal, State, and
12 local law for such report.

13 “(2) FALSE REPORTS.—Paragraph (1) shall not
14 apply to any report that the person knew to be false
15 or was made with reckless disregard for the truth at
16 the time that the person made that report.

17 “(b) IMMUNITY FOR RESPONSE.—

18 “(1) IN GENERAL.—Any authorized official who
19 observes, or receives a report of, covered activity and
20 takes reasonable action in good faith to respond to
21 such activity shall have qualified immunity from civil
22 liability for such action, consistent with applicable
23 law in the relevant jurisdiction. An authorized offi-
24 cial as defined by subsection (d)(1)(A) not entitled
25 to assert the defense of qualified immunity shall
26 nonetheless be immune from civil liability under

1 Federal, State, and local law if such authorized offi-
2 cial takes reasonable action, in good faith, to re-
3 spond to the reported activity.

4 “(2) SAVINGS CLAUSE.—Nothing in this sub-
5 section shall—

6 “(A) affect the ability of any authorized of-
7 ficial to assert any defense, privilege, or immu-
8 nity that would otherwise be available; and

9 “(B) be construed as affecting any such
10 defense, privilege, or immunity.

11 “(c) ATTORNEY FEES AND COSTS.—Any authorized
12 official or other person found to be immune from civil li-
13 ability under this section shall be entitled to recover from
14 the plaintiff all reasonable costs and attorney fees.

15 “(d) DEFINITIONS.—In this section:

16 “(1) AUTHORIZED OFFICIAL.—The term ‘au-
17 thorized official’ means—

18 “(A) any officer, employee, or agent of the
19 Federal Government with responsibility for pre-
20 venting, protecting against, disrupting, or re-
21 sponding to a covered activity; or

22 “(B) any Federal, State, or local law en-
23 forcement officer.

24 “(2) COVERED ACTIVITY.—The term ‘covered
25 activity’ means any suspicious transaction, activity,

1 or occurrence indicating that an individual may be
2 engaging, or preparing to engage, in a violation of
3 law relating to an act of terrorism (as that term is
4 defined in section 3077 of title 18, United States
5 Code).”.

6 (b) AMENDMENT TO THE TABLE OF CONTENTS.—
7 The table of contents for the Homeland Security Act of
8 2002 is amended by inserting at the end of the items relat-
9 ing to subtitle H of title VIII the following new item:

“Sec. 890A. Immunity for reports of suspected terrorist activity or suspicious
behavior and response.”.

10 **SEC. 1202. HOMELAND SECURITY BIODEFENSE STRATEGY.**

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

12 (1) A major biological weapons attack on an
13 unprotected population in the United States could
14 cause significant morbidity and mortality, and could
15 overwhelm the Nation’s public health capabilities
16 and fiscal resources.

17 (2) Although comprehensive interagency Fed-
18 eral biodefense assessments and strategy formula-
19 tions are necessary, such actions should also be
20 taken at the departmental level, including at the De-
21 partment of Homeland Security.

22 (3) Routine assessment of activities and capa-
23 bilities of the Department of Homeland Security
24 would guide investment prioritization for biodefense-

1 related research, development, planning, and pre-
2 paredness at the agency level, and serve as a critical
3 component of a needed comprehensive Federal strat-
4 egy to prevent and respond to bioterror attacks.

5 (4) An annual review that evaluates the
6 progress of the Department of Homeland Security in
7 implementing a biodefense strategy, identifies con-
8 tinuing gaps or vulnerabilities in its biodefense capa-
9 bilities, and makes recommendations for refining
10 biodefense investments would allow for continued im-
11 provement of the strategy and an overall ability to
12 ensure robustness in the homeland biodefense pos-
13 ture.

14 (b) BIODEFENSE REVIEW AND STRATEGY.—

15 (1) IN GENERAL.—The Homeland Security Act
16 of 2002 (6 U.S.C. 101 et seq.) is amended by add-
17 ing at the end the following new title:

18 **“TITLE XXI—BIODEFENSE**

19 **“SEC. 2201. BIODEFENSE STRATEGY.**

20 “(a) IN GENERAL.—The Secretary shall issue every
21 three years a biodefense strategy that establishes detailed
22 strategic biodefense objectives for the Department’s mis-
23 sion areas.

24 “(b) COMPONENTS.—The strategy shall—

1 “(1) delineate those areas of biodefense for
2 which the Department is explicitly responsible;

3 “(2) include an inventory of the Department’s
4 biodefense capabilities and assets;

5 “(3) be sufficiently detailed to guide
6 prioritization of Department investments in and
7 strategic approach to biodefense-related research,
8 development, planning, and preparedness; and

9 “(4) include an implementation plan to enable
10 the Department to carry out the strategic objectives
11 contained in the strategy.

12 “(c) ANNUAL REVIEW.—

13 “(1) IN GENERAL.—The Secretary shall annu-
14 ally review the most recent biodefense strategy under
15 this section to determine any necessary major ad-
16 justments to the strategy.

17 “(2) CONSIDERATION OF BIODEFENSE POL-
18 ICY.—Each review shall—

19 “(A) identify continuing gaps or vulnera-
20 bilities in the Department’s biodefense posture;

21 “(B) make recommendations for refining
22 the Department’s biodefense investments; and

23 “(C) include a detailed analysis of how well
24 the implementation plan included in the most
25 recent biodefense strategy is allowing the De-

1 partment to meet the objectives of the bio-
2 defense strategy, with special emphasis on
3 unmet objectives and proposed mechanisms to
4 eliminate shortfalls in meeting those objectives,
5 through budgetary, management, or other re-
6 finements.

7 **“SEC. 2202. SUBMISSIONS TO CONGRESS.**

8 “The Secretary shall submit each biodefense strategy
9 and annual biodefense strategy review under this title to
10 the appropriate congressional committees.”.

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 the following new items:

 “TITLE XXI—BIODEFENSE

 “Sec. 2201. Biodefense strategy.

 “Sec. 2202. Submissions to Congress.”.

14 (c) DEADLINE FOR FIRST STRATEGY.—The Sec-
15 retary of Homeland Security shall complete the first bio-
16 defense strategy under section 2201 of the Homeland Se-
17 curity Act of 2002, as amended by this section, by not
18 later than 1 year after the date of enactment of this Act.

19 **SEC. 1203. CIVIL LIABILITY FOR DISCLOSURE OF PRO-**
20 **TECTED SECURITY INFORMATION.**

21 (a) IN GENERAL.—Title VIII of the Homeland Secu-
22 rity Act of 2002 is amended—

23 (1) by repealing sections 893 through 899; and

1 (2) by inserting after section 892 the following
2 new section:

3 **“SEC. 893. CIVIL LIABILITY FOR DISCLOSURE OF PRO-**
4 **TECTED SECURITY INFORMATION.**

5 “(a) IN GENERAL.—Any person who willfully dis-
6 closes, in whole or in part, protected security information
7 without authorization from the Department may be held
8 liable to the United States for—

9 “(1) the actual damages and profits that result
10 from the disclosure; or

11 “(2) in the alternative of actual damages and
12 profits, an award of statutory damages for all disclo-
13 sures of the protected security information, in a sum
14 of not less than \$750 per disclosure and not more
15 than \$150,000.

16 “(b) PARTIAL DISCLOSURES.—For the purposes of
17 this section, each disclosure of protected security informa-
18 tion taken from a larger work shall constitute a separate
19 disclosure.

20 “(c) DISSEMINATION USING THE INTERNET.—For
21 the purposes of this subsection, each download of pro-
22 tected security information shall constitute a separate dis-
23 closure.

24 “(d) LIMITATIONS ON LIABILITY RELATING TO MA-
25 TERIAL ONLINE.—

1 “(1) ESTABLISHMENT OF A SAFE HARBOR.—
2 Not later than 180 days after the date of enactment
3 of this section, and prior to the commencement of
4 any action to impose liability under this section, the
5 Secretary shall establish safe harbor protections that
6 exempt an Internet service provider from a penalty
7 under this section for any disclosure of information
8 made through a system or network controlled or op-
9 erated by or for an Internet service provider, or
10 through the intermediate and transient storage of
11 the information via the Internet, if—

12 “(A) the transmission or storage of the in-
13 formation was initiated by a person other than
14 the Internet service provider;

15 “(B) the Internet service provider does not
16 have actual knowledge of the sensitivity of the
17 information;

18 “(C) the transmission, routing, provision of
19 connections, or storage is carried out through
20 an automatic technical process without selection
21 of the information by the Internet service pro-
22 vider;

23 “(D) the Internet service provider does not
24 select the recipients of the information except

1 as an automatic response to the request of an-
2 other person;

3 “(E) no copy of the information made by
4 the Internet service provider in the course of
5 such intermediate or transient storage is main-
6 tained on the system or network in a manner
7 ordinarily accessible to anyone other than an-
8 ticipated recipients, and no such copy is main-
9 tained on the system or network in a manner
10 ordinarily accessible to such anticipated recipi-
11 ents for a longer period than is reasonably nec-
12 essary for the transmission, routing, or provi-
13 sion of connections;

14 “(F) the information is transmitted
15 through the system or network without modi-
16 fication of its content; and

17 “(G) upon notice from the Department,
18 the Internet service provider responds expedi-
19 tiously to remove or disable access to the infor-
20 mation.

21 “(2) REQUIREMENT OF NOTICE PROVISIONS.—
22 In the safe harbor protections under this subsection,
23 the Secretary shall include guidance regarding how
24 any person seeking to avoid liability through the safe

1 harbor protections will receive notification of having
2 posted protected security information.

3 “(e) NO PUBLIC INTEREST DEFENSE.—It is not a
4 defense against liability under this section that an unau-
5 thorized disclosure of protected security information was
6 for the purpose of public criticism, comment, news report-
7 ing, teaching, scholarship, or research.

8 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion preempts, abrogates, diminishes, or weakens any Fed-
10 eral or State law addressing the protection of protected
11 security information or other sensitive information against
12 unauthorized disclosures.

13 “(g) DEFINITIONS.—In this section:

14 “(1) PROTECTED SECURITY INFORMATION.—

15 The term ‘protected security information’—

16 “(A) means information or material des-
17 ignated by the Department of Homeland Secu-
18 rity and clearly marked or clearly represented,
19 pursuant to the provisions of a statute or Exec-
20 utive order (or a regulation or order issued pur-
21 suant to a statute or Executive order), as re-
22 quiring a specific degree of protection against
23 unauthorized disclosure for reasons of national
24 or homeland security; and

1 “(B) includes information protected from
2 disclosure under—

3 “(i) section 550 of the Homeland Se-
4 curity Appropriations Act, 2007 (Public
5 Law 109–295; 6 U.S.C. 121 note);

6 “(ii) section 214 of this Act; or

7 “(iii) section 114(r) of title 49, United
8 States Code.

9 “(2) DISCLOSE AND DISCLOSURE.—The terms
10 ‘disclose’ and ‘disclosure’ mean any dissemination,
11 republication, reproduction, copying, replication,
12 transmission, storage, downloading, routing, or con-
13 veyance in any manner that makes information
14 available to another person.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 in section 1(b) of such Act is amended by striking the
17 items relating to sections 893 through 899 and inserting
18 the following new item:

“Sec. 893. Civil liability for disclosure of protected security information.”.

19 **SEC. 1204. CONTINUATION OF AUTHORITY FOR FEDERAL**
20 **LAW ENFORCEMENT TRAINING CENTER TO**
21 **APPOINT AND MAINTAIN A CADRE OF FED-**
22 **ERAL ANNUITANTS.**

23 Section 1202(a) of the 2002 Supplemental Appro-
24 priations Act for Further Recovery From and Response
25 To Terrorist Attacks on the United States (42 U.S.C.

1 3771 note) is amended in the first sentence by striking
2 “December 31, 2012” and inserting “December 31,
3 2013”.

4 **SEC. 1205. RURAL POLICING INSTITUTE; RURAL AREA DE-**
5 **FINED.**

6 For purposes of section 210C of the Homeland Secu-
7 rity Act of 2002 (6 U.S.C. 124j), a rural area shall also
8 include any area that is located in a metropolitan statis-
9 tical area and a county, borough, parish, or area under
10 the jurisdiction of an Indian tribe with a population of
11 not more than 50,000.

12 **SEC. 1206. CHIEF VETERINARY OFFICER.**

13 (a) IN GENERAL.—Title III of the Homeland Secu-
14 rity Act of 2002 (6 U.S.C. 181 et seq.) is amended by
15 adding at the end the following new section:

16 **“SEC. 317. CHIEF VETERINARY OFFICER.**

17 “(a) IN GENERAL.—There is in the Department a
18 Chief Veterinary Officer, who shall be appointed by the
19 Secretary. The Chief Veterinary Officer shall report di-
20 rectly to the Chief Medical Officer, unless an individual
21 other than the Assistant Secretary for Health Affairs is
22 serving as the Chief Medical Officer, in which case the
23 Chief Veterinary Officer shall report directly to the Assis-
24 tant Secretary for Health Affairs.

1 “(b) QUALIFICATIONS.—The individual appointed as
2 Chief Veterinary Officer shall be a veterinarian who pos-
3 sesses a demonstrated ability in and knowledge of veteri-
4 nary public health and emergency preparedness, and other
5 professional experience as determined by the Secretary,
6 such as in agriculture, food defense, and disaster medi-
7 cine.

8 “(c) RESPONSIBILITIES.—The Chief Veterinary Offi-
9 cer shall be the head of the division of the Department
10 with primary responsibility for veterinary issues, food de-
11 fense, and agriculture security, and shall have primary re-
12 sponsibility within the Department for responsibilities re-
13 lating to veterinary medicine and veterinary public health,
14 including each of the following:

15 “(1) Serving as the principal authority in the
16 Department responsible for advising the Secretary,
17 in coordination with the Assistant Secretary for
18 Health Affairs, on veterinary public health, food de-
19 fense, and agricultural security issues.

20 “(2) Providing guidance for the health and wel-
21 fare of the Department’s working animals, including
22 those used to enhance transportation, border, and
23 maritime security, and for other purposes.

24 “(3) Leading the Department’s policy initiatives
25 relating to food, animal, and agricultural incidents,

1 and the impact of such incidents on animal and pub-
2 lic health.

3 “(4) Leading the Department’s policy initiatives
4 relating to overall domestic preparedness for and col-
5 lective response to agricultural terrorism.

6 “(5) Serving as the principal point of contact in
7 the Office of Health Affairs for all veterinary pre-
8 paredness and response research and development.

9 “(6) Serving as the principal point of contact in
10 the Office of Health Affairs for sharing homeland
11 security veterinary medical information with Depart-
12 ment officials, including all components with veteri-
13 nary, food, or agricultural interests.

14 “(7) Serving as the principal point of contact
15 within the Department with respect to veterinary
16 homeland security issues for the Department of Ag-
17 riculture, the Department of Defense, the Depart-
18 ment of Health and Human Services, and other
19 Federal departments and agencies.

20 “(8) Serving as the principal point of contact
21 within the Department with respect to veterinary
22 homeland security issues for State, local, and tribal
23 governments, the veterinary community, and other
24 entities within and outside the Department.

1 “(9) Performing such other duties relating to
2 such responsibilities as the Secretary may require.

3 “(d) ADVANCE NOTICE OF REORGANIZATION RE-
4 QUIRED.—Not later than 180 days before carrying out
5 any reorganization within the Department that would af-
6 fect any responsibility of the Chief Veterinary Officer, the
7 Secretary shall submit to the appropriate congressional
8 committees a report on the proposed reorganization.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 in section 1(b) of such Act is amended by adding at the
11 end of the items relating to title III the following new
12 item:

“Sec. 317. Chief Veterinary Officer.”.

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