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One Hundred Tenth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Thursday, the fourth day of January, two thousand and seven

An Act

To provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Implementing Recommendations of the 9/11 Commission Act of 2007".

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

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Sec. 513. Rural Policing Institute.

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Sec. 521. Interagency Threat Assessment and Coordination Group.

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Sec. 701. Report on international collaboration to increase border security, enhance global document security, and exchange terrorist information.

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TITLE I—HOMELAND SECURITY GRANTS

SEC. 101. HOMELAND SECURITY GRANT PROGRAM.

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

"TITLE XX—HOMELAND SECURITY GRANTS

"SEC. 2001. DEFINITIONS.

"In this title, the following definitions shall apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

"(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(B) those committees of the House of Representatives that the Speaker of the House of Representatives determines appropriate.

"(3) CRITICAL INFRASTRUCTURE SECTORS.—The term 'critical infrastructure sectors' means the following sectors, in both urban and rural areas:

"(A) Agriculture and food.

"(B) Banking and finance.

"(C) Chemical industries.

"(D) Commercial facilities.

"(E) Commercial nuclear reactors, materials, and waste.

"(F) Dams.

"(G) The defense industrial base.

"(H) Emergency services.

"(I) Energy.

"(J) Government facilities.

"(K) Information technology.

"(L) National monuments and icons.

"(M) Postal and shipping.

"(N) Public health and health care.

"(O) Telecommunications.

"(P) Transportation systems.

"(Q) Water.

"(4) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means—

"(A) any Indian tribe—

"(i) that is located in the continental United States;

"(ii) that operates a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services;

"(iii)(I) that is located on or near an international border or a coastline bordering an ocean (including the Gulf of Mexico) or international waters;

"(II) that is located within 10 miles of a system or asset included on the prioritized critical infrastructure list established under section 210E(a)(2) or has such a system or asset within its territory;

"(III) that is located within or contiguous to 1 of the 50 most populous metropolitan statistical areas in the United States; or

"(IV) the jurisdiction of which includes not less than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code; and

"(iv) that certifies to the Secretary that a State has not provided funds under section 2003 or 2004 to the Indian tribe or consortium of Indian tribes for the purpose for which direct funding is sought; and

"(B) a consortium of Indian tribes, if each tribe satisfies the requirements of subparagraph (A).

"(5) ELIGIBLE METROPOLITAN AREA.—The term 'eligible metropolitan area' means any of the 100 most populous metropolitan statistical areas in the United States.

"(6) HIGH-RISK URBAN AREA.—The term 'high-risk urban area' means a high-risk urban area designated under section 2003(b)(3)(A).

"(7) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4(e) of the Indian Self-Determination Act (25 U.S.C. 450b(e)).

"(8) METROPOLITAN STATISTICAL AREA.—The term 'metropolitan statistical area' means a metropolitan statistical area, as defined by the Office of Management and Budget.

"(9) NATIONAL SPECIAL SECURITY EVENT.—The term 'National Special Security Event' means a designated event that, by virtue of its political, economic, social, or religious significance, may be the target of terrorism or other criminal activity.

"(10) POPULATION.—The term 'population' means population according to the most recent United States census population estimates available at the start of the relevant fiscal year.

"(11) POPULATION DENSITY.—The term 'population density' means population divided by land area in square miles.

"(12) QUALIFIED INTELLIGENCE ANALYST.—The term 'qualified intelligence analyst' means an intelligence analyst (as that term is defined in section 210A(j)), including law enforcement personnel—

"(A) who has successfully completed training to ensure baseline proficiency in intelligence analysis and production, as determined by the Secretary, which may include training using a curriculum developed under section 209; or

"(B) whose experience ensures baseline proficiency in intelligence analysis and production equivalent to the training required under subparagraph (A), as determined by the Secretary.

"(13) TARGET CAPABILITIES.—The term 'target capabilities' means the target capabilities for Federal, State, local, and tribal government preparedness for which guidelines are required to be established under section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 746(a)).

"(14) TRIBAL GOVERNMENT.—The term 'tribal government' means the government of an Indian tribe.

"Subtitle A—Grants to States and High-Risk Urban Areas

"SEC. 2002. HOMELAND SECURITY GRANT PROGRAMS.

"(a) GRANTS AUTHORIZED.—The Secretary, through the Administrator, may award grants under sections 2003 and 2004 to State, local, and tribal governments.

"(b) PROGRAMS NOT AFFECTED.—This subtitle shall not be construed to affect any of the following Federal programs:

"(1) Firefighter and other assistance programs authorized under the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.).

"(2) Grants authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(3) Emergency Management Performance Grants under the amendments made by title II of the Implementing Recommendations of the 9/11 Commission Act of 2007.

"(4) Grants to protect critical infrastructure, including port security grants authorized under section 70107 of title 46, United States Code, and the grants authorized under title XIV and XV of the Implementing Recommendations of the 9/11 Commission Act of 2007 and the amendments made by such titles.

"(5) The Metropolitan Medical Response System authorized under section 635 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723).

"(6) The Interoperable Emergency Communications Grant Program authorized under title XVIII.

"(7) Grant programs other than those administered by the Department.

"(c) RELATIONSHIP TO OTHER LAWS.—

"(1) IN GENERAL.—The grant programs authorized under sections 2003 and 2004 shall supercede all grant programs authorized under section 1014 of the USA PATRIOT Act (42 U.S.C. 3714).

"(2) ALLOCATION.—The allocation of grants authorized under section 2003 or 2004 shall be governed by the terms of this subtitle and not by any other provision of law.

"SEC. 2003. URBAN AREA SECURITY INITIATIVE.

"(a) ESTABLISHMENT.—There is established an Urban Area Security Initiative to provide grants to assist high-risk urban areas in preventing, preparing for, protecting against, and responding to acts of terrorism.

"(b) ASSESSMENT AND DESIGNATION OF HIGH-RISK URBAN AREAS.—

"(1) IN GENERAL.—The Administrator shall designate high-risk urban areas to receive grants under this section based on procedures under this subsection.

"(2) INITIAL ASSESSMENT.—

"(A) IN GENERAL.—For each fiscal year, the Administrator shall conduct an initial assessment of the relative threat, vulnerability, and consequences from acts of terrorism faced by each eligible metropolitan area, including consideration of—

"(i) the factors set forth in subparagraphs (A) through (H) and (K) of section 2007(a)(1); and

"(ii) information and materials submitted under subparagraph (B).

"(B) SUBMISSION OF INFORMATION BY ELIGIBLE METROPOLITAN AREAS.—Prior to conducting each initial assessment under subparagraph (A), the Administrator shall provide each eligible metropolitan area with, and shall notify each eligible metropolitan area of, the opportunity to—

"(i) submit information that the eligible metropolitan area believes to be relevant to the determination of the threat, vulnerability, and consequences it faces from acts of terrorism; and

"(ii) review the risk assessment conducted by the Department of that eligible metropolitan area, including the bases for the assessment by the Department of the threat, vulnerability, and consequences

from acts of terrorism faced by that eligible metropolitan area, and remedy erroneous or incomplete information.

"(3) DESIGNATION OF HIGH-RISK URBAN AREAS.—

"(A) DESIGNATION.—

"(i) IN GENERAL.—For each fiscal year, after conducting the initial assessment under paragraph (2), and based on that assessment, the Administrator shall designate high-risk urban areas that may submit applications for grants under this section.

"(ii) ADDITIONAL AREAS.—Notwithstanding paragraph (2), the Administrator may—

"(I) in any case where an eligible metropolitan area consists of more than 1 metropolitan division (as that term is defined by the Office of Management and Budget) designate more than 1 high-risk urban area within a single eligible metropolitan area; and

"(II) designate an area that is not an eligible metropolitan area as a high-risk urban area based on the assessment by the Administrator of the relative threat, vulnerability, and consequences from acts of terrorism faced by the area.

"(iii) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require the Administrator to—

"(I) designate all eligible metropolitan areas that submit information to the Administrator under paragraph (2)(B)(i) as high-risk urban areas; or

"(II) designate all areas within an eligible metropolitan area as part of the high-risk urban area.

"(B) JURISDICTIONS INCLUDED IN HIGH-RISK URBAN AREAS.—

"(i) IN GENERAL.—In designating high-risk urban areas under subparagraph (A), the Administrator shall determine which jurisdictions, at a minimum, shall be included in each high-risk urban area.

"(ii) ADDITIONAL JURISDICTIONS.—A high-risk urban area designated by the Administrator may, in consultation with the State or States in which such high-risk urban area is located, add additional jurisdictions to the high-risk urban area.

"(c) APPLICATION.—

"(1) IN GENERAL.—An area designated as a high-risk urban area under subsection (b) may apply for a grant under this section.

"(2) MINIMUM CONTENTS OF APPLICATION.—In an application for a grant under this section, a high-risk urban area shall submit—

"(A) a plan describing the proposed division of responsibilities and distribution of funding among the local and tribal governments in the high-risk urban area;

"(B) the name of an individual to serve as a high-risk urban area liaison with the Department and among the various jurisdictions in the high-risk urban area; and

"(C) such information in support of the application as the Administrator may reasonably require.

"(3) ANNUAL APPLICATIONS.—Applicants for grants under this section shall apply or reapply on an annual basis.

"(4) STATE REVIEW AND TRANSMISSION.—

"(A) IN GENERAL.—To ensure consistency with State homeland security plans, a high-risk urban area applying for a grant under this section shall submit its application to each State within which any part of that high-risk urban area is located for review before submission of such application to the Department.

"(B) DEADLINE.—Not later than 30 days after receiving an application from a high-risk urban area under subparagraph (A), a State shall transmit the application to the Department.

"(C) OPPORTUNITY FOR STATE COMMENT.—If the Governor of a State determines that an application of a high-risk urban area is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, the Governor shall—

"(i) notify the Administrator, in writing, of that fact; and

"(ii) provide an explanation of the reason for not supporting the application at the time of transmission of the application.

"(5) OPPORTUNITY TO AMEND.—In considering applications for grants under this section, the Administrator shall provide applicants with a reasonable opportunity to correct defects in the application, if any, before making final awards.

"(d) DISTRIBUTION OF AWARDS.—

"(1) IN GENERAL.—If the Administrator approves the application of a high-risk urban area for a grant under this section, the Administrator shall distribute the grant funds to the State or States in which that high-risk urban area is located.

"(2) STATE DISTRIBUTION OF FUNDS.—

"(A) IN GENERAL.—Not later than 45 days after the date that a State receives grant funds under paragraph (1), that State shall provide the high-risk urban area awarded that grant not less than 80 percent of the grant funds. Any funds retained by a State shall be expended on items, services, or activities that benefit the high-risk urban area.

"(B) FUNDS RETAINED.—A State shall provide each relevant high-risk urban area with an accounting of the items, services, or activities on which any funds retained by the State under subparagraph (A) were expended.

"(3) INTERSTATE URBAN AREAS.—If parts of a high-risk urban area awarded a grant under this section are located in 2 or more States, the Administrator shall distribute to each such State—

"(A) a portion of the grant funds in accordance with the proposed distribution set forth in the application; or

"(B) if no agreement on distribution has been reached, a portion of the grant funds determined by the Administrator to be appropriate.

"(4) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO HIGH-RISK URBAN AREAS.—A State that receives grant funds under paragraph (1) shall certify to the Administrator that the State has made available to the applicable high-risk urban area the required funds under paragraph (2).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

"(1) $850,000,000 for fiscal year 2008;

"(2) $950,000,000 for fiscal year 2009;

"(3) $1,050,000,000 for fiscal year 2010;

"(4) $1,150,000,000 for fiscal year 2011;

"(5) $1,300,000,000 for fiscal year 2012; and

"(6) such sums as are necessary for fiscal year 2013, and each fiscal year thereafter.

"SEC. 2004. STATE HOMELAND SECURITY GRANT PROGRAM.

"(a) ESTABLISHMENT.—There is established a State Homeland Security Grant Program to assist State, local, and tribal governments in preventing, preparing for, protecting against, and responding to acts of terrorism.

"(b) APPLICATION.—

"(1) IN GENERAL.—Each State may apply for a grant under this section, and shall submit such information in support of the application as the Administrator may reasonably require.

"(2) MINIMUM CONTENTS OF APPLICATION.—The Administrator shall require that each State include in its application, at a minimum—

"(A) the purpose for which the State seeks grant funds and the reasons why the State needs the grant to meet the target capabilities of that State;

"(B) a description of how the State plans to allocate the grant funds to local governments and Indian tribes; and

"(C) a budget showing how the State intends to expend the grant funds.

"(3) ANNUAL APPLICATIONS.—Applicants for grants under this section shall apply or reapply on an annual basis.

"(c) DISTRIBUTION TO LOCAL AND TRIBAL GOVERNMENTS.—

"(1) IN GENERAL.—Not later than 45 days after receiving grant funds, any State receiving a grant under this section shall make available to local and tribal governments, consistent with the applicable State homeland security plan—

"(A) not less than 80 percent of the grant funds;

"(B) with the consent of local and tribal governments, items, services, or activities having a value of not less than 80 percent of the amount of the grant; or

"(C) with the consent of local and tribal governments, grant funds combined with other items, services, or activities having a total value of not less than 80 percent of the amount of the grant.

"(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—A State shall certify to the Administrator that the State has made the distribution to local and tribal governments required under paragraph (1).

"(3) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Administrator extend the period under paragraph (1) for an additional period of time. The

Administrator may approve such a request if the Administrator determines that the resulting delay in providing grant funding to the local and tribal governments is necessary to promote effective investments to prevent, prepare for, protect against, or respond to acts of terrorism.

"(4) EXCEPTION.—Paragraph (1) shall not apply to the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands.

"(5) DIRECT FUNDING.—If a State fails to make the distribution to local or tribal governments required under paragraph (1) in a timely fashion, a local or tribal government entitled to receive such distribution may petition the Administrator to request that grant funds be provided directly to the local or tribal government.

"(d) MULTISTATE APPLICATIONS.—

"(1) IN GENERAL.—Instead of, or in addition to, any application for a grant under subsection (b), 2 or more States may submit an application for a grant under this section in support of multistate efforts to prevent, prepare for, protect against, and respond to acts of terrorism.

"(2) ADMINISTRATION OF GRANT.—If a group of States applies for a grant under this section, such States shall submit to the Administrator at the time of application a plan describing—

"(A) the division of responsibilities for administering the grant; and

"(B) the distribution of funding among the States that are parties to the application.

"(e) MINIMUM ALLOCATION.—

"(1) IN GENERAL.—In allocating funds under this section, the Administrator shall ensure that—

"(A) except as provided in subparagraph (B), each State receives, from the funds appropriated for the State Homeland Security Grant Program established under this section, not less than an amount equal to—

"(i) 0.375 percent of the total funds appropriated for grants under this section and section 2003 in fiscal year 2008;

"(ii) 0.365 percent of the total funds appropriated for grants under this section and section 2003 in fiscal year 2009;

"(iii) 0.36 percent of the total funds appropriated for grants under this section and section 2003 in fiscal year 2010;

"(iv) 0.355 percent of the total funds appropriated for grants under this section and section 2003 in fiscal year 2011; and

"(v) 0.35 percent of the total funds appropriated for grants under this section and section 2003 in fiscal year 2012 and in each fiscal year thereafter; and

"(B) for each fiscal year, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands each receive, from the funds appropriated for the State Homeland Security Grant Program established under this section, not less than an amount

equal to 0.08 percent of the total funds appropriated for grants under this section and section 2003.

"(2) EFFECT OF MULTISTATE AWARD ON STATE MINIMUM.—Any portion of a multistate award provided to a State under subsection (d) shall be considered in calculating the minimum State allocation under this subsection.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

"(1) $950,000,000 for each of fiscal years 2008 through 2012; and

"(2) such sums as are necessary for fiscal year 2013, and each fiscal year thereafter.

"SEC. 2005. GRANTS TO DIRECTLY ELIGIBLE TRIBES.

"(a) IN GENERAL.—Notwithstanding section 2004(b), the Administrator may award grants to directly eligible tribes under section 2004.

"(b) TRIBAL APPLICATIONS.—A directly eligible tribe may apply for a grant under section 2004 by submitting an application to the Administrator that includes, as appropriate, the information required for an application by a State under section 2004(b).

"(c) CONSISTENCY WITH STATE PLANS.—

"(1) IN GENERAL.—To ensure consistency with any applicable State homeland security plan, a directly eligible tribe applying for a grant under section 2004 shall provide a copy of its application to each State within which any part of the tribe is located for review before the tribe submits such application to the Department.

"(2) OPPORTUNITY FOR COMMENT.—If the Governor of a State determines that the application of a directly eligible tribe is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, not later than 30 days after the date of receipt of that application the Governor shall—

"(A) notify the Administrator, in writing, of that fact; and

"(B) provide an explanation of the reason for not supporting the application.

"(d) FINAL AUTHORITY.—The Administrator shall have final authority to approve any application of a directly eligible tribe. The Administrator shall notify each State within the boundaries of which any part of a directly eligible tribe is located of the approval of an application by the tribe.

"(e) PRIORITIZATION.—The Administrator shall allocate funds to directly eligible tribes in accordance with the factors applicable to allocating funds among States under section 2007.

"(f) DISTRIBUTION OF AWARDS TO DIRECTLY ELIGIBLE TRIBES.—If the Administrator awards funds to a directly eligible tribe under this section, the Administrator shall distribute the grant funds directly to the tribe and not through any State.

"(g) MINIMUM ALLOCATION.—

"(1) IN GENERAL.—In allocating funds under this section, the Administrator shall ensure that, for each fiscal year, directly eligible tribes collectively receive, from the funds appropriated for the State Homeland Security Grant Program established under section 2004, not less than an amount equal

to 0.1 percent of the total funds appropriated for grants under sections 2003 and 2004.

"(2) EXCEPTION.—This subsection shall not apply in any fiscal year in which the Administrator—

"(A) receives fewer than 5 applications under this section; or

"(B) does not approve at least 2 applications under this section.

"(h) TRIBAL LIAISON.—A directly eligible tribe applying for a grant under section 2004 shall designate an individual to serve as a tribal liaison with the Department and other Federal, State, local, and regional government officials concerning preventing, preparing for, protecting against, and responding to acts of terrorism.

"(i) ELIGIBILITY FOR OTHER FUNDS.—A directly eligible tribe that receives a grant under section 2004 may receive funds for other purposes under a grant from the State or States within the boundaries of which any part of such tribe is located and from any high-risk urban area of which it is a part, consistent with the homeland security plan of the State or high-risk urban area.

"(j) STATE OBLIGATIONS.—

"(1) IN GENERAL.—States shall be responsible for allocating grant funds received under section 2004 to tribal governments in order to help those tribal communities achieve target capabilities not achieved through grants to directly eligible tribes.

"(2) DISTRIBUTION OF GRANT FUNDS.—With respect to a grant to a State under section 2004, an Indian tribe shall be eligible for funding directly from that State, and shall not be required to seek funding from any local government.

"(3) IMPOSITION OF REQUIREMENTS.—A State may not impose unreasonable or unduly burdensome requirements on an Indian tribe as a condition of providing the Indian tribe with grant funds or resources under section 2004.

"(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of an Indian tribe that receives funds under this subtitle.

"SEC. 2006. TERRORISM PREVENTION.

"(a) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—

"(1) IN GENERAL.—The Administrator shall ensure that not less than 25 percent of the total combined funds appropriated for grants under sections 2003 and 2004 is used for law enforcement terrorism prevention activities.

"(2) LAW ENFORCEMENT TERRORISM PREVENTION ACTIVITIES.—Law enforcement terrorism prevention activities include—

"(A) information sharing and analysis;

"(B) target hardening;

"(C) threat recognition;

"(D) terrorist interdiction;

"(E) overtime expenses consistent with a State homeland security plan, including for the provision of enhanced law enforcement operations in support of Federal agencies, including for increased border security and border crossing enforcement;

"(F) establishing, enhancing, and staffing with appropriately qualified personnel State, local, and regional fusion centers that comply with the guidelines established under section 210A(i);

"(G) paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts;

"(H) any other activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the Law Enforcement Terrorism Prevention Program; and

"(I) any other terrorism prevention activity authorized by the Administrator.

"(3) PARTICIPATION OF UNDERREPRESENTED COMMUNITIES IN FUSION CENTERS.—The Administrator shall ensure that grant funds described in paragraph (1) are used to support the participation, as appropriate, of law enforcement and other emergency response providers from rural and other underrepresented communities at risk from acts of terrorism in fusion centers.

"(b) OFFICE FOR STATE AND LOCAL LAW ENFORCEMENT.—

"(1) ESTABLISHMENT.—There is established in the Policy Directorate of the Department an Office for State and Local Law Enforcement, which shall be headed by an Assistant Secretary for State and Local Law Enforcement.

"(2) QUALIFICATIONS.—The Assistant Secretary for State and Local Law Enforcement shall have an appropriate background with experience in law enforcement, intelligence, and other counterterrorism functions.

"(3) ASSIGNMENT OF PERSONNEL.—The Secretary shall assign to the Office for State and Local Law Enforcement permanent staff and, as appropriate and consistent with sections 506(c)(2), 821, and 888(d), other appropriate personnel detailed from other components of the Department to carry out the responsibilities under this subsection.

"(4) RESPONSIBILITIES.—The Assistant Secretary for State and Local Law Enforcement shall—

"(A) lead the coordination of Department-wide policies relating to the role of State and local law enforcement in preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disasters within the United States;

"(B) serve as a liaison between State, local, and tribal law enforcement agencies and the Department;

"(C) coordinate with the Office of Intelligence and Analysis to ensure the intelligence and information sharing requirements of State, local, and tribal law enforcement agencies are being addressed;

"(D) work with the Administrator to ensure that law enforcement and terrorism-focused grants to State, local, and tribal government agencies, including grants under sections 2003 and 2004, the Commercial Equipment Direct Assistance Program, and other grants administered by the Department to support fusion centers and law enforcement-oriented programs, are appropriately focused on terrorism prevention activities;

"(E) coordinate with the Science and Technology Directorate, the Federal Emergency Management Agency, the

Department of Justice, the National Institute of Justice, law enforcement organizations, and other appropriate entities to support the development, promulgation, and updating, as necessary, of national voluntary consensus standards for training and personal protective equipment to be used in a tactical environment by law enforcement officers; and

"(F) conduct, jointly with the Administrator, a study to determine the efficacy and feasibility of establishing specialized law enforcement deployment teams to assist State, local, and tribal governments in responding to natural disasters, acts of terrorism, or other man-made disasters and report on the results of that study to the appropriate committees of Congress.

"(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to diminish, supercede, or replace the responsibilities, authorities, or role of the Administrator.

"SEC. 2007. PRIORITIZATION.

"(a) IN GENERAL.—In allocating funds among States and high-risk urban areas applying for grants under section 2003 or 2004, the Administrator shall consider, for each State or high-risk urban area—

"(1) its relative threat, vulnerability, and consequences from acts of terrorism, including consideration of—

"(A) its population, including appropriate consideration of military, tourist, and commuter populations;

"(B) its population density;

"(C) its history of threats, including whether it has been the target of a prior act of terrorism;

"(D) its degree of threat, vulnerability, and consequences related to critical infrastructure (for all critical infrastructure sectors) or key resources identified by the Administrator or the State homeland security plan, including threats, vulnerabilities, and consequences related to critical infrastructure or key resources in nearby jurisdictions;

"(E) the most current threat assessments available to the Department;

"(F) whether the State has, or the high-risk urban area is located at or near, an international border;

"(G) whether it has a coastline bordering an ocean (including the Gulf of Mexico) or international waters;

"(H) its likely need to respond to acts of terrorism occurring in nearby jurisdictions;

"(I) the extent to which it has unmet target capabilities;

"(J) in the case of a high-risk urban area, the extent to which that high-risk urban area includes—

"(i) those incorporated municipalities, counties, parishes, and Indian tribes within the relevant eligible metropolitan area, the inclusion of which will enhance regional efforts to prevent, prepare for, protect against, and respond to acts of terrorism; and

"(ii) other local and tribal governments in the surrounding area that are likely to be called upon to respond to acts of terrorism within the high-risk urban area; and

"(K) such other factors as are specified in writing by the Administrator; and

"(2) the anticipated effectiveness of the proposed use of the grant by the State or high-risk urban area in increasing the ability of that State or high-risk urban area to prevent, prepare for, protect against, and respond to acts of terrorism, to meet its target capabilities, and to otherwise reduce the overall risk to the high-risk urban area, the State, or the Nation.

"(b) TYPES OF THREAT.—In assessing threat under this section, the Administrator shall consider the following types of threat to critical infrastructure sectors and to populations in all areas of the United States, urban and rural:

"(1) Biological.

"(2) Chemical.

"(3) Cyber.

"(4) Explosives.

"(5) Incendiary.

"(6) Nuclear.

"(7) Radiological.

"(8) Suicide bombers.

"(9) Such other types of threat determined relevant by the Administrator.

"SEC. 2008. USE OF FUNDS.

"(a) PERMITTED USES.—Grants awarded under section 2003 or 2004 may be used to achieve target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans, through—

"(1) developing and enhancing homeland security, emergency management, or other relevant plans, assessments, or mutual aid agreements;

"(2) designing, conducting, and evaluating training and exercises, including training and exercises conducted under section 512 of this Act and section 648 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748);

"(3) protecting a system or asset included on the prioritized critical infrastructure list established under section 210E(a)(2);

"(4) purchasing, upgrading, storing, or maintaining equipment, including computer hardware and software;

"(5) ensuring operability and achieving interoperability of emergency communications;

"(6) responding to an increase in the threat level under the Homeland Security Advisory System, or to the needs resulting from a National Special Security Event;

"(7) establishing, enhancing, and staffing with appropriately qualified personnel State, local, and regional fusion centers that comply with the guidelines established under section 210A(i);

"(8) enhancing school preparedness;

"(9) supporting public safety answering points;

"(10) paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts;

"(11) paying expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant;

"(12) any activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the State Homeland Security Grant Program, the Urban Area Security Initiative (including activities permitted under the full-time counterterrorism staffing pilot), or the Law Enforcement Terrorism Prevention Program; and

"(13) any other appropriate activity, as determined by the Administrator.

"(b) LIMITATIONS ON USE OF FUNDS.—

"(1) IN GENERAL.—Funds provided under section 2003 or 2004 may not be used—

"(A) to supplant State or local funds, except that nothing in this paragraph shall prohibit the use of grant funds provided to a State or high-risk urban area for otherwise permissible uses under subsection (a) on the basis that a State or high-risk urban area has previously used State or local funds to support the same or similar uses; or

"(B) for any State or local government cost-sharing contribution.

"(2) PERSONNEL.—

"(A) IN GENERAL.—Not more than 50 percent of the amount awarded to a grant recipient under section 2003 or 2004 in any fiscal year may be used to pay for personnel, including overtime and backfill costs, in support of the permitted uses under subsection (a).

"(B) WAIVER.—At the request of the recipient of a grant under section 2003 or 2004, the Administrator may grant a waiver of the limitation under subparagraph (A).

"(3) CONSTRUCTION.—

"(A) IN GENERAL.—A grant awarded under section 2003 or 2004 may not be used to acquire land or to construct buildings or other physical facilities.

"(B) EXCEPTIONS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), nothing in this paragraph shall prohibit the use of a grant awarded under section 2003 or 2004 to achieve target capabilities related to preventing, preparing for, protecting against, or responding to acts of terrorism, including through the alteration or remodeling of existing buildings for the purpose of making such buildings secure against acts of terrorism.

"(ii) REQUIREMENTS FOR EXCEPTION.—No grant awarded under section 2003 or 2004 may be used for a purpose described in clause (i) unless—

"(I) specifically approved by the Administrator;

"(II) any construction work occurs under terms and conditions consistent with the requirements under section 611(j)(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(j)(9)); and

"(III) the amount allocated for purposes under clause (i) does not exceed the greater of $1,000,000 or 15 percent of the grant award.

"(4) RECREATION.—Grants awarded under this subtitle may not be used for recreational or social purposes.

"(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this subtitle shall be construed to prohibit State, local, or tribal governments from using grant funds under sections 2003 and 2004 in a manner that enhances preparedness for disasters unrelated to acts of terrorism, if such use assists such governments in achieving target capabilities related to preventing, preparing for, protecting against, or responding to acts of terrorism.

"(d) REIMBURSEMENT OF COSTS.—

"(1) PAID-ON-CALL OR VOLUNTEER REIMBURSEMENT.—In addition to the activities described in subsection (a), a grant under section 2003 or 2004 may be used to provide a reasonable stipend to paid-on-call or volunteer emergency response providers who are not otherwise compensated for travel to or participation in training or exercises related to the purposes of this subtitle. Any such reimbursement shall not be considered compensation for purposes of rendering an emergency response provider an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

"(2) PERFORMANCE OF FEDERAL DUTY.—An applicant for a grant under section 2003 or 2004 may petition the Administrator to use the funds from its grants under those sections for the reimbursement of the cost of any activity relating to preventing, preparing for, protecting against, or responding to acts of terrorism that is a Federal duty and usually performed by a Federal agency, and that is being performed by a State or local government under agreement with a Federal agency.

"(e) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a grant under section 2003 or 2004, the Administrator may authorize the grant recipient to transfer all or part of the grant funds from uses specified in the grant agreement to other uses authorized under this section, if the Administrator determines that such transfer is in the interests of homeland security.

"(f) EQUIPMENT STANDARDS.—If an applicant for a grant under section 2003 or 2004 proposes to upgrade or purchase, with assistance provided under that grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards developed under section 647 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 747), the applicant shall include in its application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

"Subtitle B—Grants Administration

"SEC. 2021. ADMINISTRATION AND COORDINATION.

"(a) REGIONAL COORDINATION.—The Administrator shall ensure that—

"(1) all recipients of grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters (excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency

Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.)) coordinate, as appropriate, their prevention, preparedness, and protection efforts with neighboring State, local, and tribal governments; and

"(2) all high-risk urban areas and other recipients of grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters (excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.)) that include or substantially affect parts or all of more than 1 State coordinate, as appropriate, across State boundaries, including, where appropriate, through the use of regional working groups and requirements for regional plans.

"(b) PLANNING COMMITTEES.—

"(1) IN GENERAL.—Any State or high-risk urban area receiving a grant under section 2003 or 2004 shall establish a planning committee to assist in preparation and revision of the State, regional, or local homeland security plan and to assist in determining effective funding priorities for grants under sections 2003 and 2004.

"(2) COMPOSITION.—

"(A) IN GENERAL.—The planning committee shall include representatives of significant stakeholders, including—

"(i) local and tribal government officials; and

"(ii) emergency response providers, which shall include representatives of the fire service, law enforcement, emergency medical response, and emergency managers.

"(B) GEOGRAPHIC REPRESENTATION.—The members of the planning committee shall be a representative group of individuals from the counties, cities, towns, and Indian tribes within the State or high-risk urban area, including, as appropriate, representatives of rural, high-population, and high-threat jurisdictions.

"(3) EXISTING PLANNING COMMITTEES.—Nothing in this subsection may be construed to require that any State or high-risk urban area create a planning committee if that State or high-risk urban area has established and uses a multijurisdictional planning committee or commission that meets the requirements of this subsection.

"(c) INTERAGENCY COORDINATION.—

"(1) IN GENERAL.—Not later than 12 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary (acting through the Administrator), the Attorney General, the Secretary of Health and Human Services, and the heads of other agencies providing assistance to State, local, and tribal governments for preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disasters, shall jointly—

"(A) compile a comprehensive list of Federal grant programs for State, local, and tribal governments for preventing, preparing for, protecting against, and responding

to natural disasters, acts of terrorism, and other man-made disasters;

"(B) compile the planning, reporting, application, and other requirements and guidance for the grant programs described in subparagraph (A);

"(C) develop recommendations, as appropriate, to—

"(i) eliminate redundant and duplicative requirements for State, local, and tribal governments, including onerous application and ongoing reporting requirements;

"(ii) ensure accountability of the programs to the intended purposes of such programs;

"(iii) coordinate allocation of grant funds to avoid duplicative or inconsistent purchases by the recipients;

"(iv) make the programs more accessible and user friendly to applicants; and

"(v) ensure the programs are coordinated to enhance the overall preparedness of the Nation;

"(D) submit the information and recommendations under subparagraphs (A), (B), and (C) to the appropriate committees of Congress; and

"(E) provide the appropriate committees of Congress, the Comptroller General, and any officer or employee of the Government Accountability Office with full access to any information collected or reviewed in preparing the submission under subparagraph (D).

"(2) SCOPE OF TASK.—Nothing in this subsection shall authorize the elimination, or the alteration of the purposes, as delineated by statute, regulation, or guidance, of any grant program that exists on the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, nor authorize the review or preparation of proposals on the elimination, or the alteration of such purposes, of any such grant program.

"(d) SENSE OF CONGRESS.—It is the sense of Congress that, in order to ensure that the Nation is most effectively able to prevent, prepare for, protect against, and respond to all hazards, including natural disasters, acts of terrorism, and other man-made disasters—

"(1) the Department should administer a coherent and coordinated system of both terrorism-focused and all-hazards grants;

"(2) there should be a continuing and appropriate balance between funding for terrorism-focused and all-hazards preparedness, as reflected in the authorizations of appropriations for grants under the amendments made by titles I and II, as applicable, of the Implementing Recommendations of the 9/11 Commission Act of 2007; and

"(3) with respect to terrorism-focused grants, it is necessary to ensure both that the target capabilities of the highest risk areas are achieved quickly and that basic levels of preparedness, as measured by the attainment of target capabilities, are achieved nationwide.

"SEC. 2022. ACCOUNTABILITY.

"(a) AUDITS OF GRANT PROGRAMS.—

"(1) COMPLIANCE REQUIREMENTS.—

"(A) AUDIT REQUIREMENT.—Each recipient of a grant administered by the Department that expends not less than $500,000 in Federal funds during its fiscal year shall submit to the Administrator a copy of the organization-wide financial and compliance audit report required under chapter 75 of title 31, United States Code.

"(B) ACCESS TO INFORMATION.—The Department and each recipient of a grant administered by the Department shall provide the Comptroller General and any officer or employee of the Government Accountability Office with full access to information regarding the activities carried out related to any grant administered by the Department.

"(C) IMPROPER PAYMENTS.—Consistent with the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note), for each of the grant programs under sections 2003 and 2004 of this title and section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 762), the Administrator shall specify policies and procedures for—

"(i) identifying activities funded under any such grant program that are susceptible to significant improper payments; and

"(ii) reporting any improper payments to the Department.

"(2) AGENCY PROGRAM REVIEW.—

"(A) IN GENERAL.—Not less than once every 2 years, the Administrator shall conduct, for each State and high-risk urban area receiving a grant administered by the Department, a programmatic and financial review of all grants awarded by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters, excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.).

"(B) CONTENTS.—Each review under subparagraph (A) shall, at a minimum, examine—

"(i) whether the funds awarded were used in accordance with the law, program guidance, and State homeland security plans or other applicable plans; and

"(ii) the extent to which funds awarded enhanced the ability of a grantee to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism, and other man-made disasters.

"(C) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated to the Administrator, there are authorized to be appropriated to the Administrator for reviews under this paragraph—

"(i) $8,000,000 for each of fiscal years 2008, 2009, and 2010; and

"(ii) such sums as are necessary for fiscal year 2011, and each fiscal year thereafter.

"(3) OFFICE OF INSPECTOR GENERAL PERFORMANCE AUDITS.—

"(A) IN GENERAL.—In order to ensure the effective and appropriate use of grants administered by the Department,

the Inspector General of the Department each year shall conduct audits of a sample of States and high-risk urban areas that receive grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters, excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.).

"(B) DETERMINING SAMPLES.—The sample selected for audits under subparagraph (A) shall be—

"(i) of an appropriate size to—

"(I) assess the overall integrity of the grant programs described in subparagraph (A); and

"(II) act as a deterrent to financial mismanagement; and

"(ii) selected based on—

"(I) the size of the grants awarded to the recipient;

"(II) the past grant management performance of the recipient;

"(III) concerns identified by the Administrator, including referrals from the Administrator; and

"(IV) such other factors as determined by the Inspector General of the Department.

"(C) COMPREHENSIVE AUDITING.—During the 7-year period beginning on the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department shall conduct not fewer than 1 audit of each State that receives funds under a grant under section 2003 or 2004.

"(D) REPORT BY THE INSPECTOR GENERAL.—

"(i) IN GENERAL.—The Inspector General of the Department shall submit to the appropriate committees of Congress an annual consolidated report regarding the audits completed during the fiscal year before the date of that report.

"(ii) CONTENTS.—Each report submitted under clause (i) shall describe, for the fiscal year before the date of that report—

"(I) the audits conducted under subparagraph (A);

"(II) the findings of the Inspector General with respect to the audits conducted under subparagraph (A);

"(III) whether the funds awarded were used in accordance with the law, program guidance, and State homeland security plans and other applicable plans; and

"(IV) the extent to which funds awarded enhanced the ability of a grantee to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism and other man-made disasters.

"(iii) DEADLINE.—For each year, the report required under clause (i) shall be submitted not later than December 31.

"(E) PUBLIC AVAILABILITY ON WEBSITE.—The Inspector General of the Department shall make each audit conducted under subparagraph (A) available on the website of the Inspector General, subject to redaction as the Inspector General determines necessary to protect classified and other sensitive information.

"(F) PROVISION OF INFORMATION TO ADMINISTRATOR.—The Inspector General of the Department shall provide to the Administrator any findings and recommendations from audits conducted under subparagraph (A).

"(G) EVALUATION OF GRANTS MANAGEMENT AND OVERSIGHT.—Not later than 1 year after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department shall review and evaluate the grants management and oversight practices of the Federal Emergency Management Agency, including assessment of and recommendations relating to—

"(i) the skills, resources, and capabilities of the workforce; and

"(ii) any additional resources and staff necessary to carry out such management and oversight.

"(H) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated to the Inspector General of the Department, there are authorized to be appropriated to the Inspector General of the Department for audits under subparagraph (A)—

"(i) $8,500,000 for each of fiscal years 2008, 2009, and 2010; and

"(ii) such sums as are necessary for fiscal year 2011, and each fiscal year thereafter.

"(4) PERFORMANCE ASSESSMENT.—In order to ensure that States and high-risk urban areas are using grants administered by the Department appropriately to meet target capabilities and preparedness priorities, the Administrator shall—

"(A) ensure that any such State or high-risk urban area conducts or participates in exercises under section 648(b) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b));

"(B) use performance metrics in accordance with the comprehensive assessment system under section 649 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 749) and ensure that any such State or high-risk urban area regularly tests its progress against such metrics through the exercises required under subparagraph (A);

"(C) use the remedial action management program under section 650 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 750); and

"(D) ensure that each State receiving a grant administered by the Department submits a report to the Administrator on its level of preparedness, as required by section 652(c) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(c)).

"(5) CONSIDERATION OF ASSESSMENTS.—In conducting program reviews and performance audits under paragraphs (2) and (3), the Administrator and the Inspector General of the

Department shall take into account the performance assessment elements required under paragraph (4).

"(6) RECOVERY AUDITS.—The Administrator shall conduct a recovery audit (as that term is defined by the Director of the Office of Management and Budget under section 3561 of title 31, United States Code) for any grant administered by the Department with a total value of not less than $1,000,000, if the Administrator finds that—

"(A) a financial audit has identified improper payments that can be recouped; and

"(B) it is cost effective to conduct a recovery audit to recapture the targeted funds.

"(7) REMEDIES FOR NONCOMPLIANCE.—

"(A) IN GENERAL.—If, as a result of a review or audit under this subsection or otherwise, the Administrator finds that a recipient of a grant under this title has failed to substantially comply with any provision of law or with any regulations or guidelines of the Department regarding eligible expenditures, the Administrator shall—

"(i) reduce the amount of payment of grant funds to the recipient by an amount equal to the amount of grants funds that were not properly expended by the recipient;

"(ii) limit the use of grant funds to programs, projects, or activities not affected by the failure to comply;

"(iii) refer the matter to the Inspector General of the Department for further investigation;

"(iv) terminate any payment of grant funds to be made to the recipient; or

"(v) take such other action as the Administrator determines appropriate.

"(B) DURATION OF PENALTY.—The Administrator shall apply an appropriate penalty under subparagraph (A) until such time as the Administrator determines that the grant recipient is in full compliance with the law and with applicable guidelines or regulations of the Department.

"(b) REPORTS BY GRANT RECIPIENTS.—

"(1) QUARTERLY REPORTS ON HOMELAND SECURITY SPENDING.—

"(A) IN GENERAL.—As a condition of receiving a grant under section 2003 or 2004, a State, high-risk urban area, or directly eligible tribe shall, not later than 30 days after the end of each Federal fiscal quarter, submit to the Administrator a report on activities performed using grant funds during that fiscal quarter.

"(B) CONTENTS.—Each report submitted under subparagraph (A) shall at a minimum include, for the applicable State, high-risk urban area, or directly eligible tribe, and each subgrantee thereof—

"(i) the amount obligated to that recipient under section 2003 or 2004 in that quarter;

"(ii) the amount of funds received and expended under section 2003 or 2004 by that recipient in that quarter; and

"(iii) a summary description of expenditures made by that recipient using such funds, and the purposes for which such expenditures were made.

"(C) END-OF-YEAR REPORT.—The report submitted under subparagraph (A) by a State, high-risk urban area, or directly eligible tribe relating to the last quarter of any fiscal year shall include—

"(i) the amount and date of receipt of all funds received under the grant during that fiscal year;

"(ii) the identity of, and amount provided to, any subgrantee for that grant during that fiscal year;

"(iii) the amount and the dates of disbursements of all such funds expended in compliance with section 2021(a)(1) or under mutual aid agreements or other sharing arrangements that apply within the State, high-risk urban area, or directly eligible tribe, as applicable, during that fiscal year; and

"(iv) how the funds were used by each recipient or subgrantee during that fiscal year.

"(2) ANNUAL REPORT.—Any State applying for a grant under section 2004 shall submit to the Administrator annually a State preparedness report, as required by section 652(c) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(c)).

"(c) REPORTS BY THE ADMINISTRATOR.—

"(1) FEDERAL PREPAREDNESS REPORT.—The Administrator shall submit to the appropriate committees of Congress annually the Federal Preparedness Report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(a)).

"(2) RISK ASSESSMENT.—

"(A) IN GENERAL.—For each fiscal year, the Administrator shall provide to the appropriate committees of Congress a detailed and comprehensive explanation of the methodologies used to calculate risk and compute the allocation of funds for grants administered by the Department, including—

"(i) all variables included in the risk assessment and the weights assigned to each such variable;

"(ii) an explanation of how each such variable, as weighted, correlates to risk, and the basis for concluding there is such a correlation; and

"(iii) any change in the methodologies from the previous fiscal year, including changes in variables considered, weighting of those variables, and computational methods.

"(B) CLASSIFIED ANNEX.—The information required under subparagraph (A) shall be provided in unclassified form to the greatest extent possible, and may include a classified annex if necessary.

"(C) DEADLINE.—For each fiscal year, the information required under subparagraph (A) shall be provided on the earlier of—

"(i) October 31; or

"(ii) 30 days before the issuance of any program guidance for grants administered by the Department.

"(3) TRIBAL FUNDING REPORT.—At the end of each fiscal year, the Administrator shall submit to the appropriate committees of Congress a report setting forth the amount of funding provided during that fiscal year to Indian tribes under any grant program administered by the Department, whether provided directly or through a subgrant from a State or high-risk urban area.".

SEC. 102. OTHER AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002.

(a) NATIONAL ADVISORY COUNCIL.—Section 508(b) of the Homeland Security Act of 2002 (6 U.S.C. 318(b)) is amended—

(1) by striking "The National Advisory" the first place that term appears and inserting the following:

"(1) IN GENERAL.—The National Advisory"; and

(2) by adding at the end the following:

"(2) CONSULTATION ON GRANTS.—To ensure input from and coordination with State, local, and tribal governments and emergency response providers, the Administrator shall regularly consult and work with the National Advisory Council on the administration and assessment of grant programs administered by the Department, including with respect to the development of program guidance and the development and evaluation of risk-assessment methodologies, as appropriate.".

(b) EVACUATION PLANNING.—Section 512(b)(5)(A) of the Homeland Security Act of 2002 (6 U.S.C. 321a(b)(5)(A)) is amended by inserting ", including the elderly" after "needs".

SEC. 103. AMENDMENTS TO THE POST-KATRINA EMERGENCY MANAGEMENT REFORM ACT OF 2006.

(a) FUNDING EFFICACY.—Section 652(a)(2) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(a)(2)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) an evaluation of the extent to which grants administered by the Department, including grants under title XX of the Homeland Security Act of 2002—

"(i) have contributed to the progress of State, local, and tribal governments in achieving target capabilities; and

"(ii) have led to the reduction of risk from natural disasters, acts of terrorism, or other man-made disasters nationally and in State, local, and tribal jurisdictions.".

(b) STATE PREPAREDNESS REPORT.—Section 652(c)(2)(D) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(c)(2)(D)) is amended by striking "an assessment of resource needs" and inserting "a discussion of the extent to which target capabilities identified in the applicable State homeland security plan and other applicable plans remain unmet and an assessment of resources needed".

SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS.

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

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

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

(3) in section 1904(a), as so redesignated, by striking "section 1802" and inserting "section 1902";

(4) in section 1906, as so redesignated, by striking "section 1802(a)" each place that term appears and inserting "section 1902(a)"; and

(5) in the table of contents in section 1(b), by striking the items relating to title XVIII and sections 1801 through 1806, as added by the SAFE Port Act (Public Law 109–347; 120 Stat. 1884), and inserting the following:

"TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

"Sec. 1901. Domestic Nuclear Detection Office.
"Sec. 1902. Mission of Office.
"Sec. 1903. Hiring authority.
"Sec. 1904. Testing authority.
"Sec. 1905. Relationship to other Department entities and Federal agencies.
"Sec. 1906. Contracting and grant making authorities.

"TITLE XX—HOMELAND SECURITY GRANTS

"Sec. 2001. Definitions.

"Subtitle A—Grants to States and High-Risk Urban Areas

"Sec. 2002. Homeland Security Grant Programs.
"Sec. 2003. Urban Area Security Initiative.
"Sec. 2004. State Homeland Security Grant Program.
"Sec. 2005. Grants to directly eligible tribes.
"Sec. 2006. Terrorism prevention.
"Sec. 2007. Prioritization.
"Sec. 2008. Use of funds.

"Subtitle B—Grants Administration

"Sec. 2021. Administration and coordination.
"Sec. 2022. Accountability.".

TITLE II—EMERGENCY MANAGEMENT PERFORMANCE GRANTS

SEC. 201. EMERGENCY MANAGEMENT PERFORMANCE GRANT PROGRAM.

Section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 762) is amended to read as follows:

"SEC. 662. EMERGENCY MANAGEMENT PERFORMANCE GRANTS PROGRAM.

"(a) DEFINITIONS.—In this section—

"(1) the term 'program' means the emergency management performance grants program described in subsection (b); and

"(2) the term 'State' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

"(b) IN GENERAL.—The Administrator of the Federal Emergency Management Agency shall continue implementation of an emergency management performance grants program, to make grants

to States to assist State, local, and tribal governments in preparing for all hazards, as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(c) FEDERAL SHARE.—Except as otherwise specifically provided by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Federal share of the cost of an activity carried out using funds made available under the program shall not exceed 50 percent.

"(d) APPORTIONMENT.—For fiscal year 2008, and each fiscal year thereafter, the Administrator shall apportion the amounts appropriated to carry out the program among the States as follows:

"(1) BASELINE AMOUNT.—The Administrator shall first apportion 0.25 percent of such amounts to each of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands and 0.75 percent of such amounts to each of the remaining States.

"(2) REMAINDER.—The Administrator shall apportion the remainder of such amounts in the ratio that—

"(A) the population of each State; bears to

"(B) the population of all States.

"(e) CONSISTENCY IN ALLOCATION.—Notwithstanding subsection (d), in any fiscal year before fiscal year 2013 in which the appropriation for grants under this section is equal to or greater than the appropriation for emergency management performance grants in fiscal year 2007, no State shall receive an amount under this section for that fiscal year less than the amount that State received in fiscal year 2007.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program—

"(1) for fiscal year 2008, $400,000,000;

"(2) for fiscal year 2009, $535,000,000;

"(3) for fiscal year 2010, $680,000,000;

"(4) for fiscal year 2011, $815,000,000; and

"(5) for fiscal year 2012, $950,000,000.".

SEC. 202. GRANTS FOR CONSTRUCTION OF EMERGENCY OPERATIONS CENTERS.

Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended to read as follows:

"SEC. 614. GRANTS FOR CONSTRUCTION OF EMERGENCY OPERATIONS CENTERS.

"(a) GRANTS.—The Administrator of the Federal Emergency Management Agency may make grants to States under this title for equipping, upgrading, and constructing State and local emergency operations centers.

"(b) FEDERAL SHARE.—Notwithstanding any other provision of this title, the Federal share of the cost of an activity carried out using amounts from grants made under this section shall not exceed 75 percent.".

TITLE III—ENSURING COMMUNICATIONS INTEROPERABILITY FOR FIRST RESPONDERS

SEC. 301. INTEROPERABLE EMERGENCY COMMUNICATIONS GRANT PROGRAM.

(a) ESTABLISHMENT.—Title XVIII of the Homeland Security Act of 2002 (6 U.S.C. 571 et seq.) is amended by adding at the end the following new section:

"SEC. 1809. INTEROPERABLE EMERGENCY COMMUNICATIONS GRANT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish the Interoperable Emergency Communications Grant Program to make grants to States to carry out initiatives to improve local, tribal, statewide, regional, national and, where appropriate, international interoperable emergency communications, including communications in collective response to natural disasters, acts of terrorism, and other man-made disasters.

"(b) POLICY.—The Director for Emergency Communications shall ensure that a grant awarded to a State under this section is consistent with the policies established pursuant to the responsibilities and authorities of the Office of Emergency Communications under this title, including ensuring that activities funded by the grant—

"(1) comply with the statewide plan for that State required by section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)); and

"(2) comply with the National Emergency Communications Plan under section 1802, when completed.

"(c) ADMINISTRATION.—

"(1) IN GENERAL.—The Administrator of the Federal Emergency Management Agency shall administer the Interoperable Emergency Communications Grant Program pursuant to the responsibilities and authorities of the Administrator under title V of the Act.

"(2) GUIDANCE.—In administering the grant program, the Administrator shall ensure that the use of grants is consistent with guidance established by the Director of Emergency Communications pursuant to section 7303(a)(1)(H) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1)(H)).

"(d) USE OF FUNDS.—A State that receives a grant under this section shall use the grant to implement that State's Statewide Interoperability Plan required under section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)) and approved under subsection (e), and to assist with activities determined by the Secretary to be integral to interoperable emergency communications.

"(e) APPROVAL OF PLANS.—

"(1) APPROVAL AS CONDITION OF GRANT.—Before a State may receive a grant under this section, the Director of Emergency Communications shall approve the State's Statewide Interoperable Communications Plan required under section

7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)).

"(2) PLAN REQUIREMENTS.—In approving a plan under this subsection, the Director of Emergency Communications shall ensure that the plan—

"(A) is designed to improve interoperability at the city, county, regional, State and interstate level;

"(B) considers any applicable local or regional plan; and

"(C) complies, to the maximum extent practicable, with the National Emergency Communications Plan under section 1802.

"(3) APPROVAL OF REVISIONS.—The Director of Emergency Communications may approve revisions to a State's plan if the Director determines that doing so is likely to further interoperability.

"(f) LIMITATIONS ON USES OF FUNDS.—

"(1) IN GENERAL.—The recipient of a grant under this section may not use the grant—

"(A) to supplant State or local funds;

"(B) for any State or local government cost-sharing contribution; or

"(C) for recreational or social purposes.

"(2) PENALTIES.—In addition to other remedies currently available, the Secretary may take such actions as necessary to ensure that recipients of grant funds are using the funds for the purpose for which they were intended.

"(g) LIMITATIONS ON AWARD OF GRANTS.—

"(1) NATIONAL EMERGENCY COMMUNICATIONS PLAN REQUIRED.—The Secretary may not award a grant under this section before the date on which the Secretary completes and submits to Congress the National Emergency Communications Plan required under section 1802.

"(2) VOLUNTARY CONSENSUS STANDARDS.—The Secretary may not award a grant to a State under this section for the purchase of equipment that does not meet applicable voluntary consensus standards, unless the State demonstrates that there are compelling reasons for such purchase.

"(h) AWARD OF GRANTS.—In approving applications and awarding grants under this section, the Secretary shall consider—

"(1) the risk posed to each State by natural disasters, acts of terrorism, or other manmade disasters, including—

"(A) the likely need of a jurisdiction within the State to respond to such risk in nearby jurisdictions;

"(B) the degree of threat, vulnerability, and consequences related to critical infrastructure (from all critical infrastructure sectors) or key resources identified by the Administrator or the State homeland security and emergency management plans, including threats to, vulnerabilities of, and consequences from damage to critical infrastructure and key resources in nearby jurisdictions;

"(C) the size of the population and density of the population of the State, including appropriate consideration of military, tourist, and commuter populations;

"(D) whether the State is on or near an international border;

"(E) whether the State encompasses an economically significant border crossing; and

"(F) whether the State has a coastline bordering an ocean, a major waterway used for interstate commerce, or international waters; and

"(2) the anticipated effectiveness of the State's proposed use of grant funds to improve interoperability.

"(i) OPPORTUNITY TO AMEND APPLICATIONS.—In considering applications for grants under this section, the Administrator shall provide applicants with a reasonable opportunity to correct defects in the application, if any, before making final awards.

"(j) MINIMUM GRANT AMOUNTS.—

"(1) STATES.—In awarding grants under this section, the Secretary shall ensure that for each fiscal year, except as provided in paragraph (2), no State receives a grant in an amount that is less than the following percentage of the total amount appropriated for grants under this section for that fiscal year:

"(A) For fiscal year 2008, 0.50 percent.

"(B) For fiscal year 2009, 0.50 percent.

"(C) For fiscal year 2010, 0.45 percent.

"(D) For fiscal year 2011, 0.40 percent.

"(E) For fiscal year 2012 and each subsequent fiscal year, 0.35 percent.

"(2) TERRITORIES AND POSSESSIONS.—In awarding grants under this section, the Secretary shall ensure that for each fiscal year, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands each receive grants in amounts that are not less than 0.08 percent of the total amount appropriated for grants under this section for that fiscal year.

"(k) CERTIFICATION.—Each State that receives a grant under this section shall certify that the grant is used for the purpose for which the funds were intended and in compliance with the State's approved Statewide Interoperable Communications Plan.

"(l) STATE RESPONSIBILITIES.—

"(1) AVAILABILITY OF FUNDS TO LOCAL AND TRIBAL GOVERNMENTS.—Not later than 45 days after receiving grant funds, any State that receives a grant under this section shall obligate or otherwise make available to local and tribal governments—

"(A) not less than 80 percent of the grant funds;

"(B) with the consent of local and tribal governments, eligible expenditures having a value of not less than 80 percent of the amount of the grant; or

"(C) grant funds combined with other eligible expenditures having a total value of not less than 80 percent of the amount of the grant.

"(2) ALLOCATION OF FUNDS.—A State that receives a grant under this section shall allocate grant funds to tribal governments in the State to assist tribal communities in improving interoperable communications, in a manner consistent with the Statewide Interoperable Communications Plan. A State may not impose unreasonable or unduly burdensome requirements on a tribal government as a condition of providing grant funds or resources to the tribal government.

"(3) PENALTIES.—If a State violates the requirements of this subsection, in addition to other remedies available to the

Secretary, the Secretary may terminate or reduce the amount of the grant awarded to that State or transfer grant funds previously awarded to the State directly to the appropriate local or tribal government.

"(m) REPORTS.—

"(1) ANNUAL REPORTS BY STATE GRANT RECIPIENTS.—A State that receives a grant under this section shall annually submit to the Director of Emergency Communications a report on the progress of the State in implementing that State's Statewide Interoperable Communications Plans required under section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)) and achieving interoperability at the city, county, regional, State, and interstate levels. The Director shall make the reports publicly available, including by making them available on the Internet website of the Office of Emergency Communications, subject to any redactions that the Director determines are necessary to protect classified or other sensitive information.

"(2) ANNUAL REPORTS TO CONGRESS.—At least once each year, the Director of Emergency Communications shall submit to Congress a report on the use of grants awarded under this section and any progress in implementing Statewide Interoperable Communications Plans and improving interoperability at the city, county, regional, State, and interstate level, as a result of the award of such grants.

"(n) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or interpreted to preclude a State from using a grant awarded under this section for interim or long-term Internet Protocol-based interoperable solutions.

"(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

"(1) for fiscal year 2008, such sums as may be necessary;

"(2) for each of fiscal years 2009 through 2012, $400,000,000; and

"(3) for each subsequent fiscal year, such sums as may be necessary.".

(b) CLERICAL AMENDMENT.—The table of contents in section l(b) of such Act is amended by inserting after the item relating to section 1808 the following:

"Sec. 1809. Interoperable Emergency Communications Grant Program.".

(c) INTEROPERABLE COMMUNICATIONS PLANS.—Section 7303 of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 194) is amended—

(1) in subsection (f)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(6) include information on the governance structure used to develop the plan, including such information about all agencies and organizations that participated in developing the plan and the scope and timeframe of the plan; and

"(7) describe the method by which multi-jurisdictional, multidisciplinary input is provided from all regions of the jurisdiction, including any high-threat urban areas located in the

jurisdiction, and the process for continuing to incorporate such input.";

(2) in subsection (g)(1), by striking "or video" and inserting "and video".

(d) NATIONAL EMERGENCY COMMUNICATIONS PLAN.—Section 1802(c) of the Homeland Security Act of 2002 (6 U.S.C. 652(c)) is amended—

(1) in paragraph (8), by striking "and" at the end;

(2) in paragraph (9), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(10) set a date, including interim benchmarks, as appropriate, by which State, local, and tribal governments, Federal departments and agencies, and emergency response providers expect to achieve a baseline level of national interoperable communications, as that term is defined under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1)).".

SEC. 302. BORDER INTEROPERABILITY DEMONSTRATION PROJECT.

(a) IN GENERAL.—Title XVIII of the Homeland Security Act of 2002 (6 U.S.C. 571 et seq.) is amended by adding at the end the following new section:

"SEC. 1810. BORDER INTEROPERABILITY DEMONSTRATION PROJECT.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary, acting through the Director of the Office of Emergency Communications (referred to in this section as the 'Director'), and in coordination with the Federal Communications Commission and the Secretary of Commerce, shall establish an International Border Community Interoperable Communications Demonstration Project (referred to in this section as the 'demonstration project').

"(2) MINIMUM NUMBER OF COMMUNITIES.—The Director shall select no fewer than 6 communities to participate in a demonstration project.

"(3) LOCATION OF COMMUNITIES.—No fewer than 3 of the communities selected under paragraph (2) shall be located on the northern border of the United States and no fewer than 3 of the communities selected under paragraph (2) shall be located on the southern border of the United States.

"(b) CONDITIONS.—The Director, in coordination with the Federal Communications Commission and the Secretary of Commerce, shall ensure that the project is carried out as soon as adequate spectrum is available as a result of the 800 megahertz rebanding process in border areas, and shall ensure that the border projects do not impair or impede the rebanding process, but under no circumstances shall funds be distributed under this section unless the Federal Communications Commission and the Secretary of Commerce agree that these conditions have been met.

"(c) PROGRAM REQUIREMENTS.—Consistent with the responsibilities of the Office of Emergency Communications under section 1801, the Director shall foster local, tribal, State, and Federal interoperable emergency communications, as well as interoperable emergency communications with appropriate Canadian and Mexican authorities in the communities selected for the demonstration project. The Director shall—

"(1) identify solutions to facilitate interoperable communications across national borders expeditiously;

"(2) help ensure that emergency response providers can communicate with each other in the event of natural disasters, acts of terrorism, and other man-made disasters;

"(3) provide technical assistance to enable emergency response providers to deal with threats and contingencies in a variety of environments;

"(4) identify appropriate joint-use equipment to ensure communications access;

"(5) identify solutions to facilitate communications between emergency response providers in communities of differing population densities; and

"(6) take other actions or provide equipment as the Director deems appropriate to foster interoperable emergency communications.

"(d) DISTRIBUTION OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall distribute funds under this section to each community participating in the demonstration project through the State, or States, in which each community is located.

"(2) OTHER PARTICIPANTS.—A State shall make the funds available promptly to the local and tribal governments and emergency response providers selected by the Secretary to participate in the demonstration project.

"(3) REPORT.—Not later than 90 days after a State receives funds under this subsection the State shall report to the Director on the status of the distribution of such funds to local and tribal governments.

"(e) MAXIMUM PERIOD OF GRANTS.—The Director may not fund any participant under the demonstration project for more than 3 years.

"(f) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Director shall establish mechanisms to ensure that the information and knowledge gained by participants in the demonstration project are transferred among the participants and to other interested parties, including other communities that submitted applications to the participant in the project.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this section such sums as may be necessary.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of that Act is amended by inserting after the item relating to section 1809 the following:

"Sec. 1810. Border interoperability demonstration project.".

TITLE IV—STRENGTHENING USE OF THE INCIDENT COMMAND SYSTEM

SEC. 401. DEFINITIONS.

(a) IN GENERAL.—Section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311) is amended—

(1) by redesignating paragraphs (10) and (11) as paragraphs (12) and (13), respectively;

(2) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(3) by inserting after paragraph (3) the following:

"(4) the terms 'credentialed' and 'credentialing' mean having provided, or providing, respectively, documentation that identifies personnel and authenticates and verifies the qualifications of such personnel by ensuring that such personnel possess a minimum common level of training, experience, physical and medical fitness, and capability appropriate for a particular position in accordance with standards created under section 510;";

(4) by inserting after paragraph (10), as so redesignated, the following:

"(11) the term 'resources' means personnel and major items of equipment, supplies, and facilities available or potentially available for responding to a natural disaster, act of terrorism, or other man-made disaster;";

(5) in paragraph (12), as so redesignated, by striking "and" at the end;

(6) in paragraph (13), as so redesignated, by striking the period at the end and inserting "; and"; and

(7) by adding at the end the following:

"(14) the terms 'typed' and 'typing' mean having evaluated, or evaluating, respectively, a resource in accordance with standards created under section 510.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741) is amended—

(1) by redesignating paragraphs (2) through (10) as paragraphs (3) through (11), respectively;

(2) by inserting after paragraph (1) the following:

"(2) CREDENTIALED; CREDENTIALING.—The terms 'credentialed' and 'credentialing' have the meanings given those terms in section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311).";

(3) by adding at the end the following:

"(12) RESOURCES.—The term 'resources' has the meaning given that term in section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311).

"(13) TYPE.—The term 'type' means a classification of resources that refers to the capability of a resource.

"(14) TYPED; TYPING.—The terms 'typed' and 'typing' have the meanings given those terms in section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311).".

SEC. 402. NATIONAL EXERCISE PROGRAM DESIGN.

Section 648(b)(2)(A) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b)(2)(A)) is amended by striking clauses (iv) and (v) and inserting the following:

"(iv) designed to provide for the systematic evaluation of readiness and enhance operational understanding of the incident command system and relevant mutual aid agreements;

"(v) designed to address the unique requirements of populations with special needs, including the elderly; and

"(vi) designed to promptly develop after-action reports and plans for quickly incorporating lessons learned into future operations; and".

SEC. 403. NATIONAL EXERCISE PROGRAM MODEL EXERCISES.

Section 648(b)(2)(B) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b)(2)(B)) is amended by striking "shall provide" and all that follows through "of exercises" and inserting the following: "shall include a selection of model exercises that State, local, and tribal governments can readily adapt for use and provide assistance to State, local, and tribal governments with the design, implementation, and evaluation of exercises (whether a model exercise program or an exercise designed locally)".

SEC. 404. PREIDENTIFYING AND EVALUATING MULTIJURISDICTIONAL FACILITIES TO STRENGTHEN INCIDENT COMMAND; PRIVATE SECTOR PREPAREDNESS.

Section 507(c)(2) of the Homeland Security Act of 2002 (6 U.S.C. 317(c)(2)) is amended—

(1) in subparagraph (H) by striking "and" at the end;

(2) by redesignating subparagraph (I) as subparagraph (K); and

(3) by inserting after subparagraph (H) the following:

"(I) coordinating with the private sector to help ensure private sector preparedness for natural disasters, acts of terrorism, and other man-made disasters;

"(J) assisting State, local, and tribal governments, where appropriate, to preidentify and evaluate suitable sites where a multijurisdictional incident command system may quickly be established and operated from, if the need for such a system arises; and".

SEC. 405. FEDERAL RESPONSE CAPABILITY INVENTORY.

Section 651 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 751) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "The inventory" and inserting "For each Federal agency with responsibilities under the National Response Plan, the inventory";

(B) in paragraph (1), by striking "and" at the end;

(C) by redesignating paragraph (2) as paragraph (4); and

(D) by inserting after paragraph (1) the following:

"(2) a list of personnel credentialed in accordance with section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320);

"(3) a list of resources typed in accordance with section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320); and"; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "capabilities, readiness" and all that follows and inserting the following: "—

"(A) capabilities;

"(B) readiness;

"(C) the compatibility of equipment;

"(D) credentialed personnel; and

"(E) typed resources;";

(B) in paragraph (2), by inserting "of capabilities, credentialed personnel, and typed resources" after "rapid deployment"; and

(C) in paragraph (3), by striking "inventories" and inserting "the inventory described in subsection (a)".

SEC. 406. REPORTING REQUIREMENTS.

Section 652(a)(2) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(a)(2)), as amended by section 103, is further amended—

(1) in subparagraph (C), by striking "section 651(a);" and inserting "section 651, including the number and type of credentialed personnel in each category of personnel trained and ready to respond to a natural disaster, act of terrorism, or other man-made disaster;";

(2) in subparagraph (D), by striking "and" at the end;

(3) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(F) a discussion of whether the list of credentialed personnel of the Agency described in section 651(b)(2)—

"(i) complies with the strategic human capital plan developed under section 10102 of title 5, United States Code; and

"(ii) is sufficient to respond to a natural disaster, act of terrorism, or other man-made disaster, including a catastrophic incident.".

SEC. 407. FEDERAL PREPAREDNESS.

Section 653 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 753) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "coordinating, primary, or supporting";

(B) in paragraph (2), by inserting ", including credentialing of personnel and typing of resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster in accordance with section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320)" before the semicolon at the end;

(C) in paragraph (3), by striking "and" at the end;

(D) in paragraph (4), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(5) regularly updates, verifies the accuracy of, and provides to the Administrator the information in the inventory required under section 651."; and

(2) in subsection (d)—

(A) by inserting "to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives" after "The President shall certify"; and

(B) by striking "coordinating, primary, or supporting".

SEC. 408. CREDENTIALING AND TYPING.

Section 510 of the Homeland Security Act of 2002 (6 U.S.C. 320) is amended—

(1) by striking "The Administrator" and inserting the following:

"(a) IN GENERAL.—The Administrator";

(2) in subsection (a), as so designated, by striking "credentialing of personnel and typing of" and inserting "for credentialing and typing of incident management personnel, emergency response providers, and other personnel (including temporary personnel) and"; and

(3) by adding at the end the following:

"(b) DISTRIBUTION.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Administrator shall provide the standards developed under subsection (a), including detailed written guidance, to—

"(A) each Federal agency that has responsibilities under the National Response Plan to aid that agency with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster; and

"(B) State, local, and tribal governments, to aid such governments with credentialing and typing of State, local, and tribal incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster.

"(2) ASSISTANCE.—The Administrator shall provide expertise and technical assistance to aid Federal, State, local, and tribal government agencies with credentialing and typing incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other man-made disaster.

"(c) CREDENTIALING AND TYPING OF PERSONNEL.—Not later than 6 months after receiving the standards provided under subsection (b), each Federal agency with responsibilities under the National Response Plan shall ensure that incident management personnel, emergency response providers, and other personnel (including temporary personnel) and resources likely needed to respond to a natural disaster, act of terrorism, or other manmade disaster are credentialed and typed in accordance with this section.

"(d) CONSULTATION ON HEALTH CARE STANDARDS.—In developing standards for credentialing health care professionals under this section, the Administrator shall consult with the Secretary of Health and Human Services.".

SEC. 409. MODEL STANDARDS AND GUIDELINES FOR CRITICAL INFRASTRUCTURE WORKERS.

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

"SEC. 522. MODEL STANDARDS AND GUIDELINES FOR CRITICAL INFRASTRUCTURE WORKERS.

"(a) IN GENERAL.—Not later than 12 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and in coordination with appropriate national professional organizations, Federal, State, local, and tribal government agencies, and private-sector and nongovernmental entities, the Administrator shall establish model standards and guidelines for credentialing critical infrastructure workers that may be used by a State to credential critical infrastructure workers that may respond to a natural disaster, act of terrorism, or other manmade disaster.

"(b) DISTRIBUTION AND ASSISTANCE.—The Administrator shall provide the standards developed under subsection (a), including detailed written guidance, to State, local, and tribal governments, and provide expertise and technical assistance to aid such governments with credentialing critical infrastructure workers that may respond to a natural disaster, act of terrorism, or other manmade disaster.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by inserting after the item relating to section 521 the following:

"Sec. 522. Model standards and guidelines for critical infrastructure workers.".

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this title and the amendments made by this title.

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

Subtitle A—Homeland Security Information Sharing Enhancement

SEC. 501. HOMELAND SECURITY ADVISORY SYSTEM AND INFORMATION SHARING.

(a) ADVISORY SYSTEM AND INFORMATION SHARING.—

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

"SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.

"(a) REQUIREMENT.—The Secretary shall administer the Homeland Security Advisory System in accordance with this section to provide advisories or warnings regarding the threat or risk that acts of terrorism will be committed on the homeland to Federal, State, local, and tribal government authorities and to the people of the United States, as appropriate. The Secretary shall exercise primary responsibility for providing such advisories or warnings.

"(b) REQUIRED ELEMENTS.—In administering the Homeland Security Advisory System, the Secretary shall—

"(1) establish criteria for the issuance and revocation of such advisories or warnings;

"(2) develop a methodology, relying on the criteria established under paragraph (1), for the issuance and revocation of such advisories or warnings;

"(3) provide, in each such advisory or warning, specific information and advice regarding appropriate protective measures and countermeasures that may be taken in response to the threat or risk, at the maximum level of detail practicable to enable individuals, government entities, emergency response providers, and the private sector to act appropriately;

"(4) whenever possible, limit the scope of each such advisory or warning to a specific region, locality, or economic sector believed to be under threat or at risk; and

"(5) not, in issuing any advisory or warning, use color designations as the exclusive means of specifying homeland security threat conditions that are the subject of the advisory or warning.

"SEC. 204. HOMELAND SECURITY INFORMATION SHARING.

"(a) INFORMATION SHARING.—Consistent with section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Secretary, acting through the Under Secretary for Intelligence and Analysis, shall integrate the information and standardize the format of the products of the intelligence components of the Department containing homeland security information, terrorism information, weapons of mass destruction information, or national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))) except for any internal security protocols or personnel information of such intelligence components, or other administrative processes that are administered by any chief security officer of the Department.

"(b) INFORMATION SHARING AND KNOWLEDGE MANAGEMENT OFFICERS.—For each intelligence component of the Department, the Secretary shall designate an information sharing and knowledge management officer who shall report to the Under Secretary for Intelligence and Analysis regarding coordinating the different systems used in the Department to gather and disseminate homeland security information or national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))).

"(c) STATE, LOCAL, AND PRIVATE-SECTOR SOURCES OF INFORMATION.—

"(1) ESTABLISHMENT OF BUSINESS PROCESSES.—The Secretary, acting through the Under Secretary for Intelligence and Analysis or the Assistant Secretary for Infrastructure Protection, as appropriate, shall—

"(A) establish Department-wide procedures for the review and analysis of information provided by State, local, and tribal governments and the private sector;

"(B) as appropriate, integrate such information into the information gathered by the Department and other departments and agencies of the Federal Government; and

"(C) make available such information, as appropriate, within the Department and to other departments and agencies of the Federal Government.

"(2) FEEDBACK.—The Secretary shall develop mechanisms to provide feedback regarding the analysis and utility of information provided by any entity of State, local, or tribal government or the private sector that provides such information to the Department.

"(d) TRAINING AND EVALUATION OF EMPLOYEES.—

"(1) TRAINING.—The Secretary, acting through the Under Secretary for Intelligence and Analysis or the Assistant Secretary for Infrastructure Protection, as appropriate, shall provide to employees of the Department opportunities for training and education to develop an understanding of—

"(A) the definitions of homeland security information and national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))); and

"(B) how information available to such employees as part of their duties—

"(i) might qualify as homeland security information or national intelligence; and

"(ii) might be relevant to the Office of Intelligence and Analysis and the intelligence components of the Department.

"(2) EVALUATIONS.—The Under Secretary for Intelligence and Analysis shall—

"(A) on an ongoing basis, evaluate how employees of the Office of Intelligence and Analysis and the intelligence components of the Department are utilizing homeland security information or national intelligence, sharing information within the Department, as described in this title, and participating in the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

"(B) provide to the appropriate component heads regular reports regarding the evaluations under subparagraph (A).

"SEC. 205. COMPREHENSIVE INFORMATION TECHNOLOGY NETWORK ARCHITECTURE.

"(a) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Intelligence and Analysis, shall establish, consistent with the policies and procedures developed under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), and consistent with the enterprise architecture of the Department, a comprehensive information technology network architecture for the Office of Intelligence and Analysis that connects the various databases and related information technology assets of the Office of Intelligence and Analysis and the intelligence components of the Department in order to promote internal information sharing among the intelligence and other personnel of the Department.

"(b) COMPREHENSIVE INFORMATION TECHNOLOGY NETWORK ARCHITECTURE DEFINED.—The term 'comprehensive information technology network architecture' means an integrated framework for evolving or maintaining existing information technology and acquiring new information technology to achieve the strategic management and information resources management goals of the Office of Intelligence and Analysis.

"SEC. 206. COORDINATION WITH INFORMATION SHARING ENVIRONMENT.

"(a) GUIDANCE.—All activities to comply with sections 203, 204, and 205 shall be—

"(1) consistent with any policies, guidelines, procedures, instructions, or standards established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485);

"(2) implemented in coordination with, as appropriate, the program manager for the information sharing environment established under that section;

"(3) consistent with any applicable guidance issued by the Director of National Intelligence; and

"(4) consistent with any applicable guidance issued by the Secretary relating to the protection of law enforcement information or proprietary information.

"(b) CONSULTATION.—In carrying out the duties and responsibilities under this subtitle, the Under Secretary for Intelligence and Analysis shall take into account the views of the heads of the intelligence components of the Department.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

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

(i) by striking paragraph (7); and

(ii) by redesignating paragraphs (8) through (19) as paragraphs (7) through (18), respectively.

(B) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 202 the following:

"Sec. 203. Homeland Security Advisory System.
"Sec. 204. Homeland security information sharing.
"Sec. 205. Comprehensive information technology network architecture.
"Sec. 206. Coordination with information sharing environment.".

(b) OFFICE OF INTELLIGENCE AND ANALYSIS AND OFFICE OF INFRASTRUCTURE PROTECTION.—Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended—

(1) in paragraph (1), by inserting ", in support of the mission responsibilities of the Department and the functions of the National Counterterrorism Center established under section 119 of the National Security Act of 1947 (50 U.S.C. 404o)," after "and to integrate such information"; and

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

"(7) To review, analyze, and make recommendations for improvements to the policies and procedures governing the sharing of information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), including homeland security information, terrorism information, and weapons of mass destruction information, and any policies, guidelines, procedures, instructions, or standards established under that section.".

(c) REPORT ON COMPREHENSIVE INFORMATION TECHNOLOGY NETWORK ARCHITECTURE.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental

Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the progress of the Secretary in developing the comprehensive information technology network architecture required under section 205 of the Homeland Security Act of 2002, as added by subsection (a). The report shall include—

(1) a description of the priorities for the development of the comprehensive information technology network architecture and a rationale for such priorities;

(2) an explanation of how the various components of the comprehensive information technology network architecture will work together and interconnect;

(3) a description of the technological challenges that the Secretary expects the Office of Intelligence and Analysis will face in implementing the comprehensive information technology network architecture;

(4) a description of the technological options that are available or are in development that may be incorporated into the comprehensive information technology network architecture, the feasibility of incorporating such options, and the advantages and disadvantages of doing so;

(5) an explanation of any security protections to be developed as part of the comprehensive information technology network architecture;

(6) a description of safeguards for civil liberties and privacy to be built into the comprehensive information technology network architecture; and

(7) an operational best practices plan.

SEC. 502. INTELLIGENCE COMPONENT DEFINED.

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

(1) by redesignating paragraphs (9) through (16) as paragraphs (10) through (17), respectively; and

(2) by inserting after paragraph (8) the following:

"(9) The term 'intelligence component of the Department' means any element or entity of the Department that collects, gathers, processes, analyzes, produces, or disseminates intelligence information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, or national intelligence, as defined under section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5)), except—

"(A) the United States Secret Service; and

"(B) the Coast Guard, when operating under the direct authority of the Secretary of Defense or Secretary of the Navy pursuant to section 3 of title 14, United States Code, except that nothing in this paragraph shall affect or diminish the authority and responsibilities of the Commandant of the Coast Guard to command or control the Coast Guard as an armed force or the authority of the Director of National Intelligence with respect to the Coast Guard as an element of the intelligence community (as defined under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).".

(b) RECEIPT OF INFORMATION FROM UNITED STATES SECRET SERVICE.—

(1) IN GENERAL.—The Under Secretary for Intelligence and Analysis shall receive from the United States Secret Service homeland security information, terrorism information, weapons of mass destruction information (as these terms are defined in Section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485)), or national intelligence, as defined in Section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5)), as well as suspect information obtained in criminal investigations. The United States Secret Service shall cooperate with the Under Secretary for Intelligence and Analysis with respect to activities under sections 204 and 205 of the Homeland Security Act of 2002.

(2) SAVINGS CLAUSE.—Nothing in this Act shall interfere with the operation of Section 3056(g) of Title 18, United States Code, or with the authority of the Secretary of Homeland Security or the Director of the United States Secret Service regarding the budget of the United States Secret Service.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT OF 2002.—Paragraph (13) of section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311), as redesignated by section 401, is amended by striking "section 2(10)(B)" and inserting "section 2(11)(B)".

(2) OTHER LAW.—Section 712(a) of title 14, United States Code, is amended by striking "section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15))" and inserting "section 2(16) of the Homeland Security Act of 2002 (6 U.S.C. 101(16))".

SEC. 503. ROLE OF INTELLIGENCE COMPONENTS, TRAINING, AND INFORMATION SHARING.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 is further amended by adding at the end the following:

"SEC. 207. INTELLIGENCE COMPONENTS.

"Subject to the direction and control of the Secretary, and consistent with any applicable guidance issued by the Director of National Intelligence, the responsibilities of the head of each intelligence component of the Department are as follows:

"(1) To ensure that the collection, processing, analysis, and dissemination of information within the scope of the information sharing environment, including homeland security information, terrorism information, weapons of mass destruction information, and national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))), are carried out effectively and efficiently in support of the intelligence mission of the Department, as led by the Under Secretary for Intelligence and Analysis.

"(2) To otherwise support and implement the intelligence mission of the Department, as led by the Under Secretary for Intelligence and Analysis.

"(3) To incorporate the input of the Under Secretary for Intelligence and Analysis with respect to performance appraisals, bonus or award recommendations, pay adjustments, and other forms of commendation.

"(4) To coordinate with the Under Secretary for Intelligence and Analysis in developing policies and requirements for the

recruitment and selection of intelligence officials of the intelligence component.

"(5) To advise and coordinate with the Under Secretary for Intelligence and Analysis on any plan to reorganize or restructure the intelligence component that would, if implemented, result in realignments of intelligence functions.

"(6) To ensure that employees of the intelligence component have knowledge of, and comply with, the programs and policies established by the Under Secretary for Intelligence and Analysis and other appropriate officials of the Department and that such employees comply with all applicable laws and regulations.

"(7) To perform such other activities relating to such responsibilities as the Secretary may provide.

"SEC. 208. TRAINING FOR EMPLOYEES OF INTELLIGENCE COMPONENTS.

"The Secretary shall provide training and guidance for employees, officials, and senior executives of the intelligence components of the Department to develop knowledge of laws, regulations, operations, policies, procedures, and programs that are related to the functions of the Department relating to the collection, processing, analysis, and dissemination of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, or national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5))).

"SEC. 209. INTELLIGENCE TRAINING DEVELOPMENT FOR STATE AND LOCAL GOVERNMENT OFFICIALS.

"(a) CURRICULUM.—The Secretary, acting through the Under Secretary for Intelligence and Analysis, shall—

"(1) develop a curriculum for training State, local, and tribal government officials, including law enforcement officers, intelligence analysts, and other emergency response providers, in the intelligence cycle and Federal laws, practices, and regulations regarding the development, handling, and review of intelligence and other information; and

"(2) ensure that the curriculum includes executive level training for senior level State, local, and tribal law enforcement officers, intelligence analysts, and other emergency response providers.

"(b) TRAINING.—To the extent possible, the Federal Law Enforcement Training Center and other existing Federal entities with the capacity and expertise to train State, local, and tribal government officials based on the curriculum developed under subsection (a) shall be used to carry out the training programs created under this section. If such entities do not have the capacity, resources, or capabilities to conduct such training, the Secretary may approve another entity to conduct such training.

"(c) CONSULTATION.—In carrying out the duties described in subsection (a), the Under Secretary for Intelligence and Analysis shall consult with the Director of the Federal Law Enforcement Training Center, the Attorney General, the Director of National Intelligence, the Administrator of the Federal Emergency Management Agency, and other appropriate parties, such as private industry, institutions of higher education, nonprofit institutions, and other intelligence agencies of the Federal Government.

"SEC. 210. INFORMATION SHARING INCENTIVES.

"(a) AWARDS.—In making cash awards under chapter 45 of title 5, United States Code, the President or the head of an agency, in consultation with the program manager designated under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), may consider the success of an employee in appropriately sharing information within the scope of the information sharing environment established under that section, including homeland security information, terrorism information, and weapons of mass destruction information, or national intelligence (as defined in section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5)), in a manner consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of that environment for the implementation and management of that environment.

"(b) OTHER INCENTIVES.—The head of each department or agency described in section 1016(i) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485(i)), in consultation with the program manager designated under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), shall adopt best practices regarding effective ways to educate and motivate officers and employees of the Federal Government to participate fully in the information sharing environment, including—

"(1) promotions and other nonmonetary awards; and

"(2) publicizing information sharing accomplishments by individual employees and, where appropriate, the tangible end benefits that resulted.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended further by inserting after the item relating to section 206 the following:

"Sec. 207. Intelligence components.
"Sec. 208. Training for employees of intelligence components.
"Sec. 209. Intelligence training development for State and local government officials.
"Sec. 210. Information sharing incentives.".

SEC. 504. INFORMATION SHARING.

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

(1) in subsection (a)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

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

"(1) HOMELAND SECURITY INFORMATION.—The term 'homeland security information' has the meaning given that term in section 892(f) of the Homeland Security Act of 2002 (6 U.S.C. 482(f)).";

(C) by striking paragraph (3), as so redesignated, and inserting the following:

"(3) INFORMATION SHARING ENVIRONMENT.—The terms 'information sharing environment' and 'ISE' mean an approach that facilitates the sharing of terrorism and homeland security information, which may include any method determined necessary and appropriate for carrying out this section.";

(D) by striking paragraph (5), as so redesignated, and inserting the following:

"(5) TERRORISM INFORMATION.—The term 'terrorism information'—

"(A) means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

"(i) the existence, organization, capabilities, plans, intentions, vulnerabilities, means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism;

"(ii) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations;

"(iii) communications of or by such groups or individuals; or

"(iv) groups or individuals reasonably believed to be assisting or associated with such groups or individuals; and

"(B) includes weapons of mass destruction information."; and

(E) by adding at the end the following:

"(6) WEAPONS OF MASS DESTRUCTION INFORMATION.—The term 'weapons of mass destruction information' means information that could reasonably be expected to assist in the development, proliferation, or use of a weapon of mass destruction (including a chemical, biological, radiological, or nuclear weapon) that could be used by a terrorist or a terrorist organization against the United States, including information about the location of any stockpile of nuclear materials that could be exploited for use in such a weapon that could be used by a terrorist or a terrorist organization against the United States.";

(2) in subsection (b)(2)—

(A) in subparagraph (H), by striking "and" at the end;

(B) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(J) integrates the information within the scope of the information sharing environment, including any such information in legacy technologies;

"(K) integrates technologies, including all legacy technologies, through Internet-based services, consistent with appropriate security protocols and safeguards, to enable connectivity among required users at the Federal, State, and local levels;

"(L) allows the full range of analytic and operational activities without the need to centralize information within the scope of the information sharing environment;

"(M) permits analysts to collaborate both independently and in a group (commonly known as 'collective and non-collective collaboration'), and across multiple levels of national security information and controlled unclassified information;

"(N) provides a resolution process that enables changes by authorized officials regarding rules and policies for the

access, use, and retention of information within the scope of the information sharing environment; and

"(O) incorporates continuous, real-time, and immutable audit capabilities, to the maximum extent practicable.";

(3) in subsection (f)—

(A) in paragraph (1)—

(i) by striking "during the two-year period beginning on the date of designation under this paragraph unless sooner removed from service and replaced" and inserting "until removed from service or replaced"; and

(ii) by striking "The program manager shall have and exercise governmentwide authority." and inserting "The program manager, in consultation with the head of any affected department or agency, shall have and exercise governmentwide authority over the sharing of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, by all Federal departments, agencies, and components, irrespective of the Federal department, agency, or component in which the program manager may be administratively located, except as otherwise expressly provided by law."; and

(B) in paragraph (2)(A)—

(i) by redesignating clause (iii) as clause (v); and

(ii) by striking clause (ii) and inserting the following:

"(ii) assist in the development of policies, as appropriate, to foster the development and proper operation of the ISE;

"(iii) consistent with the direction and policies issued by the President, the Director of National Intelligence, and the Director of the Office of Management and Budget, issue governmentwide procedures, guidelines, instructions, and functional standards, as appropriate, for the management, development, and proper operation of the ISE;

"(iv) identify and resolve information sharing disputes between Federal departments, agencies, and components; and";

(4) in subsection (g)—

(A) in paragraph (1), by striking "during the two-year period beginning on the date of the initial designation of the program manager by the President under subsection (f)(1), unless sooner removed from service and replaced" and inserting "until removed from service or replaced";

(B) in paragraph (2)—

(i) in subparagraph (F), by striking "and" at the end;

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

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

"(G) assist the program manager in identifying and resolving information sharing disputes between Federal departments, agencies, and components;

"(H) identify appropriate personnel for assignment to the program manager to support staffing needs identified by the program manager; and";

(C) in paragraph (4), by inserting "(including any subsidiary group of the Information Sharing Council)" before "shall not be subject"; and

(D) by adding at the end the following:

"(5) DETAILEES.—Upon a request by the Director of National Intelligence, the departments and agencies represented on the Information Sharing Council shall detail to the program manager, on a reimbursable basis, appropriate personnel identified under paragraph (2)(H).";

(5) in subsection (h)(1), by striking "and annually thereafter" and inserting "and not later than June 30 of each year thereafter"; and

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

"(j) REPORT ON THE INFORMATION SHARING ENVIRONMENT.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the President shall report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Select Committee on Intelligence of the Senate, the Committee on Homeland Security of the House of Representatives, and the Permanent Select Committee on Intelligence of the House of Representatives on the feasibility of—

"(A) eliminating the use of any marking or process (including 'Originator Control') intended to, or having the effect of, restricting the sharing of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, between and among participants in the information sharing environment, unless the President has—

"(i) specifically exempted categories of information from such elimination; and

"(ii) reported that exemption to the committees of Congress described in the matter preceding this subparagraph; and

"(B) continuing to use Federal agency standards in effect on such date of enactment for the collection, sharing, and access to information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, relating to citizens and lawful permanent residents;

"(C) replacing the standards described in subparagraph (B) with a standard that would allow mission-based or threat-based permission to access or share information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, for a particular purpose that the Federal Government, through an appropriate process established in consultation with the Privacy and Civil Liberties Oversight Board established under section 1061, has determined to be lawfully

permissible for a particular agency, component, or employee (commonly known as an 'authorized use' standard); and

"(D) the use of anonymized data by Federal departments, agencies, or components collecting, possessing, disseminating, or handling information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, in any cases in which—

"(i) the use of such information is reasonably expected to produce results materially equivalent to the use of information that is transferred or stored in a non-anonymized form; and

"(ii) such use is consistent with any mission of that department, agency, or component (including any mission under a Federal statute or directive of the President) that involves the storage, retention, sharing, or exchange of personally identifiable information.

"(2) DEFINITION.—In this subsection, the term 'anonymized data' means data in which the individual to whom the data pertains is not identifiable with reasonable efforts, including information that has been encrypted or hidden through the use of other technology.

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

"(1) activities associated with the implementation of the information sharing environment, including—

"(A) implementing the requirements under subsection (b)(2); and

"(B) any additional implementation initiatives to enhance and expedite the creation of the information sharing environment; and

"(2) identifying and resolving information sharing disputes between Federal departments, agencies, and components under subsection (f)(2)(A)(iv).

"(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2008 and 2009.".

Subtitle B—Homeland Security Information Sharing Partnerships

SEC. 511. DEPARTMENT OF HOMELAND SECURITY STATE, LOCAL, AND REGIONAL FUSION CENTER INITIATIVE.

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

"SEC. 210A. DEPARTMENT OF HOMELAND SECURITY STATE, LOCAL, AND REGIONAL FUSION CENTER INITIATIVE.

"(a) ESTABLISHMENT.—The Secretary, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Attorney General, the Privacy Officer of the Department, the Officer for Civil Rights

and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall establish a Department of Homeland Security State, Local, and Regional Fusion Center Initiative to establish partnerships with State, local, and regional fusion centers.

"(b) DEPARTMENT SUPPORT AND COORDINATION.—Through the Department of Homeland Security State, Local, and Regional Fusion Center Initiative, and in coordination with the principal officials of participating State, local, or regional fusion centers and the officers designated as the Homeland Security Advisors of the States, the Secretary shall—

"(1) provide operational and intelligence advice and assistance to State, local, and regional fusion centers;

"(2) support efforts to include State, local, and regional fusion centers into efforts to establish an information sharing environment;

"(3) conduct tabletop and live training exercises to regularly assess the capability of individual and regional networks of State, local, and regional fusion centers to integrate the efforts of such networks with the efforts of the Department;

"(4) coordinate with other relevant Federal entities engaged in homeland security-related activities;

"(5) provide analytic and reporting advice and assistance to State, local, and regional fusion centers;

"(6) review information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, that is gathered by State, local, and regional fusion centers, and to incorporate such information, as appropriate, into the Department's own such information;

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

"(8) serve as a point of contact to ensure the dissemination of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information;

"(9) facilitate close communication and coordination between State, local, and regional fusion centers and the Department;

"(10) provide State, local, and regional fusion centers with expertise on Department resources and operations;

"(11) provide training to State, local, and regional fusion centers and encourage such fusion centers to participate in terrorism threat-related exercises conducted by the Department; and

"(12) carry out such other duties as the Secretary determines are appropriate.

"(c) PERSONNEL ASSIGNMENT.—

"(1) IN GENERAL.—The Under Secretary for Intelligence and Analysis shall, to the maximum extent practicable, assign officers and intelligence analysts from components of the Department to participating State, local, and regional fusion centers.

"(2) PERSONNEL SOURCES.—Officers and intelligence analysts assigned to participating fusion centers under this

subsection may be assigned from the following Department components, in coordination with the respective component head and in consultation with the principal officials of participating fusion centers:

"(A) Office of Intelligence and Analysis.

"(B) Office of Infrastructure Protection.

"(C) Transportation Security Administration.

"(D) United States Customs and Border Protection.

"(E) United States Immigration and Customs Enforcement.

"(F) United States Coast Guard.

"(G) Other components of the Department, as determined by the Secretary.

"(3) QUALIFYING CRITERIA.—

"(A) IN GENERAL.—The Secretary shall develop qualifying criteria for a fusion center to participate in the assigning of Department officers or intelligence analysts under this section.

"(B) CRITERIA.—Any criteria developed under subparagraph (A) may include—

"(i) whether the fusion center, through its mission and governance structure, focuses on a broad counterterrorism approach, and whether that broad approach is pervasive through all levels of the organization;

"(ii) whether the fusion center has sufficient numbers of adequately trained personnel to support a broad counterterrorism mission;

"(iii) whether the fusion center has—

"(I) access to relevant law enforcement, emergency response, private sector, open source, and national security data; and

"(II) the ability to share and analytically utilize that data for lawful purposes;

"(iv) whether the fusion center is adequately funded by the State, local, or regional government to support its counterterrorism mission; and

"(v) the relevancy of the mission of the fusion center to the particular source component of Department officers or intelligence analysts.

"(4) PREREQUISITE.—

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

"(i) appropriate intelligence analysis or information sharing training using an intelligence-led policing curriculum that is consistent with—

"(I) standard training and education programs offered to Department law enforcement and intelligence personnel; and

"(II) the Criminal Intelligence Systems Operating Policies under part 23 of title 28, Code of Federal Regulations (or any corresponding similar rule or regulation);

"(ii) appropriate privacy and civil liberties training that is developed, supported, or sponsored by the Privacy Officer appointed under section 222 and the Officer for Civil Rights and Civil Liberties of the Department, in consultation with the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note); and

"(iii) such other training prescribed by the Under Secretary for Intelligence and Analysis.

"(B) PRIOR WORK EXPERIENCE IN AREA.—In determining the eligibility of an officer or intelligence analyst to be assigned to a fusion center under this section, the Under Secretary for Intelligence and Analysis shall consider the familiarity of the officer or intelligence analyst with the State, locality, or region, as determined by such factors as whether the officer or intelligence analyst—

"(i) has been previously assigned in the geographic area; or

"(ii) has previously worked with intelligence officials or law enforcement or other emergency response providers from that State, locality, or region.

"(5) EXPEDITED SECURITY CLEARANCE PROCESSING.—The Under Secretary for Intelligence and Analysis—

"(A) shall ensure that each officer or intelligence analyst assigned to a fusion center under this section has the appropriate security clearance to contribute effectively to the mission of the fusion center; and

"(B) may request that security clearance processing be expedited for each such officer or intelligence analyst and may use available funds for such purpose.

"(6) FURTHER QUALIFICATIONS.—Each officer or intelligence analyst assigned to a fusion center under this section shall satisfy any other qualifications the Under Secretary for Intelligence and Analysis may prescribe.

"(d) RESPONSIBILITIES.—An officer or intelligence analyst assigned to a fusion center under this section shall—

"(1) assist law enforcement agencies and other emergency response providers of State, local, and tribal governments and fusion center personnel in using information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, to develop a comprehensive and accurate threat picture;

"(2) review homeland security-relevant information from law enforcement agencies and other emergency response providers of State, local, and tribal government;

"(3) create intelligence and other information products derived from such information and other homeland security-relevant information provided by the Department; and

"(4) assist in the dissemination of such products, as coordinated by the Under Secretary for Intelligence and Analysis, to law enforcement agencies and other emergency response providers of State, local, and tribal government, other fusion centers, and appropriate Federal agencies.

"(e) BORDER INTELLIGENCE PRIORITY.—

"(1) IN GENERAL.—The Secretary shall make it a priority to assign officers and intelligence analysts under this section from United States Customs and Border Protection, United States Immigration and Customs Enforcement, and the Coast Guard to participating State, local, and regional fusion centers located in jurisdictions along land or maritime borders of the United States in order to enhance the integrity of and security at such borders by helping Federal, State, local, and tribal law enforcement authorities to identify, investigate, and otherwise interdict persons, weapons, and related contraband that pose a threat to homeland security.

"(2) BORDER INTELLIGENCE PRODUCTS.—When performing the responsibilities described in subsection (d), officers and intelligence analysts assigned to participating State, local, and regional fusion centers under this section shall have, as a primary responsibility, the creation of border intelligence products that—

"(A) assist State, local, and tribal law enforcement agencies in deploying their resources most efficiently to help detect and interdict terrorists, weapons of mass destruction, and related contraband at land or maritime borders of the United States;

"(B) promote more consistent and timely sharing of border security-relevant information among jurisdictions along land or maritime borders of the United States; and

"(C) enhance the Department's situational awareness of the threat of acts of terrorism at or involving the land or maritime borders of the United States.

"(f) DATABASE ACCESS.—In order to fulfill the objectives described under subsection (d), each officer or intelligence analyst assigned to a fusion center under this section shall have appropriate access to all relevant Federal databases and information systems, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment for the implementation and management of that environment.

"(g) CONSUMER FEEDBACK.—

"(1) IN GENERAL.—The Secretary shall create a voluntary mechanism for any State, local, or tribal law enforcement officer or other emergency response provider who is a consumer of the intelligence or other information products referred to in subsection (d) to provide feedback to the Department on the quality and utility of such intelligence products.

"(2) REPORT.—Not later than one year after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and annually thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that includes a description of the consumer feedback obtained under paragraph (1) and, if applicable, how the Department has adjusted its production of intelligence products in response to that consumer feedback.

"(h) RULE OF CONSTRUCTION.—

"(1) IN GENERAL.—The authorities granted under this section shall supplement the authorities granted under section

201(d) and nothing in this section shall be construed to abrogate the authorities granted under section 201(d).

"(2) PARTICIPATION.—Nothing in this section shall be construed to require a State, local, or regional government or entity to accept the assignment of officers or intelligence analysts of the Department into the fusion center of that State, locality, or region.

"(i) GUIDELINES.—The Secretary, in consultation with the Attorney General, shall establish guidelines for fusion centers created and operated by State and local governments, to include standards that any such fusion center shall—

"(1) collaboratively develop a mission statement, identify expectations and goals, measure performance, and determine effectiveness for that fusion center;

"(2) create a representative governance structure that includes law enforcement officers and other emergency response providers and, as appropriate, the private sector;

"(3) create a collaborative environment for the sharing of intelligence and information among Federal, State, local, and tribal government agencies (including law enforcement officers and other emergency response providers), the private sector, and the public, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment;

"(4) leverage the databases, systems, and networks available from public and private sector entities, in accordance with all applicable laws, to maximize information sharing;

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

"(6) provide, in coordination with the Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department, appropriate privacy and civil liberties training for all State, local, tribal, and private sector representatives at the fusion center;

"(7) ensure appropriate security measures are in place for the facility, data, and personnel;

"(8) select and train personnel based on the needs, mission, goals, and functions of that fusion center;

"(9) offer a variety of intelligence and information services and products to recipients of fusion center intelligence and information; and

"(10) incorporate law enforcement officers, other emergency response providers, and, as appropriate, the private sector, into all relevant phases of the intelligence and fusion process, consistent with the mission statement developed under paragraph (1), either through full time representatives or liaison relationships with the fusion center to enable the receipt and sharing of information and intelligence.

"(j) DEFINITIONS.—In this section—

"(1) the term 'fusion center' means a collaborative effort of 2 or more Federal, State, local, or tribal government agencies that combines resources, expertise, or information with the goal of maximizing the ability of such agencies to detect, prevent, investigate, apprehend, and respond to criminal or terrorist activity;

"(2) the term 'information sharing environment' means the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485);

"(3) the term 'intelligence analyst' means an individual who regularly advises, administers, supervises, or performs work in the collection, gathering, analysis, evaluation, reporting, production, or dissemination of information on political, economic, social, cultural, physical, geographical, scientific, or military conditions, trends, or forces in foreign or domestic areas that directly or indirectly affect national security;

"(4) the term 'intelligence-led policing' means the collection and analysis of information to produce an intelligence end product designed to inform law enforcement decision making at the tactical and strategic levels; and

"(5) the term 'terrorism information' has the meaning given that term in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

"(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for each of fiscal years 2008 through 2012, to carry out this section, except for subsection (i), including for hiring officers and intelligence analysts to replace officers and intelligence analysts who are assigned to fusion centers under this section.".

(b) TRAINING FOR PREDEPLOYED OFFICERS AND ANALYSTS.—An officer or analyst assigned to a fusion center by the Secretary of Homeland Security before the date of the enactment of this Act shall undergo the training described in section 210A(c)(4)(A) of the Homeland Security Act of 2002, as added by subsection (a), by not later than 6 months after such date.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is further amended by inserting after the item relating to section 210 the following:

"Sec. 210A. Department of Homeland Security State, Local, and Regional Information Fusion Center Initiative.".

(d) REPORTS.—

(1) CONCEPT OF OPERATIONS.—Not later than 90 days after the date of enactment of this Act and before the Department of Homeland Security State, Local, and Regional Fusion Center Initiative under section 210A of the Homeland Security Act of 2002, as added by subsection (a), (in this section referred to as the "program") has been implemented, the Secretary, in consultation with the Privacy Officer of the Department, the Officer for Civil Rights and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that contains a concept of operations for the program, which shall—

(A) include a clear articulation of the purposes, goals, and specific objectives for which the program is being developed;

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

(C) contain a developed set of quantitative metrics to measure, to the extent possible, program output;

(D) contain a developed set of qualitative instruments (including surveys and expert interviews) to assess the extent to which stakeholders believe their needs are being met; and

(E) include a privacy and civil liberties impact assessment.

(2) PRIVACY AND CIVIL LIBERTIES.—Not later than 1 year after the date of the enactment of this Act, the Privacy Officer of the Department of Homeland Security and the Officer for Civil Liberties and Civil Rights of the Department of Homeland Security, consistent with any policies of the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, the Secretary of Homeland Security, the Under Secretary of Homeland Security for Intelligence and Analysis, and the Privacy and Civil Liberties Oversight Board a report on the privacy and civil liberties impact of the program.

SEC. 512. HOMELAND SECURITY INFORMATION SHARING FELLOWS PROGRAM.

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

"SEC. 210B. HOMELAND SECURITY INFORMATION SHARING FELLOWS PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Intelligence and Analysis, and in consultation with the Chief Human Capital Officer, shall establish a fellowship program in accordance with this section for the purpose of—

"(A) detailing State, local, and tribal law enforcement officers and intelligence analysts to the Department in accordance with subchapter VI of chapter 33 of title 5, United States Code, to participate in the work of the Office of Intelligence and Analysis in order to become familiar with—

"(i) the relevant missions and capabilities of the Department and other Federal agencies; and

"(ii) the role, programs, products, and personnel of the Office of Intelligence and Analysis; and

"(B) promoting information sharing between the Department and State, local, and tribal law enforcement officers and intelligence analysts by assigning such officers and analysts to—

"(i) serve as a point of contact in the Department to assist in the representation of State, local, and tribal information requirements;

"(ii) identify information within the scope of the information sharing environment, including homeland

security information, terrorism information, and weapons of mass destruction information, that is of interest to State, local, and tribal law enforcement officers, intelligence analysts, and other emergency response providers;

"(iii) assist Department analysts in preparing and disseminating products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, that are tailored to State, local, and tribal law enforcement officers and intelligence analysts and designed to prepare for and thwart acts of terrorism; and

"(iv) assist Department analysts in preparing products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, that are tailored to State, local, and tribal emergency response providers and assist in the dissemination of such products through appropriate Department channels.

"(2) PROGRAM NAME.—The program under this section shall be known as the 'Homeland Security Information Sharing Fellows Program'.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—In order to be eligible for selection as an Information Sharing Fellow under the program under this section, an individual shall—

"(A) have homeland security-related responsibilities;

"(B) be eligible for an appropriate security clearance;

"(C) possess a valid need for access to classified information, as determined by the Under Secretary for Intelligence and Analysis;

"(D) be an employee of an eligible entity; and

"(E) have undergone appropriate privacy and civil liberties training that is developed, supported, or sponsored by the Privacy Officer and the Officer for Civil Rights and Civil Liberties, in consultation with the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note).

"(2) ELIGIBLE ENTITIES.—In this subsection, the term 'eligible entity' means—

"(A) a State, local, or regional fusion center;

"(B) a State or local law enforcement or other government entity that serves a major metropolitan area, suburban area, or rural area, as determined by the Secretary;

"(C) a State or local law enforcement or other government entity with port, border, or agricultural responsibilities, as determined by the Secretary;

"(D) a tribal law enforcement or other authority; or

"(E) such other entity as the Secretary determines is appropriate.

"(c) OPTIONAL PARTICIPATION.—No State, local, or tribal law enforcement or other government entity shall be required to participate in the Homeland Security Information Sharing Fellows Program.

"(d) PROCEDURES FOR NOMINATION AND SELECTION.—

"(1) IN GENERAL.—The Under Secretary for Intelligence and Analysis shall establish procedures to provide for the nomination and selection of individuals to participate in the Homeland Security Information Sharing Fellows Program.

"(2) LIMITATIONS.—The Under Secretary for Intelligence and Analysis shall—

"(A) select law enforcement officers and intelligence analysts representing a broad cross-section of State, local, and tribal agencies; and

"(B) ensure that the number of Information Sharing Fellows selected does not impede the activities of the Office of Intelligence and Analysis.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is further amended by inserting after the item relating to section 210A the following:

"Sec. 210B. Homeland Security Information Sharing Fellows Program.".

(c) REPORTS.—

(1) CONCEPT OF OPERATIONS.—Not later than 90 days after the date of enactment of this Act, and before the implementation of the Homeland Security Information Sharing Fellows Program under section 210B of the Homeland Security Act of 2002, as added by subsection (a), (in this section referred to as the "Program") the Secretary, in consultation with the Privacy Officer of the Department, the Officer for Civil Rights and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that contains a concept of operations for the Program, which shall include a privacy and civil liberties impact assessment.

(2) REVIEW OF PRIVACY IMPACT.—Not later than 1 year after the date on which the program is implemented, the Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department, consistent with any policies of the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, the Secretary of Homeland Security, the Under Secretary of Homeland Security for Intelligence and Analysis, and the Privacy and Civil Liberties Oversight Board, a report on the privacy and civil liberties impact of the program.

SEC. 513. RURAL POLICING INSTITUTE.

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

"SEC. 210C. RURAL POLICING INSTITUTE.

"(a) IN GENERAL.—The Secretary shall establish a Rural Policing Institute, which shall be administered by the Federal Law Enforcement Training Center, to target training to law enforcement agencies and other emergency response providers located in rural areas. The Secretary, through the Rural Policing Institute, shall—

"(1) evaluate the needs of law enforcement agencies and other emergency response providers in rural areas;

"(2) develop expert training programs designed to address the needs of law enforcement agencies and other emergency response providers in rural areas as identified in the evaluation conducted under paragraph (1), including training programs about intelligence-led policing and protections for privacy, civil rights, and civil liberties;

"(3) provide the training programs developed under paragraph (2) to law enforcement agencies and other emergency response providers in rural areas; and

"(4) conduct outreach efforts to ensure that local and tribal governments in rural areas are aware of the training programs developed under paragraph (2) so they can avail themselves of such programs.

"(b) CURRICULA.—The training at the Rural Policing Institute established under subsection (a) shall—

"(1) be configured in a manner so as not to duplicate or displace any law enforcement or emergency response program of the Federal Law Enforcement Training Center or a local or tribal government entity in existence on the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007; and

"(2) to the maximum extent practicable, be delivered in a cost-effective manner at facilities of the Department, on closed military installations with adequate training facilities, or at facilities operated by the participants.

"(c) DEFINITION.—In this section, the term 'rural' means an area that is not located in a metropolitan statistical area, as defined by the Office of Management and Budget.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section (including for contracts, staff, and equipment)—

"(1) $10,000,000 for fiscal year 2008; and

"(2) $5,000,000 for each of fiscal years 2009 through 2013.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is further amended by inserting after the item relating to section 210B the following:

"Sec. 210C. Rural Policing Institute.".

Subtitle C—Interagency Threat Assessment and Coordination Group

SEC. 521. INTERAGENCY THREAT ASSESSMENT AND COORDINATION GROUP.

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

"SEC. 210D. INTERAGENCY THREAT ASSESSMENT AND COORDINATION GROUP.

"(a) IN GENERAL.—To improve the sharing of information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) with State, local, tribal, and private sector officials, the Director of National Intelligence, through the program manager for the information sharing environment, in coordination with the Secretary, shall coordinate and oversee the creation of an Interagency Threat Assessment and Coordination Group (referred to in this section as the 'ITACG').

"(b) COMPOSITION OF ITACG.—The ITACG shall consist of—

"(1) an ITACG Advisory Council to set policy and develop processes for the integration, analysis, and dissemination of federally-coordinated information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information; and

"(2) an ITACG Detail comprised of State, local, and tribal homeland security and law enforcement officers and intelligence analysts detailed to work in the National Counterterrorism Center with Federal intelligence analysts for the purpose of integrating, analyzing, and assisting in the dissemination of federally-coordinated information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, through appropriate channels identified by the ITACG Advisory Council.

"(c) RESPONSIBILITIES OF PROGRAM MANAGER.—The program manager, in consultation with the Information Sharing Council, shall—

"(1) monitor and assess the efficacy of the ITACG; and

"(2) not later than 180 days after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and at least annually thereafter, submit to the Secretary, the Attorney General, the Director of National Intelligence, the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the progress of the ITACG.

"(d) RESPONSIBILITIES OF SECRETARY.—The Secretary, or the Secretary's designee, in coordination with the Director of the National Counterterrorism Center and the ITACG Advisory Council, shall—

"(1) create policies and standards for the creation of information products derived from information within the scope of the information sharing environment, including homeland

security information, terrorism information, and weapons of mass destruction information, that are suitable for dissemination to State, local, and tribal governments and the private sector;

"(2) evaluate and develop processes for the timely dissemination of federally-coordinated information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, to State, local, and tribal governments and the private sector;

"(3) establish criteria and a methodology for indicating to State, local, and tribal governments and the private sector the reliability of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, disseminated to them;

"(4) educate the intelligence community about the requirements of the State, local, and tribal homeland security, law enforcement, and other emergency response providers regarding information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information;

"(5) establish and maintain the ITACG Detail, which shall assign an appropriate number of State, local, and tribal homeland security and law enforcement officers and intelligence analysts to work in the National Counterterrorism Center who shall—

"(A) educate and advise National Counterterrorism Center intelligence analysts about the requirements of the State, local, and tribal homeland security and law enforcement officers, and other emergency response providers regarding information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information;

"(B) assist National Counterterrorism Center intelligence analysts in integrating, analyzing, and otherwise preparing versions of products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information that are unclassified or classified at the lowest possible level and suitable for dissemination to State, local, and tribal homeland security and law enforcement agencies in order to help deter and prevent terrorist attacks;

"(C) implement, in coordination with National Counterterrorism Center intelligence analysts, the policies, processes, procedures, standards, and guidelines developed by the ITACG Advisory Council;

"(D) assist in the dissemination of products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, to State, local, and tribal jurisdictions only through appropriate channels identified by the ITACG Advisory Council; and

"(E) report directly to the senior intelligence official from the Department under paragraph (6);

"(6) detail a senior intelligence official from the Department of Homeland Security to the National Counterterrorism Center, who shall—

"(A) manage the day-to-day operations of the ITACG Detail;

"(B) report directly to the Director of the National Counterterrorism Center or the Director's designee; and

"(C) in coordination with the Director of the Federal Bureau of Investigation, and subject to the approval of the Director of the National Counterterrorism Center, select a deputy from the pool of available detailees from the Federal Bureau of Investigation in the National Counterterrorism Center; and

"(7) establish, within the ITACG Advisory Council, a mechanism to select law enforcement officers and intelligence analysts for placement in the National Counterterrorism Center consistent with paragraph (5), using criteria developed by the ITACG Advisory Council that shall encourage participation from a broadly representative group of State, local, and tribal homeland security and law enforcement agencies.

"(e) MEMBERSHIP.—The Secretary, or the Secretary's designee, shall serve as the chair of the ITACG Advisory Council, which shall include—

"(1) representatives of—

"(A) the Department;

"(B) the Federal Bureau of Investigation;

"(C) the National Counterterrorism Center;

"(D) the Department of Defense;

"(E) the Department of Energy;

"(F) the Department of State; and

"(G) other Federal entities as appropriate;

"(2) the program manager of the information sharing environment, designated under section 1016(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485(f)), or the program manager's designee; and

"(3) executive level law enforcement and intelligence officials from State, local, and tribal governments.

"(f) CRITERIA.—The Secretary, in consultation with the Director of National Intelligence, the Attorney General, and the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), shall—

"(1) establish procedures for selecting members of the ITACG Advisory Council and for the proper handling and safeguarding of products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, by those members; and

"(2) ensure that at least 50 percent of the members of the ITACG Advisory Council are from State, local, and tribal governments.

"(g) OPERATIONS.—

"(1) IN GENERAL.—Beginning not later than 90 days after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the ITACG Advisory

Council shall meet regularly, but not less than quarterly, at the facilities of the National Counterterrorism Center of the Office of the Director of National Intelligence.

"(2) MANAGEMENT.—Pursuant to section 119(f)(E) of the National Security Act of 1947 (50 U.S.C. 404o(f)(E)), the Director of the National Counterterrorism Center, acting through the senior intelligence official from the Department of Homeland Security detailed pursuant to subsection (d)(6), shall ensure that—

"(A) the products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, prepared by the National Counterterrorism Center and the ITACG Detail for distribution to State, local, and tribal homeland security and law enforcement agencies reflect the requirements of such agencies and are produced consistently with the policies, processes, procedures, standards, and guidelines established by the ITACG Advisory Council;

"(B) in consultation with the ITACG Advisory Council and consistent with sections 102A(f)(1)(B)(iii) and 119(f)(E) of the National Security Act of 1947 (50 U.S.C. 402 et seq.), all products described in subparagraph (A) are disseminated through existing channels of the Department and the Department of Justice and other appropriate channels to State, local, and tribal government officials and other entities;

"(C) all detailees under subsection (d)(5) have appropriate access to all relevant information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, available at the National Counterterrorism Center in order to accomplish the objectives under that paragraph;

"(D) all detailees under subsection (d)(5) have the appropriate security clearances and are trained in the procedures for handling, processing, storing, and disseminating classified products derived from information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information; and

"(E) all detailees under subsection (d)(5) complete appropriate privacy and civil liberties training.

"(h) INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the ITACG or any subsidiary groups thereof.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section, including to obtain security clearances for the State, local, and tribal participants in the ITACG.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 210C the following:

"Sec. 210D. Interagency Threat Assessment and Coordination Group.".

(c) PRIVACY AND CIVIL LIBERTIES IMPACT ASSESSMENT.—Not later than 90 days after the date of the enactment of this Act, the Privacy Officer and the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security and the Chief Privacy and Civil Liberties Officer for the Department of Justice, in consultation with the Civil Liberties Protection Officer of the Office of the Director of National Intelligence, shall submit to the Secretary of Homeland Security, the Director of the Federal Bureau of Investigation, the Attorney General, the Director of the National Counterterrorism Center, the Director of National Intelligence, the Privacy and Civil Liberties Oversight Board, and the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives, a privacy and civil liberties impact assessment of the Interagency Threat Assessment and Coordination Group under section 210D of the Homeland Security Act of 2002, as added by subsection (a), including the use of State, local, and tribal detailees at the National Counterterrorism Center, as described in subsection (d)(5) of that section.

Subtitle D—Homeland Security Intelligence Offices Reorganization

SEC. 531. OFFICE OF INTELLIGENCE AND ANALYSIS AND OFFICE OF INFRASTRUCTURE PROTECTION.

(a) IN GENERAL.—Section 201 of the Homeland Security Act of 2002 (6 U.S.C. 201) is amended—

(1) in the section heading, by striking "**DIRECTORATE FOR INFORMATION**" and inserting "**INFORMATION AND**";

(2) by striking subsections (a) through (c) and inserting the following:

"(a) INTELLIGENCE AND ANALYSIS AND INFRASTRUCTURE PROTECTION.—There shall be in the Department an Office of Intelligence and Analysis and an Office of Infrastructure Protection.

"(b) UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS AND ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.—

"(1) OFFICE OF INTELLIGENCE AND ANALYSIS.—The Office of Intelligence and Analysis shall be headed by an Under Secretary for Intelligence and Analysis, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) CHIEF INTELLIGENCE OFFICER.—The Under Secretary for Intelligence and Analysis shall serve as the Chief Intelligence Officer of the Department.

"(3) OFFICE OF INFRASTRUCTURE PROTECTION.—The Office of Infrastructure Protection shall be headed by an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

"(c) DISCHARGE OF RESPONSIBILITIES.—The Secretary shall ensure that the responsibilities of the Department relating to information analysis and infrastructure protection, including those described in subsection (d), are carried out through the Under Secretary for Intelligence and Analysis or the Assistant Secretary for Infrastructure Protection, as appropriate.";

(3) in subsection (d)—

(A) in the subsection heading, by striking "UNDER SECRETARY" and inserting "SECRETARY RELATING TO INTELLIGENCE AND ANALYSIS AND INFRASTRUCTURE PROTECTION";

(B) in the matter preceding paragraph (1), by striking "Subject to the direction" and all that follows through "Infrastructure Protection" and inserting the following: "The responsibilities of the Secretary relating to intelligence and analysis and infrastructure protection";

(C) in paragraph (9), as redesignated under section 510(a)(2)(A)(ii), by striking "Director of Central Intelligence" and inserting "Director of National Intelligence";

(D) in paragraph (11)(B), as so redesignated, by striking "Director of Central Intelligence" and inserting "Director of National Intelligence";

(E) by redesignating paragraph (18), as so redesignated, as paragraph (24); and

(F) by inserting after paragraph (17), as so redesignated, the following:

"(18) To coordinate and enhance integration among the intelligence components of the Department, including through strategic oversight of the intelligence activities of such components.

"(19) To establish the intelligence collection, processing, analysis, and dissemination priorities, policies, processes, standards, guidelines, and procedures for the intelligence components of the Department, consistent with any directions from the President and, as applicable, the Director of National Intelligence.

"(20) To establish a structure and process to support the missions and goals of the intelligence components of the Department.

"(21) To ensure that, whenever possible, the Department—

"(A) produces and disseminates unclassified reports and analytic products based on open-source information; and

"(B) produces and disseminates such reports and analytic products contemporaneously with reports or analytic products concerning the same or similar information that the Department produced and disseminated in a classified format.

"(22) To establish within the Office of Intelligence and Analysis an internal continuity of operations plan.

"(23) Based on intelligence priorities set by the President, and guidance from the Secretary and, as appropriate, the Director of National Intelligence—

"(A) to provide to the heads of each intelligence component of the Department guidance for developing the budget pertaining to the activities of such component; and

"(B) to present to the Secretary a recommendation for a consolidated budget for the intelligence components of the Department, together with any comments from the heads of such components.";

(4) in subsection (e)(1)—

(A) by striking "Directorate" the first place that term appears and inserting "Office of Intelligence and Analysis and the Office of Infrastructure Protection"; and

(B) by striking "the Directorate in discharging" and inserting "such offices in discharging";

(5) in subsection (f)(1), by striking "Directorate" and inserting "Office of Intelligence and Analysis and the Office of Infrastructure Protection"; and

(6) In subsection (g), in the matter preceding paragraph (1), by striking "Under Secretary for Information Analysis and Infrastructure Protection" and inserting "Office of Intelligence and Analysis and the Office of Infrastructure Protection".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Such Act is further amended—

(A) in section 223, by striking "Under Secretary for Information Analysis and Infrastructure Protection" and inserting "Under Secretary for Intelligence and Analysis, in cooperation with the Assistant Secretary for Infrastructure Protection";

(B) in section 224, by striking "Under Secretary for Information Analysis and Infrastructure Protection" and inserting "Assistant Secretary for Infrastructure Protection";

(C) in section 302(3), by striking "Under Secretary for Information Analysis and Infrastructure Protection" and inserting "Under Secretary for Intelligence and Analysis and the Assistant Secretary for Infrastructure Protection"; and

(D) in section 521(d)—

(i) in paragraph (1), by striking "Directorate for Information Analysis and Infrastructure Protection" and inserting "Office of Intelligence and Analysis"; and

(ii) in paragraph (2), by striking "Under Secretary for Information Analysis and Infrastructure Protection" and inserting "Under Secretary for Intelligence and Analysis".

(2) ADDITIONAL UNDER SECRETARY.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(A) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(B) by inserting after paragraph (7) the following:

"(8) An Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department.".

(3) HEADING.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended in the subtitle heading by striking "**Directorate for Information**" and inserting "**Information and**".

(4) TABLE OF CONTENTS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended in the table of contents in section 1(b) by striking the items relating to subtitle A of title II and section 201 and inserting the following:

"Subtitle A—Information and Analysis and Infrastructure Protection; Access to Information

"Sec. 201. Information and Analysis and Infrastructure Protection.".

(5) NATIONAL SECURITY ACT OF 1947.—Section 106(b)(2)(I) of the National Security Act of 1947 (50 U.S.C. 403–6) is amended to read as follows:

"(I) The Under Secretary of Homeland Security for Intelligence and Analysis.".

(c) TREATMENT OF INCUMBENT.—The individual administratively performing the duties of the Under Secretary for Intelligence and Analysis as of the date of the enactment of this Act may continue to perform such duties after the date on which the President nominates an individual to serve as the Under Secretary pursuant to section 201 of the Homeland Security Act of 2002, as amended by this section, and until the individual so appointed assumes the duties of the position.

Subtitle E—Authorization of Appropriations

SEC. 541. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for each of fiscal years 2008 through 2012 such sums as may be necessary to carry out this title and the amendments made by this title.

TITLE VI—CONGRESSIONAL OVERSIGHT OF INTELLIGENCE

SEC. 601. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.

(a) AMOUNTS APPROPRIATED EACH FISCAL YEAR.—Not later than 30 days after the end of each fiscal year beginning with fiscal year 2007, the Director of National Intelligence shall disclose to the public the aggregate amount of funds appropriated by Congress for the National Intelligence Program for such fiscal year.

(b) WAIVER.—Beginning with fiscal year 2009, the President may waive or postpone the disclosure required by subsection (a) for any fiscal year by, not later than 30 days after the end of such fiscal year, submitting to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives—

(1) a statement, in unclassified form, that the disclosure required in subsection (a) for that fiscal year would damage national security; and

(2) a statement detailing the reasons for the waiver or postponement, which may be submitted in classified form.

(c) DEFINITION.—As used in this section, the term "National Intelligence Program" has the meaning given the term in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).

SEC. 602. PUBLIC INTEREST DECLASSIFICATION BOARD.

The Public Interest Declassification Act of 2000 (50 U.S.C. 435 note) is amended—

(1) by striking "Director of Central Intelligence" each place that term appears and inserting "Director of National Intelligence";

(2) in section 704(e)—

(A) by striking "If requested" and inserting the following:

"(1) IN GENERAL.—If requested"; and

(B) by adding at the end the following:

"(2) AUTHORITY OF BOARD.—Upon receiving a congressional request described in section 703(b)(5), the Board may conduct the review and make the recommendations described in that section, regardless of whether such a review is requested by the President.

"(3) REPORTING.—Any recommendations submitted to the President by the Board under section 703(b)(5), shall be submitted to the chairman and ranking minority member of the committee of Congress that made the request relating to such recommendations.";

(3) in section 705(c), in the subsection heading, by striking "DIRECTOR OF CENTRAL INTELLIGENCE" and inserting "DIRECTOR OF NATIONAL INTELLIGENCE"; and

(4) in section 710(b), by striking "8 years after the date" and all that follows and inserting "on December 31, 2012.".

SEC. 603. SENSE OF THE SENATE REGARDING A REPORT ON THE 9/11 COMMISSION RECOMMENDATIONS WITH RESPECT TO INTELLIGENCE REFORM AND CONGRESSIONAL INTELLIGENCE OVERSIGHT REFORM.

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

(1) The National Commission on Terrorist Attacks Upon the United States (referred to in this section as the "9/11 Commission") conducted a lengthy review of the facts and circumstances relating to the terrorist attacks of September 11, 2001, including those relating to the intelligence community, law enforcement agencies, and the role of congressional oversight and resource allocation.

(2) In its final report, the 9/11 Commission found that—

(A) congressional oversight of the intelligence activities of the United States is dysfunctional;

(B) under the rules of the Senate and the House of Representatives in effect at the time the report was completed, the committees of Congress charged with oversight of the intelligence activities lacked the power, influence, and sustained capability to meet the daunting challenges faced by the intelligence community of the United States;

(C) as long as such oversight is governed by such rules of the Senate and the House of Representatives, the people of the United States will not get the security they want and need;

(D) a strong, stable, and capable congressional committee structure is needed to give the intelligence community of the United States appropriate oversight, support, and leadership; and

(E) the reforms recommended by the 9/11 Commission in its final report will not succeed if congressional oversight of the intelligence community in the United States is not changed.

(3) The 9/11 Commission recommended structural changes to Congress to improve the oversight of intelligence activities.

(4) Congress has enacted some of the recommendations made by the 9/11 Commission and is considering implementing additional recommendations of the 9/11 Commission.

(5) The Senate adopted Senate Resolution 445 in the 108th Congress to address some of the intelligence oversight recommendations of the 9/11 Commission by abolishing term limits for the members of the Select Committee on Intelligence, clarifying jurisdiction for intelligence-related nominations, and streamlining procedures for the referral of intelligence-related legislation, but other aspects of the 9/11 Commission recommendations regarding intelligence oversight have not been implemented.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate each, or jointly, should—

(1) undertake a review of the recommendations made in the final report of the 9/11 Commission with respect to intelligence reform and congressional intelligence oversight reform;

(2) review and consider any other suggestions, options, or recommendations for improving intelligence oversight; and

(3) not later than December 21, 2007, submit to the Senate a report that includes the recommendations of the committees, if any, for carrying out such reforms.

SEC. 604. AVAILABILITY OF FUNDS FOR THE PUBLIC INTEREST DECLASSIFICATION BOARD.

Section 21067 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289; 120 Stat. 1311), as amended by Public Law 109–369 (120 Stat. 2642), Public Law 109–383 (120 Stat. 2678), and Public Law 110–5, is amended by adding at the end the following new subsection:

"(c) From the amount provided by this section, the National Archives and Records Administration may obligate monies necessary to carry out the activities of the Public Interest Declassification Board.".

SEC. 605. AVAILABILITY OF THE EXECUTIVE SUMMARY OF THE REPORT ON CENTRAL INTELLIGENCE AGENCY ACCOUNTABILITY REGARDING THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

(a) PUBLIC AVAILABILITY.—Not later than 30 days after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall prepare and make available to the public a version of the Executive Summary of the report entitled the "Office of Inspector General Report on Central Intelligence Agency Accountability Regarding Findings and Conclusions of the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001" issued in June 2005 that is declassified to the maximum extent possible, consistent with national security.

(b) REPORT TO CONGRESS.—The Director of the Central Intelligence Agency shall submit to Congress a classified annex to the redacted Executive Summary made available under subsection (a) that explains the reason that any redacted material in the Executive Summary was withheld from the public.

TITLE VII—STRENGTHENING EFFORTS TO PREVENT TERRORIST TRAVEL

Subtitle A—Terrorist Travel

SEC. 701. REPORT ON INTERNATIONAL COLLABORATION TO INCREASE BORDER SECURITY, ENHANCE GLOBAL DOCUMENT SECURITY, AND EXCHANGE TERRORIST INFORMATION.

(a) REPORT REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Homeland Security, in conjunction with the Director of National Intelligence and the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report on efforts of the Government of the United States to collaborate with international partners and allies of the United States to increase border security, enhance global document security, and exchange terrorism information.

(b) CONTENTS.—The report required by subsection (a) shall outline—

(1) all presidential directives, programs, and strategies for carrying out and increasing United States Government efforts described in subsection (a);

(2) the goals and objectives of each of these efforts;

(3) the progress made in each of these efforts; and

(4) the projected timelines for each of these efforts to become fully functional and effective.

(c) DEFINITION.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Affairs, the Committee on Homeland Security, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate.

Subtitle B—Visa Waiver

SEC. 711. MODERNIZATION OF THE VISA WAIVER PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Secure Travel and Counterterrorism Partnership Act of 2007".

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should modernize and strengthen the security of the visa waiver program under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) by simultaneously—

(A) enhancing program security requirements; and

(B) extending visa-free travel privileges to nationals of foreign countries that are partners in the war on terrorism—

(i) that are actively cooperating with the United States to prevent terrorist travel, including sharing

counterterrorism and law enforcement information; and

(ii) whose nationals have demonstrated their compliance with the provisions of the Immigration and Nationality Act regarding the purpose and duration of their admission to the United States; and

(2) the modernization described in paragraph (1) will—

(A) enhance bilateral cooperation on critical counterterrorism and information sharing initiatives;

(B) support and expand tourism and business opportunities to enhance long-term economic competitiveness; and

(C) strengthen bilateral relationships.

(c) DISCRETIONARY VISA WAIVER PROGRAM EXPANSION.—Section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)) is amended by adding at the end the following new paragraphs:

"(8) NONIMMIGRANT VISA REFUSAL RATE FLEXIBILITY.—

"(A) CERTIFICATION.—

"(i) IN GENERAL.—On the date on which an air exit system is in place that can verify the departure of not less than 97 percent of foreign nationals who exit through airports of the United States and the electronic travel authorization system required under subsection (h)(3) is fully operational, the Secretary of Homeland Security shall certify to Congress that such air exit system and electronic travel authorization system are in place.

"(ii) NOTIFICATION TO CONGRESS.—The Secretary shall notify Congress in writing of the date on which the air exit system under clause (i) fully satisfies the biometric requirements specified in subsection (i).

"(iii) TEMPORARY SUSPENSION OF WAIVER AUTHORITY.—Notwithstanding any certification made under clause (i), if the Secretary has not notified Congress in accordance with clause (ii) by June 30, 2009, the Secretary's waiver authority under subparagraph (B) shall be suspended beginning on July 1, 2009, until such time as the Secretary makes such notification.

"(iv) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as in any way abrogating the reporting requirements under subsection (i)(3).

"(B) WAIVER.—After certification by the Secretary under subparagraph (A), the Secretary, in consultation with the Secretary of State, may waive the application of paragraph (2)(A) for a country if—

"(i) the country meets all security requirements of this section;

"(ii) the Secretary of Homeland Security determines that the totality of the country's security risk mitigation measures provide assurance that the country's participation in the program would not compromise the law enforcement, security interests, or enforcement of the immigration laws of the United States;

"(iii) there has been a sustained reduction in the rate of refusals for nonimmigrant visas for nationals

of the country and conditions exist to continue such reduction;

"(iv) the country cooperated with the Government of the United States on counterterrorism initiatives, information sharing, and preventing terrorist travel before the date of its designation as a program country, and the Secretary of Homeland Security and the Secretary of State determine that such cooperation will continue; and

"(v)(I) the rate of refusals for nonimmigrant visitor visas for nationals of the country during the previous full fiscal year was not more than ten percent; or

"(II) the visa overstay rate for the country for the previous full fiscal year does not exceed the maximum visa overstay rate, once such rate is established under subparagraph (C).

"(C) MAXIMUM VISA OVERSTAY RATE.—

"(i) REQUIREMENT TO ESTABLISH.—After certification by the Secretary under subparagraph (A), the Secretary and the Secretary of State jointly shall use information from the air exit system referred to in such subparagraph to establish a maximum visa overstay rate for countries participating in the program pursuant to a waiver under subparagraph (B). The Secretary of Homeland Security shall certify to Congress that such rate would not compromise the law enforcement, security interests, or enforcement of the immigration laws of the United States.

"(ii) VISA OVERSTAY RATE DEFINED.—In this paragraph the term 'visa overstay rate' means, with respect to a country, the ratio of—

"(I) the total number of nationals of that country who were admitted to the United States on the basis of a nonimmigrant visa whose periods of authorized stays ended during a fiscal year but who remained unlawfully in the United States beyond such periods; to

"(II) the total number of nationals of that country who were admitted to the United States on the basis of a nonimmigrant visa during that fiscal year.

"(iii) REPORT AND PUBLICATION.—The Secretary of Homeland Security shall on the same date submit to Congress and publish in the Federal Register information relating to the maximum visa overstay rate established under clause (i). Not later than 60 days after such date, the Secretary shall issue a final maximum visa overstay rate above which a country may not participate in the program.

"(9) DISCRETIONARY SECURITY-RELATED CONSIDERATIONS.—In determining whether to waive the application of paragraph (2)(A) for a country, pursuant to paragraph (8), the Secretary of Homeland Security, in consultation with the Secretary of State, shall take into consideration other factors affecting the security of the United States, including—

"(A) airport security standards in the country;

"(B) whether the country assists in the operation of an effective air marshal program;

"(C) the standards of passports and travel documents issued by the country; and

"(D) other security-related factors, including the country's cooperation with the United States' initiatives toward combating terrorism and the country's cooperation with the United States intelligence community in sharing information regarding terrorist threats.".

(d) SECURITY ENHANCEMENTS TO THE VISA WAIVER PROGRAM.—

(1) IN GENERAL.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(A) in subsection (a), in the flush text following paragraph (9)—

(i) by striking "Operators of aircraft" and inserting the following:

"(10) ELECTRONIC TRANSMISSION OF IDENTIFICATION INFORMATION.—Operators of aircraft"; and

(ii) by adding at the end the following new paragraph:

"(11) ELIGIBILITY DETERMINATION UNDER THE ELECTRONIC TRAVEL AUTHORIZATION SYSTEM.—Beginning on the date on which the electronic travel authorization system developed under subsection (h)(3) is fully operational, each alien traveling under the program shall, before applying for admission to the United States, electronically provide to the system biographical information and such other information as the Secretary of Homeland Security shall determine necessary to determine the eligibility of, and whether there exists a law enforcement or security risk in permitting, the alien to travel to the United States. Upon review of such biographical information, the Secretary of Homeland Security shall determine whether the alien is eligible to travel to the United States under the program.";

(B) in subsection (c)—

(i) in paragraph (2)—

(I) by amending subparagraph (D) to read as follows:

"(D) REPORTING LOST AND STOLEN PASSPORTS.—The government of the country enters into an agreement with the United States to report, or make available through Interpol or other means as designated by the Secretary of Homeland Security, to the United States Government information about the theft or loss of passports within a strict time limit and in a manner specified in the agreement."; and

(II) by adding at the end the following new subparagraphs:

"(E) REPATRIATION OF ALIENS.—The government of the country accepts for repatriation any citizen, former citizen, or national of the country against whom a final executable order of removal is issued not later than three weeks after the issuance of the final order of removal. Nothing in this subparagraph creates any duty for the United States or any right for any alien with respect to removal or release. Nothing in this subparagraph gives rise to any cause of action or claim under this paragraph or any other law against any official of the United States or of any State

to compel the release, removal, or consideration for release or removal of any alien.

"(F) PASSENGER INFORMATION EXCHANGE.—The government of the country enters into an agreement with the United States to share information regarding whether citizens and nationals of that country traveling to the United States represent a threat to the security or welfare of the United States or its citizens.";

(ii) in paragraph (5)—

(I) by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security"; and

(II) in subparagraph (A)(i)—

(aa) in subclause (II), by striking "and" at the end;

(bb) in subclause (III)—

(AA) by striking "and the Committee on International Relations" and inserting ", the Committee on Foreign Affairs, and the Committee on Homeland Security," and by striking "and the Committee on Foreign Relations" and inserting ", the Committee on Foreign Relations, and the Committee on Homeland Security and Governmental Affairs"; and

(BB) by striking the period at the end and inserting "; and"; and

(cc) by adding at the end the following new subclause:

"(IV) shall submit to Congress a report regarding the implementation of the electronic travel authorization system under subsection (h)(3) and the participation of new countries in the program through a waiver under paragraph (8).."; and

(III) in subparagraph (B), by adding at the end the following new clause:

"(iv) PROGRAM SUSPENSION AUTHORITY.—The Director of National Intelligence shall immediately inform the Secretary of Homeland Security of any current and credible threat which poses an imminent danger to the United States or its citizens and originates from a country participating in the visa waiver program. Upon receiving such notification, the Secretary, in consultation with the Secretary of State—

"(I) may suspend a country from the visa waiver program without prior notice;

"(II) shall notify any country suspended under subclause (I) and, to the extent practicable without disclosing sensitive intelligence sources and methods, provide justification for the suspension; and

"(III) shall restore the suspended country's participation in the visa waiver program upon a determination that the threat no longer poses an imminent danger to the United States or its citizens."; and

(iii) by adding at the end the following new paragraphs:

"(10) TECHNICAL ASSISTANCE.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall provide technical assistance to program countries to assist those countries in meeting the requirements under this section. The Secretary of Homeland Security shall ensure that the program office within the Department of Homeland Security is adequately staffed and has resources to be able to provide such technical assistance, in addition to its duties to effectively monitor compliance of the countries participating in the program with all the requirements of the program.

"(11) INDEPENDENT REVIEW.—

"(A) IN GENERAL.—Prior to the admission of a new country into the program under this section, and in conjunction with the periodic evaluations required under subsection (c)(5)(A), the Director of National Intelligence shall conduct an independent intelligence assessment of a nominated country and member of the program.

"(B) REPORTING REQUIREMENT.—The Director shall provide to the Secretary of Homeland Security, the Secretary of State, and the Attorney General the independent intelligence assessment required under subparagraph (A).

"(C) CONTENTS.—The independent intelligence assessment conducted by the Director shall include—

"(i) a review of all current, credible terrorist threats of the subject country;

"(ii) an evaluation of the subject country's counterterrorism efforts;

"(iii) an evaluation as to the extent of the country's sharing of information beneficial to suppressing terrorist movements, financing, or actions;

"(iv) an assessment of the risks associated with including the subject country in the program; and

"(v) recommendations to mitigate the risks identified in clause (iv).";

(C) in subsection (d)—

(i) by striking "Attorney General" and inserting "Secretary of Homeland Security"; and

(ii) by adding at the end the following new sentence: "The Secretary of Homeland Security may not waive any eligibility requirement under this section unless the Secretary notifies, with respect to the House of Representatives, the Committee on Homeland Security, the Committee on the Judiciary, the Committee on Foreign Affairs, and the Committee on Appropriations, and with respect to the Senate, the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Appropriations not later than 30 days before the effective date of such waiver.";

(D) in subsection (f)(5)—

(i) by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security"; and

(ii) by striking "of blank" and inserting "or loss of";

(E) in subsection (h), by adding at the end the following new paragraph:

"(3) ELECTRONIC TRAVEL AUTHORIZATION SYSTEM.—

"(A) SYSTEM.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a fully automated electronic travel authorization system (referred to in this paragraph as the 'System') to collect such biographical and other information as the Secretary of Homeland Security determines necessary to determine, in advance of travel, the eligibility of, and whether there exists a law enforcement or security risk in permitting, the alien to travel to the United States.

"(B) FEES.—The Secretary of Homeland Security may charge a fee for the use of the System, which shall be—

"(i) set at a level that will ensure recovery of the full costs of providing and administering the System; and

"(ii) available to pay the costs incurred to administer the System.

"(C) VALIDITY.—

"(i) PERIOD.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall prescribe regulations that provide for a period, not to exceed three years, during which a determination of eligibility to travel under the program will be valid. Notwithstanding any other provision under this section, the Secretary of Homeland Security may revoke any such determination at any time and for any reason.

"(ii) LIMITATION.—A determination by the Secretary of Homeland Security that an alien is eligible to travel to the United States under the program is not a determination that the alien is admissible to the United States.

"(iii) NOT A DETERMINATION OF VISA ELIGIBILITY.—A determination by the Secretary of Homeland Security that an alien who applied for authorization to travel to the United States through the System is not eligible to travel under the program is not a determination of eligibility for a visa to travel to the United States and shall not preclude the alien from applying for a visa.

"(iv) JUDICIAL REVIEW.—Notwithstanding any other provision of law, no court shall have jurisdiction to review an eligibility determination under the System.

"(D) REPORT.—Not later than 60 days before publishing notice regarding the implementation of the System in the Federal Register, the Secretary of Homeland Security shall submit a report regarding the implementation of the system to—

"(i) the Committee on Homeland Security of the House of Representatives;

"(ii) the Committee on the Judiciary of the House of Representatives;

"(iii) the Committee on Foreign Affairs of the House of Representatives;

"(iv) the Permanent Select Committee on Intelligence of the House of Representatives;

"(v) the Committee on Appropriations of the House of Representatives;

"(vi) the Committee on Homeland Security and Governmental Affairs of the Senate;

"(vii) the Committee on the Judiciary of the Senate;

"(viii) the Committee on Foreign Relations of the Senate;

"(ix) the Select Committee on Intelligence of the Senate; and

"(x) the Committee on Appropriations of the Senate."; and

(F) by adding at the end the following new subsection:

"(i) EXIT SYSTEM.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this subsection, the Secretary of Homeland Security shall establish an exit system that records the departure on a flight leaving the United States of every alien participating in the visa waiver program established under this section.

"(2) SYSTEM REQUIREMENTS.—The system established under paragraph (1) shall—

"(A) match biometric information of the alien against relevant watch lists and immigration information; and

"(B) compare such biometric information against manifest information collected by air carriers on passengers departing the United States to confirm such aliens have departed the United States.

"(3) REPORT.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall submit to Congress a report that describes—

"(A) the progress made in developing and deploying the exit system established under this subsection; and

"(B) the procedures by which the Secretary shall improve the method of calculating the rates of nonimmigrants who overstay their authorized period of stay in the United States.".

(2) EFFECTIVE DATE.—Section 217(a)(11) of the Immigration and Nationality Act, as added by paragraph (1)(A)(ii), shall take effect on the date that is 60 days after the date on which the Secretary of Homeland Security publishes notice in the Federal Register of the requirement under such paragraph.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section and the amendments made by this section.

Subtitle C—Strengthening Terrorism Prevention Programs

SEC. 721. STRENGTHENING THE CAPABILITIES OF THE HUMAN SMUGGLING AND TRAFFICKING CENTER.

(a) IN GENERAL.—Section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1777) is amended—

(1) in subsection (c)(1), by striking "address" and inserting "integrate and disseminate intelligence and information related to";

(2) by redesignating subsections (d) and (e) as subsections (g) and (h), respectively; and

(3) by inserting after subsection (c) the following new subsections:

"(d) DIRECTOR.—The Secretary of Homeland Security shall nominate an official of the Government of the United States to serve as the Director of the Center, in accordance with the requirements of the memorandum of understanding entitled the 'Human Smuggling and Trafficking Center (HSTC) Charter'.

"(e) STAFFING OF THE CENTER.—

"(1) IN GENERAL.—The Secretary of Homeland Security, in cooperation with heads of other relevant agencies and departments, shall ensure that the Center is staffed with not fewer than 40 full-time equivalent positions, including, as appropriate, detailees from the following:

"(A) Agencies and offices within the Department of Homeland Security, including the following:

"(i) The Office of Intelligence and Analysis.

"(ii) The Transportation Security Administration.

"(iii) United States Citizenship and Immigration Services.

"(iv) United States Customs and Border Protection.

"(v) The United States Coast Guard.

"(vi) United States Immigration and Customs Enforcement.

"(B) Other departments, agencies, or entities, including the following:

"(i) The Central Intelligence Agency.

"(ii) The Department of Defense.

"(iii) The Department of the Treasury.

"(iv) The National Counterterrorism Center.

"(v) The National Security Agency.

"(vi) The Department of Justice.

"(vii) The Department of State.

"(viii) Any other relevant agency or department.

"(2) EXPERTISE OF DETAILEES.—The Secretary of Homeland Security, in cooperation with the head of each agency, department, or other entity referred to in paragraph (1), shall ensure that the detailees provided to the Center under such paragraph include an adequate number of personnel who are—

"(A) intelligence analysts or special agents with demonstrated experience related to human smuggling, trafficking in persons, or terrorist travel; and

"(B) personnel with experience in the areas of—

"(i) consular affairs;

"(ii) counterterrorism;

"(iii) criminal law enforcement;

"(iv) intelligence analysis;

"(v) prevention and detection of document fraud;

"(vi) border inspection;

"(vii) immigration enforcement; or

"(viii) human trafficking and combating severe forms of trafficking in persons.

"(3) ENHANCED PERSONNEL MANAGEMENT.—

"(A) INCENTIVES FOR SERVICE IN CERTAIN POSITIONS.—

"(i) IN GENERAL.—The Secretary of Homeland Security, and the heads of other relevant agencies, shall prescribe regulations or promulgate personnel policies to provide incentives for service on the staff of the Center, particularly for serving terms of at least two years duration.

"(ii) FORMS OF INCENTIVES.—Incentives under clause (i) may include financial incentives, bonuses, and such other awards and incentives as the Secretary and the heads of other relevant agencies, consider appropriate.

"(B) ENHANCED PROMOTION FOR SERVICE AT THE CENTER.—Notwithstanding any other provision of law, the Secretary of Homeland Security, and the heads of other relevant agencies, shall ensure that personnel who are assigned or detailed to service at the Center shall be considered for promotion at rates equivalent to or better than similarly situated personnel of such agencies who are not so assigned or detailed, except that this subparagraph shall not apply in the case of personnel who are subject to the provisions of the Foreign Service Act of 1980.

"(f) ADMINISTRATIVE SUPPORT AND FUNDING.—The Secretary of Homeland Security shall provide to the Center the administrative support and funding required for its maintenance, including funding for personnel, leasing of office space, supplies, equipment, technology, training, and travel expenses necessary for the Center to carry out its functions.".

(b) REPORT.—Subsection (g) of section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004, as redesignated by subsection (a)(2), is amended to read as follows:

"(g) REPORT.—

"(1) INITIAL REPORT.—Not later than 180 days after December 17, 2004, the President shall transmit to Congress a report regarding the implementation of this section, including a description of the staffing and resource needs of the Center.

"(2) FOLLOW-UP REPORT.—Not later than 180 days after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the President shall transmit to Congress a report regarding the operation of the Center and the activities carried out by the Center, including a description of—

"(A) the roles and responsibilities of each agency or department that is participating in the Center;

"(B) the mechanisms used to share information among each such agency or department;

"(C) the personnel provided to the Center by each such agency or department;

"(D) the type of information and reports being disseminated by the Center;

"(E) any efforts by the Center to create a centralized Federal Government database to store information related to unlawful travel of foreign nationals, including a description of any such database and of the manner in which information utilized in such a database would be collected, stored, and shared;

"(F) how each agency and department shall utilize its resources to ensure that the Center uses intelligence to focus and drive its efforts;

"(G) efforts to consolidate networked systems for the Center;

"(H) the mechanisms for the sharing of homeland security information from the Center to the Office of Intelligence and Analysis, including how such sharing shall be consistent with section 1016(b);

"(I) the ability of participating personnel in the Center to freely access necessary databases and share information regarding issues related to human smuggling, trafficking in persons, and terrorist travel;

"(J) how the assignment of personnel to the Center is incorporated into the civil service career path of such personnel; and

"(K) cooperation and coordination efforts, including any memorandums of understanding, among participating agencies and departments regarding issues related to human smuggling, trafficking in persons, and terrorist travel.".

(c) COORDINATION WITH THE OFFICE OF INTELLIGENCE AND ANALYSIS.—Section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 is amended by adding after subsection (h), as redesignated by subsection (a)(2), the following new subsection:

"(i) COORDINATION WITH THE OFFICE OF INTELLIGENCE AND ANALYSIS.—The Office of Intelligence and Analysis, in coordination with the Center, shall submit to relevant State, local, and tribal law enforcement agencies periodic reports regarding terrorist threats related to human smuggling, human trafficking, and terrorist travel.".

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security $20,000,000 for fiscal year 2008 to carry out section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by this section.

SEC. 722. ENHANCEMENTS TO THE TERRORIST TRAVEL PROGRAM.

Section 7215 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 123) is amended to read as follows:

"SEC. 7215. TERRORIST TRAVEL PROGRAM.

"(a) REQUIREMENT TO ESTABLISH.—Not later than 90 days after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security, in consultation with the Director of the National Counterterrorism Center and consistent with the strategy developed under section 7201, shall establish a program to oversee the

implementation of the Secretary's responsibilities with respect to terrorist travel.

"(b) HEAD OF THE PROGRAM.—The Secretary of Homeland Security shall designate an official of the Department of Homeland Security to be responsible for carrying out the program. Such official shall be—

"(1) the Assistant Secretary for Policy of the Department of Homeland Security; or

"(2) an official appointed by the Secretary who reports directly to the Secretary.

"(c) DUTIES.—The official designated under subsection (b) shall assist the Secretary of Homeland Security in improving the Department's ability to prevent terrorists from entering the United States or remaining in the United States undetected by—

"(1) developing relevant strategies and policies;

"(2) reviewing the effectiveness of existing programs and recommending improvements, if necessary;

"(3) making recommendations on budget requests and on the allocation of funding and personnel;

"(4) ensuring effective coordination, with respect to policies, programs, planning, operations, and dissemination of intelligence and information related to terrorist travel—

"(A) among appropriate subdivisions of the Department of Homeland Security, as determined by the Secretary and including—

"(i) United States Customs and Border Protection;

"(ii) United States Immigration and Customs Enforcement;

"(iii) United States Citizenship and Immigration Services;

"(iv) the Transportation Security Administration; and

"(v) the United States Coast Guard; and

"(B) between the Department of Homeland Security and other appropriate Federal agencies; and

"(5) serving as the Secretary's primary point of contact with the National Counterterrorism Center for implementing initiatives related to terrorist travel and ensuring that the recommendations of the Center related to terrorist travel are carried out by the Department.

"(d) REPORT.—Not later than 180 days after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the implementation of this section.".

SEC. 723. ENHANCED DRIVER'S LICENSE.

Section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended—

(1) in subparagraph (B)—

(A) in clause (vi), by striking "and" at the end;

(B) in clause (vii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new clause:

"(viii) the signing of a memorandum of agreement to initiate a pilot program with not less than one State to determine if an enhanced driver's license, which is machine-readable and tamper proof, not valid for certification of citizenship for any purpose other than admission into the United States from Canada or Mexico, and issued by such State to an individual, may permit the individual to use the driver's license to meet the documentation requirements under subparagraph (A) for entry into the United States from Canada or Mexico at land and sea ports of entry."; and

(2) by adding at the end the following new subparagraph:

"(C) REPORT.—Not later than 180 days after the initiation of the pilot program described in subparagraph (B)(viii), the Secretary of Homeland Security and the Secretary of State shall submit to the appropriate congressional committees a report which includes—

"(i) an analysis of the impact of the pilot program on national security;

"(ii) recommendations on how to expand the pilot program to other States;

"(iii) any appropriate statutory changes to facilitate the expansion of the pilot program to additional States and to citizens of Canada;

"(iv) a plan to screen individuals participating in the pilot program against United States terrorist watch lists; and

"(v) a recommendation for the type of machine-readable technology that should be used in enhanced driver's licenses, based on individual privacy considerations and the costs and feasibility of incorporating any new technology into existing driver's licenses.".

SEC. 724. WESTERN HEMISPHERE TRAVEL INITIATIVE.

Before the Secretary of Homeland Security publishes a final rule in the Federal Register implementing section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note)—

(1) the Secretary of Homeland Security shall complete a cost-benefit analysis of the Western Hemisphere Travel Initiative, authorized under such section 7209; and

(2) the Secretary of State shall develop proposals for reducing the execution fee charged for the passport card, proposed at 71 Fed. Reg. 60928–32 (October 17, 2006), including the use of mobile application teams, during implementation of the land and sea phase of the Western Hemisphere Travel Initiative, in order to encourage United States citizens to apply for the passport card.

SEC. 725. MODEL PORTS-OF-ENTRY.

(a) IN GENERAL.—The Secretary of Homeland Security shall—

(1) establish a model ports-of-entry program for the purpose of providing a more efficient and welcoming international arrival process in order to facilitate and promote business and tourist travel to the United States, while also improving security; and

(2) implement the program initially at the 20 United States international airports that have the highest number of foreign visitors arriving annually as of the date of the enactment of this Act.

(b) PROGRAM ELEMENTS.—The program shall include—

(1) enhanced queue management in the Federal Inspection Services area leading up to primary inspection;

(2) assistance for foreign travelers once they have been admitted to the United States, in consultation, as appropriate, with relevant governmental and nongovernmental entities; and

(3) instructional videos, in English and such other languages as the Secretary determines appropriate, in the Federal Inspection Services area that explain the United States inspection process and feature national, regional, or local welcome videos.

(c) ADDITIONAL CUSTOMS AND BORDER PROTECTION OFFICERS FOR HIGH-VOLUME PORTS.—Subject to the availability of appropriations, not later than the end of fiscal year 2008 the Secretary of Homeland Security shall employ not fewer than an additional 200 Customs and Border Protection officers over the number of such positions for which funds were appropriated for the proceeding fiscal year to address staff shortages at the 20 United States international airports that have the highest number of foreign visitors arriving annually as of the date of the enactment of this Act.

Subtitle D—Miscellaneous Provisions

SEC. 731. REPORT REGARDING BORDER SECURITY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report regarding ongoing initiatives of the Department of Homeland Security to improve security along the northern border of the United States.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) address the vulnerabilities along the northern border of the United States; and

(2) provide recommendations to address such vulnerabilities, including required resources needed to protect the northern border of the United States.

(c) GOVERNMENT ACCOUNTABILITY OFFICE.—Not later than 270 days after the date of the submission of the report under subsection (a), the Comptroller General of the United States shall submit to Congress a report that—

(1) reviews and comments on the report under subsection (a); and

(2) provides recommendations regarding any additional actions necessary to protect the northern border of the United States.

TITLE VIII—PRIVACY AND CIVIL LIBERTIES

SEC. 801. MODIFICATION OF AUTHORITIES RELATING TO PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) MODIFICATION OF AUTHORITIES.—Section 1061 of the National Security Intelligence Reform Act of 2004 (5 U.S.C. 601 note) is amended to read as follows:

"SEC. 1061. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

"(a) IN GENERAL.—There is established as an independent agency within the executive branch a Privacy and Civil Liberties Oversight Board (referred to in this section as the 'Board').

"(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

"(1) In conducting the war on terrorism, the Government may need additional powers and may need to enhance the use of its existing powers.

"(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

"(3) The National Commission on Terrorist Attacks Upon the United States correctly concluded that 'The choice between security and liberty is a false choice, as nothing is more likely to endanger America's liberties than the success of a terrorist attack at home. Our history has shown us that insecurity threatens liberty. Yet, if our liberties are curtailed, we lose the values that we are struggling to defend.'.

"(c) PURPOSE.—The Board shall—

"(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

"(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

"(d) FUNCTIONS.—

"(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

"(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under subsections (d) and (f) of section 1016;

"(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under subsections (d) and (f) of section 1016;

"(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in

the development and implementation of such legislation, regulations, policies, and guidelines; and

"(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the department, agency, or element of the executive branch has established—

"(i) that the need for the power is balanced with the need to protect privacy and civil liberties;

"(ii) that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and

"(iii) that there are adequate guidelines and oversight to properly confine its use.

"(2) OVERSIGHT.—The Board shall continually review—

"(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch relating to efforts to protect the Nation from terrorism to ensure that privacy and civil liberties are protected;

"(B) the information sharing practices of the departments, agencies, and elements of the executive branch relating to efforts to protect the Nation from terrorism to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines issued or developed under subsections (d) and (f) of section 1016 and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

"(C) other actions by the executive branch relating to efforts to protect the Nation from terrorism to determine whether such actions—

"(i) appropriately protect privacy and civil liberties; and

"(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

"(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall—

"(A) receive and review reports and other information from privacy officers and civil liberties officers under section 1062;

"(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

"(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant interagency matters.

"(4) TESTIMONY.—The members of the Board shall appear and testify before Congress upon request.

"(e) REPORTS.—

"(1) IN GENERAL.—The Board shall—

"(A) receive and review reports from privacy officers and civil liberties officers under section 1062; and

"(B) periodically submit, not less than semiannually, reports—

"(i)(I) to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House

of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

"(II) to the President; and

"(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

"(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

"(A) a description of the major activities of the Board during the preceding period;

"(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

"(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

"(D) each proposal reviewed by the Board under subsection (d)(1) that—

"(i) the Board advised against implementation; and

"(ii) notwithstanding such advice, actions were taken to implement; and

"(E) for the preceding period, any requests submitted under subsection (g)(1)(D) for the issuance of subpoenas that were modified or denied by the Attorney General.

"(f) INFORMING THE PUBLIC.—The Board shall—

"(1) make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

"(2) hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

"(g) ACCESS TO INFORMATION.—

"(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

"(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee of any such department, agency, or element, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

"(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee of any such department, agency, or element;

"(C) request information or assistance from any State, tribal, or local government; and

"(D) at the direction of a majority of the members of the Board, submit a written request to the Attorney General of the United States that the Attorney General require, by subpoena, persons (other than departments, agencies, and elements of the executive branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

"(2) REVIEW OF SUBPOENA REQUEST.—

"(A) IN GENERAL.—Not later than 30 days after the date of receipt of a request by the Board under paragraph (1)(D), the Attorney General shall—

"(i) issue the subpoena as requested; or

"(ii) provide the Board, in writing, with an explanation of the grounds on which the subpoena request has been modified or denied.

"(B) NOTIFICATION.—If a subpoena request is modified or denied under subparagraph (A)(ii), the Attorney General shall, not later than 30 days after the date of that modification or denial, notify the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

"(3) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued pursuant to paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

"(4) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

"(h) MEMBERSHIP.—

"(1) MEMBERS.—The Board shall be composed of a full-time chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party. The President shall, before appointing an individual who is not a member of the same political party as the President, consult with the leadership of that party, if any, in the Senate and House of Representatives.

"(3) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected official, officer, or employee of the Federal Government, other than in the capacity as a member of the Board.

"(4) TERM.—Each member of the Board shall serve a term of 6 years, except that—

"(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term; and

"(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph—

"(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

"(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted.

"(5) QUORUM AND MEETINGS.—The Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

"(i) COMPENSATION AND TRAVEL EXPENSES.—

"(1) COMPENSATION.—

"(A) CHAIRMAN.—The chairman of the Board shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(B) MEMBERS.—Each member of the Board shall be compensated at a rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

"(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

"(j) STAFF.—

"(1) APPOINTMENT AND COMPENSATION.—The chairman of the Board, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(2) DETAILEES.—Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

"(3) CONSULTANT SERVICES.—The Board may procure the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code,

at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

"(k) SECURITY CLEARANCES.—

"(1) IN GENERAL.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

"(2) RULES AND PROCEDURES.—After consultation with the Secretary of Defense, the Attorney General, and the Director of National Intelligence, the Board shall adopt rules and procedures of the Board for physical, communications, computer, document, personnel, and other security relating to carrying out the functions of the Board.

"(l) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—The Board—

"(1) is an agency (as defined in section 551(1) of title 5, United States Code); and

"(2) is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)).

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section amounts as follows:

"(1) For fiscal year 2008, $5,000,000.

"(2) For fiscal year 2009, $6,650,000.

"(3) For fiscal year 2010, $8,300,000.

"(4) For fiscal year 2011, $10,000,000.

"(5) For fiscal year 2012 and each subsequent fiscal year, such sums as may be necessary.".

(b) SECURITY RULES AND PROCEDURES.—The Privacy and Civil Liberties Oversight Board shall promptly adopt the security rules and procedures required under section 1061(k)(2) of the National Security Intelligence Reform Act of 2004 (as added by subsection (a) of this section).

(c) TRANSITION PROVISIONS.—

(1) TREATMENT OF INCUMBENT MEMBERS OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.—

(A) CONTINUATION OF SERVICE.—Any individual who is a member of the Privacy and Civil Liberties Oversight Board on the date of enactment of this Act may continue to serve on the Board until 180 days after the date of enactment of this Act.

(B) TERMINATION OF TERMS.—The term of any individual who is a member of the Privacy and Civil Liberties Oversight Board on the date of enactment of this Act shall terminate 180 days after the date of enactment of this Act.

(2) APPOINTMENTS.—

(A) IN GENERAL.—The President and the Senate shall take such actions as necessary for the President, by and with the advice and consent of the Senate, to appoint members to the Privacy and Civil Liberties Oversight Board as constituted under the amendments made by subsection (a) in a timely manner to provide for the continuing operation of the Board and orderly implementation of this section.

(B) DESIGNATIONS.—In making the appointments described under subparagraph (A) of the first members of the Privacy and Civil Liberties Oversight Board as constituted under the amendments made by subsection (a), the President shall provide for the members to serve terms of 2, 3, 4, 5, and 6 years beginning on the effective date described under subsection (d)(1), with the term of each such member to be designated by the President.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) and subsection (b) shall take effect 180 days after the date of enactment of this Act.

(2) TRANSITION PROVISIONS.—Subsection (c) shall take effect on the date of enactment of this Act.

SEC. 802. DEPARTMENT PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) by inserting "(a) APPOINTMENT AND RESPONSIBILITIES.—" before "The Secretary"; and

(2) by adding at the end the following:

"(b) AUTHORITY TO INVESTIGATE.—

"(1) IN GENERAL.—The senior official appointed under subsection (a) may—

"(A) have access to all records, reports, audits, reviews, documents, papers, recommendations, and other materials available to the Department that relate to programs and operations with respect to the responsibilities of the senior official under this section;

"(B) make such investigations and reports relating to the administration of the programs and operations of the Department as are, in the senior official's judgment, necessary or desirable;

"(C) subject to the approval of the Secretary, require by subpoena the production, by any person other than a Federal agency, of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to performance of the responsibilities of the senior official under this section; and

"(D) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary to performance of the responsibilities of the senior official under this section.

"(2) ENFORCEMENT OF SUBPOENAS.—Any subpoena issued under paragraph (1)(C) shall, in the case of contumacy or refusal to obey, be enforceable by order of any appropriate United States district court.

"(3) EFFECT OF OATHS.—Any oath, affirmation, or affidavit administered or taken under paragraph (1)(D) by or before an employee of the Privacy Office designated for that purpose by the senior official appointed under subsection (a) shall have the same force and effect as if administered or taken by or before an officer having a seal of office.

"(c) SUPERVISION AND COORDINATION.—

"(1) IN GENERAL.—The senior official appointed under subsection (a) shall—

"(A) report to, and be under the general supervision of, the Secretary; and

"(B) coordinate activities with the Inspector General of the Department in order to avoid duplication of effort.

"(2) COORDINATION WITH THE INSPECTOR GENERAL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the senior official appointed under subsection (a) may investigate any matter relating to possible violations or abuse concerning the administration of any program or operation of the Department relevant to the purposes under this section.

"(B) COORDINATION.—

"(i) REFERRAL.—Before initiating any investigation described under subparagraph (A), the senior official shall refer the matter and all related complaints, allegations, and information to the Inspector General of the Department.

"(ii) DETERMINATIONS AND NOTIFICATIONS BY THE INSPECTOR GENERAL.—

"(I) IN GENERAL.—Not later than 30 days after the receipt of a matter referred under clause (i), the Inspector General shall—

"(aa) make a determination regarding whether the Inspector General intends to initiate an audit or investigation of the matter referred under clause (i); and

"(bb) notify the senior official of that determination.

"(II) INVESTIGATION NOT INITIATED.—If the Inspector General notifies the senior official under subclause (I)(bb) that the Inspector General intended to initiate an audit or investigation, but does not initiate that audit or investigation within 90 days after providing that notification, the Inspector General shall further notify the senior official that an audit or investigation was not initiated. The further notification under this subclause shall be made not later than 3 days after the end of that 90-day period.

"(iii) INVESTIGATION BY SENIOR OFFICIAL.—The senior official may investigate a matter referred under clause (i) if—

"(I) the Inspector General notifies the senior official under clause (ii)(I)(bb) that the Inspector General does not intend to initiate an audit or investigation relating to that matter; or

"(II) the Inspector General provides a further notification under clause (ii)(II) relating to that matter.

"(iv) PRIVACY TRAINING.—Any employee of the Office of Inspector General who audits or investigates any matter referred under clause (i) shall be required to receive adequate training on privacy laws, rules, and regulations, to be provided by an entity approved by the Inspector General in consultation with the senior official appointed under subsection (a).

"(d) NOTIFICATION TO CONGRESS ON REMOVAL.—If the Secretary removes the senior official appointed under subsection (a) or transfers that senior official to another position or location within the Department, the Secretary shall—

"(1) promptly submit a written notification of the removal or transfer to Houses of Congress; and

"(2) include in any such notification the reasons for the removal or transfer.

"(e) REPORTS BY SENIOR OFFICIAL TO CONGRESS.—The senior official appointed under subsection (a) shall—

"(1) submit reports directly to the Congress regarding performance of the responsibilities of the senior official under this section, without any prior comment or amendment by the Secretary, Deputy Secretary, or any other officer or employee of the Department or the Office of Management and Budget; and

"(2) inform the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives not later than—

"(A) 30 days after the Secretary disapproves the senior official's request for a subpoena under subsection (b)(1)(C) or the Secretary substantively modifies the requested subpoena; or

"(B) 45 days after the senior official's request for a subpoena under subsection (b)(1)(C), if that subpoena has not either been approved or disapproved by the Secretary.".

SEC. 803. PRIVACY AND CIVIL LIBERTIES OFFICERS.

(a) IN GENERAL.—Section 1062 of the National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458; 118 Stat. 3688) is amended to read as follows:

"SEC. 1062. PRIVACY AND CIVIL LIBERTIES OFFICERS.

"(a) DESIGNATION AND FUNCTIONS.—The Attorney General, the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, the Secretary of Health and Human Services, the Secretary of Homeland Security, the Director of National Intelligence, the Director of the Central Intelligence Agency, and the head of any other department, agency, or element of the executive branch designated by the Privacy and Civil Liberties Oversight Board under section 1061 to be appropriate for coverage under this section shall designate not less than 1 senior officer to serve as the principal advisor to—

"(1) assist the head of such department, agency, or element and other officials of such department, agency, or element in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;

"(2) periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;

"(3) ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and

redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and

"(4) in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has established—

"(A) that the need for the power is balanced with the need to protect privacy and civil liberties;

"(B) that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and

"(C) that there are adequate guidelines and oversight to properly confine its use.

"(b) EXCEPTION TO DESIGNATION AUTHORITY.—

"(1) PRIVACY OFFICERS.—In any department, agency, or element referred to in subsection (a) or designated by the Privacy and Civil Liberties Oversight Board, which has a statutorily created privacy officer, such officer shall perform the functions specified in subsection (a) with respect to privacy.

"(2) CIVIL LIBERTIES OFFICERS.—In any department, agency, or element referred to in subsection (a) or designated by the Board, which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) with respect to civil liberties.

"(c) SUPERVISION AND COORDINATION.—Each privacy officer or civil liberties officer described in subsection (a) or (b) shall—

"(1) report directly to the head of the department, agency, or element concerned; and

"(2) coordinate their activities with the Inspector General of such department, agency, or element to avoid duplication of effort.

"(d) AGENCY COOPERATION.—The head of each department, agency, or element shall ensure that each privacy officer and civil liberties officer—

"(1) has the information, material, and resources necessary to fulfill the functions of such officer;

"(2) is advised of proposed policy changes;

"(3) is consulted by decision makers; and

"(4) is given access to material and personnel the officer determines to be necessary to carry out the functions of such officer.

"(e) REPRISAL FOR MAKING COMPLAINT.—No action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to a privacy officer or civil liberties officer described in subsection (a) or (b), or to the Privacy and Civil Liberties Oversight Board, that indicates a possible violation of privacy protections or civil liberties in the administration of the programs and operations of the Federal Government relating to efforts to protect the Nation from terrorism shall be taken by any Federal employee in a position to take such action, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

"(f) PERIODIC REPORTS.—

"(1) IN GENERAL.—The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) shall periodically, but

not less than quarterly, submit a report on the activities of such officers—

"(A)(i) to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;

"(ii) to the head of such department, agency, or element; and

"(iii) to the Privacy and Civil Liberties Oversight Board; and

"(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

"(2) CONTENTS.—Each report submitted under paragraph (1) shall include information on the discharge of each of the functions of the officer concerned, including—

"(A) information on the number and types of reviews undertaken;

"(B) the type of advice provided and the response given to such advice;

"(C) the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and

"(D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

"(g) INFORMING THE PUBLIC.—Each privacy officer and civil liberties officer shall—

"(1) make the reports of such officer, including reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

"(2) otherwise inform the public of the activities of such officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.

"(h) SAVINGS CLAUSE.—Nothing in this section shall be construed to limit or otherwise supplant any other authorities or responsibilities provided by law to privacy officers or civil liberties officers.".

(b) CLERICAL AMENDMENT.—The table of contents for the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is amended by striking the item relating to section 1062 and inserting the following new item:

"Sec. 1062. Privacy and civil liberties officers.".

SEC. 804. FEDERAL AGENCY DATA MINING REPORTING ACT OF 2007.

(a) SHORT TITLE.—This section may be cited as the "Federal Agency Data Mining Reporting Act of 2007".

(b) DEFINITIONS.—In this section:

(1) DATA MINING.—The term "data mining" means a program involving pattern-based queries, searches, or other analyses of 1 or more electronic databases, where—

(A) a department or agency of the Federal Government, or a non-Federal entity acting on behalf of the Federal Government, is conducting the queries, searches, or other analyses to discover or locate a predictive pattern or anomaly indicative of terrorist or criminal activity on the part of any individual or individuals;

(B) the queries, searches, or other analyses are not subject-based and do not use personal identifiers of a specific individual, or inputs associated with a specific individual or group of individuals, to retrieve information from the database or databases; and

(C) the purpose of the queries, searches, or other analyses is not solely—

(i) the detection of fraud, waste, or abuse in a Government agency or program; or

(ii) the security of a Government computer system.

(2) DATABASE.—The term "database" does not include telephone directories, news reporting, information publicly available to any member of the public without payment of a fee, or databases of judicial and administrative opinions or other legal research sources.

(c) REPORTS ON DATA MINING ACTIVITIES BY FEDERAL AGENCIES.—

(1) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data mining shall submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be produced in coordination with the privacy officer of that department or agency, if applicable, and shall be made available to the public, except for an annex described in subparagraph (C).

(2) CONTENT OF REPORT.—Each report submitted under subparagraph (A) shall include, for each activity to use or develop data mining, the following information:

(A) A thorough description of the data mining activity, its goals, and, where appropriate, the target dates for the deployment of the data mining activity.

(B) A thorough description of the data mining technology that is being used or will be used, including the basis for determining whether a particular pattern or anomaly is indicative of terrorist or criminal activity.

(C) A thorough description of the data sources that are being or will be used.

(D) An assessment of the efficacy or likely efficacy of the data mining activity in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the data mining activity.

(E) An assessment of the impact or likely impact of the implementation of the data mining activity on the privacy and civil liberties of individuals, including a thorough description of the actions that are being taken or will be taken with regard to the property, privacy, or other rights or privileges of any individual or individuals as a result of the implementation of the data mining activity.

(F) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used in conjunction with the data mining activity, to the extent applicable in the context of the data mining activity.

(G) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such data mining activity in order to—

(i) protect the privacy and due process rights of individuals, such as redress procedures; and

(ii) ensure that only accurate and complete information is collected, reviewed, gathered, analyzed, or used, and guard against any harmful consequences of potential inaccuracies.

(3) ANNEX.—

(A) IN GENERAL.—A report under subparagraph (A) shall include in an annex any necessary—

(i) classified information;

(ii) law enforcement sensitive information;

(iii) proprietary business information; or

(iv) trade secrets (as that term is defined in section 1839 of title 18, United States Code).

(B) AVAILABILITY.—Any annex described in clause (i)—

(i) shall be available, as appropriate, and consistent with the National Security Act of 1947 (50 U.S.C. 401 et seq.), to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives; and

(ii) shall not be made available to the public.

(4) TIME FOR REPORT.—Each report required under subparagraph (A) shall be—

(A) submitted not later than 180 days after the date of enactment of this Act; and

(B) updated not less frequently than annually thereafter, to include any activity to use or develop data mining engaged in after the date of the prior report submitted under subparagraph (A).

TITLE IX—PRIVATE SECTOR PREPAREDNESS

SEC. 901. PRIVATE SECTOR PREPAREDNESS.

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by section 409, is further amended by adding at the end the following:

"SEC. 523. GUIDANCE AND RECOMMENDATIONS.

"(a) IN GENERAL.—Consistent with their responsibilities and authorities under law, as of the day before the date of the enactment of this section, the Administrator and the Assistant Secretary for Infrastructure Protection, in consultation with the private sector, may develop guidance or recommendations and identify best practices to assist or foster action by the private sector in—

"(1) identifying potential hazards and assessing risks and impacts;

"(2) mitigating the impact of a wide variety of hazards, including weapons of mass destruction;

"(3) managing necessary emergency preparedness and response resources;

"(4) developing mutual aid agreements;

"(5) developing and maintaining emergency preparedness and response plans, and associated operational procedures;

"(6) developing and conducting training and exercises to support and evaluate emergency preparedness and response plans and operational procedures;

"(7) developing and conducting training programs for security guards to implement emergency preparedness and response plans and operations procedures; and

"(8) developing procedures to respond to requests for information from the media or the public.

"(b) ISSUANCE AND PROMOTION.—Any guidance or recommendations developed or best practices identified under subsection (a) shall be—

"(1) issued through the Administrator; and

"(2) promoted by the Secretary to the private sector.

"(c) SMALL BUSINESS CONCERNS.—In developing guidance or recommendations or identifying best practices under subsection (a), the Administrator and the Assistant Secretary for Infrastructure Protection shall take into consideration small business concerns (under the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632)), including any need for separate guidance or recommendations or best practices, as necessary and appropriate.

"(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to supersede any requirement established under any other provision of law.

"SEC. 524. VOLUNTARY PRIVATE SECTOR PREPAREDNESS ACCREDITATION AND CERTIFICATION PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, acting through the officer designated under paragraph (2), shall establish and implement the voluntary private sector preparedness accreditation and certification program in accordance with this section.

"(2) DESIGNATION OF OFFICER.—The Secretary shall designate an officer responsible for the accreditation and certification program under this section. Such officer (hereinafter referred to in this section as the 'designated officer') shall be one of the following:

"(A) The Administrator, based on consideration of—

"(i) the expertise of the Administrator in emergency management and preparedness in the United States; and

"(ii) the responsibilities of the Administrator as the principal advisor to the President for all matters relating to emergency management in the United States.

"(B) The Assistant Secretary for Infrastructure Protection, based on consideration of the expertise of the Assistant Secretary in, and responsibilities for—

"(i) protection of critical infrastructure;

"(ii) risk assessment methodologies; and

"(iii) interacting with the private sector on the issues described in clauses (i) and (ii).

"(C) The Under Secretary for Science and Technology, based on consideration of the expertise of the Under Secretary in, and responsibilities associated with, standards.

"(3) COORDINATION.—In carrying out the accreditation and certification program under this section, the designated officer shall coordinate with—

"(A) the other officers of the Department referred to in paragraph (2), using the expertise and responsibilities of such officers; and

"(B) the Special Assistant to the Secretary for the Private Sector, based on consideration of the expertise of the Special Assistant in, and responsibilities for, interacting with the private sector.

"(b) VOLUNTARY PRIVATE SECTOR PREPAREDNESS STANDARDS; VOLUNTARY ACCREDITATION AND CERTIFICATION PROGRAM FOR THE PRIVATE SECTOR.—

"(1) ACCREDITATION AND CERTIFICATION PROGRAM.—Not later than 210 days after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the designated officer shall—

"(A) begin supporting the development and updating, as necessary, of voluntary preparedness standards through appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards and voluntary consensus standards development organizations; and

"(B) in consultation with representatives of appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards, appropriate voluntary consensus standards development organizations, each private sector advisory council created under section 102(f)(4), appropriate representatives of State and local governments, including emergency management officials, and appropriate private sector advisory groups, such as sector coordinating councils and information sharing and analysis centers—

"(i) develop and promote a program to certify the preparedness of private sector entities that voluntarily choose to seek certification under the program; and

"(ii) implement the program under this subsection through any entity with which the designated officer enters into an agreement under paragraph (3)(A), which shall accredit third parties to carry out the certification process under this section.

"(2) PROGRAM ELEMENTS.—

"(A) IN GENERAL.—

"(i) PROGRAM.—The program developed and implemented under this subsection shall assess whether a private sector entity complies with voluntary preparedness standards.

"(ii) GUIDELINES.—In developing the program under this subsection, the designated officer shall develop guidelines for the accreditation and certification processes established under this subsection.

"(B) STANDARDS.—The designated officer, in consultation with representatives of appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards, representatives of appropriate voluntary consensus standards development organizations, each private sector advisory council created under section 102(f)(4), appropriate representatives of State and local governments, including emergency management officials, and appropriate private sector advisory groups such as sector coordinating councils and information sharing and analysis centers—

"(i) shall adopt one or more appropriate voluntary preparedness standards that promote preparedness, which may be tailored to address the unique nature of various sectors within the private sector, as necessary and appropriate, that shall be used in the accreditation and certification program under this subsection; and

"(ii) after the adoption of one or more standards under clause (i), may adopt additional voluntary preparedness standards or modify or discontinue the use of voluntary preparedness standards for the accreditation and certification program, as necessary and appropriate to promote preparedness.

"(C) SUBMISSION OF RECOMMENDATIONS.—In adopting one or more standards under subparagraph (B), the designated officer may receive recommendations from any entity described in that subparagraph relating to appropriate voluntary preparedness standards, including appropriate sector specific standards, for adoption in the program.

"(D) SMALL BUSINESS CONCERNS.—The designated officer and any entity with which the designated officer enters into an agreement under paragraph (3)(A) shall establish separate classifications and methods of certification for small business concerns (under the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632)) for the program under this subsection.

"(E) CONSIDERATIONS.—In developing and implementing the program under this subsection, the designated officer shall—

"(i) consider the unique nature of various sectors within the private sector, including preparedness standards, business continuity standards, or best practices, established—

"(I) under any other provision of Federal law; or

"(II) by any sector-specific agency, as defined under Homeland Security Presidential Directive–7; and

"(ii) coordinate the program, as appropriate, with—

"(I) other Department private sector related programs; and

"(II) preparedness and business continuity programs in other Federal agencies.

"(3) ACCREDITATION AND CERTIFICATION PROCESSES.—

"(A) AGREEMENT.—

"(i) IN GENERAL.—Not later than 210 days after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the designated officer shall enter into one or more agreements with a highly qualified nongovernmental entity with experience or expertise in coordinating and facilitating the development and use of voluntary consensus standards and in managing or implementing accreditation and certification programs for voluntary consensus standards, or a similarly qualified private sector entity, to carry out accreditations and oversee the certification process under this subsection. An entity entering into an agreement with the designated officer under this clause (hereinafter referred to in this section as a 'selected entity') shall not perform certifications under this subsection.

"(ii) CONTENTS.—A selected entity shall manage the accreditation process and oversee the certification process in accordance with the program established under this subsection and accredit qualified third parties to carry out the certification program established under this subsection.

"(B) PROCEDURES AND REQUIREMENTS FOR ACCREDITATION AND CERTIFICATION.—

"(i) IN GENERAL.—Any selected entity shall collaborate to develop procedures and requirements for the accreditation and certification processes under this subsection, in accordance with the program established under this subsection and guidelines developed under paragraph (2)(A)(ii).

"(ii) CONTENTS AND USE.—The procedures and requirements developed under clause (i) shall—

"(I) ensure reasonable uniformity in any accreditation and certification processes if there is more than one selected entity; and

"(II) be used by any selected entity in conducting accreditations and overseeing the certification process under this subsection.

"(iii) DISAGREEMENT.—Any disagreement among selected entities in developing procedures under clause (i) shall be resolved by the designated officer.

"(C) DESIGNATION.—A selected entity may accredit any qualified third party to carry out the certification process under this subsection.

"(D) DISADVANTAGED BUSINESS INVOLVEMENT.—In accrediting qualified third parties to carry out the certification process under this subsection, a selected entity shall

ensure, to the extent practicable, that the third parties include qualified small, minority, women-owned, or disadvantaged business concerns when appropriate. The term 'disadvantaged business concern' means a small business that is owned and controlled by socially and economically disadvantaged individuals, as defined in section 124 of title 13, United States Code of Federal Regulations.

"(E) TREATMENT OF OTHER CERTIFICATIONS.—At the request of any entity seeking certification, any selected entity may consider, as appropriate, other relevant certifications acquired by the entity seeking certification. If the selected entity determines that such other certifications are sufficient to meet the certification requirement or aspects of the certification requirement under this section, the selected entity may give credit to the entity seeking certification, as appropriate, to avoid unnecessarily duplicative certification requirements.

"(F) THIRD PARTIES.—To be accredited under subparagraph (C), a third party shall—

"(i) demonstrate that the third party has the ability to certify private sector entities in accordance with the procedures and requirements developed under subparagraph (B);

"(ii) agree to perform certifications in accordance with such procedures and requirements;

"(iii) agree not to have any beneficial interest in or any direct or indirect control over—

"(I) a private sector entity for which that third party conducts a certification under this subsection; or

"(II) any organization that provides preparedness consulting services to private sector entities;

"(iv) agree not to have any other conflict of interest with respect to any private sector entity for which that third party conducts a certification under this subsection;

"(v) maintain liability insurance coverage at policy limits in accordance with the requirements developed under subparagraph (B); and

"(vi) enter into an agreement with the selected entity accrediting that third party to protect any proprietary information of a private sector entity obtained under this subsection.

"(G) MONITORING.—

"(i) IN GENERAL.—The designated officer and any selected entity shall regularly monitor and inspect the operations of any third party conducting certifications under this subsection to ensure that the third party is complying with the procedures and requirements established under subparagraph (B) and all other applicable requirements.

"(ii) REVOCATION.—If the designated officer or any selected entity determines that a third party is not meeting the procedures or requirements established under subparagraph (B), the selected entity shall—

"(I) revoke the accreditation of that third party to conduct certifications under this subsection; and

"(II) review any certification conducted by that third party, as necessary and appropriate.

"(4) ANNUAL REVIEW.—

"(A) IN GENERAL.—The designated officer, in consultation with representatives of appropriate organizations that coordinate or facilitate the development and use of voluntary consensus standards, appropriate voluntary consensus standards development organizations, appropriate representatives of State and local governments, including emergency management officials, and each private sector advisory council created under section 102(f)(4), shall annually review the voluntary accreditation and certification program established under this subsection to ensure the effectiveness of such program (including the operations and management of such program by any selected entity and the selected entity's inclusion of qualified disadvantaged business concerns under paragraph (3)(D)) and make improvements and adjustments to the program as necessary and appropriate.

"(B) REVIEW OF STANDARDS.—Each review under subparagraph (A) shall include an assessment of the voluntary preparedness standard or standards used in the program under this subsection.

"(5) VOLUNTARY PARTICIPATION.—Certification under this subsection shall be voluntary for any private sector entity.

"(6) PUBLIC LISTING.—The designated officer shall maintain and make public a listing of any private sector entity certified as being in compliance with the program established under this subsection, if that private sector entity consents to such listing.

"(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed as—

"(1) a requirement to replace any preparedness, emergency response, or business continuity standards, requirements, or best practices established—

"(A) under any other provision of federal law; or

"(B) by any sector-specific agency, as those agencies are defined under Homeland Security Presidential Directive–7; or

"(2) exempting any private sector entity seeking certification or meeting certification requirements under subsection (b) from compliance with all applicable statutes, regulations, directives, policies, and industry codes of practice.".

(b) REPORT TO CONGRESS.—Not later than 210 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives a report detailing—

(1) any action taken to implement section 524(b) of the Homeland Security Act of 2002, as added by subsection (a), including a discussion of—

(A) the separate methods of classification and certification for small business concerns (under the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632)) as compared to other private sector entities; and

(B) whether the separate classifications and methods of certification for small business concerns are likely to help to ensure that such measures are not overly burdensome and are adequate to meet the voluntary preparedness standard or standards adopted by the program under section 524(b) of the Homeland Security Act of 2002, as added by subsection (a); and

(2) the status, as of the date of that report, of the implementation of that subsection.

(c) DEADLINE FOR DESIGNATION OF OFFICER.—The Secretary of Homeland Security shall designate the officer as described in section 524 of the Homeland Security Act of 2002, as added by subsection (a), by not later than 30 days after the date of the enactment of this Act.

(d) DEFINITION.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

"(18) The term 'voluntary preparedness standards' means a common set of criteria for preparedness, disaster management, emergency management, and business continuity programs, such as the American National Standards Institute's National Fire Protection Association Standard on Disaster/Emergency Management and Business Continuity Programs (ANSI/NFPA 1600).".

(e) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of such Act is further amended by adding at the end the following:

"Sec. 523. Guidance and recommendations.

"Sec. 524. Voluntary private sector preparedness accreditation and certification program.".

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 902. RESPONSIBILITIES OF THE PRIVATE SECTOR OFFICE OF THE DEPARTMENT.

(a) IN GENERAL.—Section 102(f) of the Homeland Security Act of 2002 (6 U.S.C. 112(f)) is amended—

(1) by redesignating paragraphs (8) through (10) as paragraphs (9) through (11), respectively; and

(2) by inserting after paragraph (7) the following:

"(8) providing information to the private sector regarding voluntary preparedness standards and the business justification for preparedness and promoting to the private sector the adoption of voluntary preparedness standards;".

(b) PRIVATE SECTOR ADVISORY COUNCILS.—Section 102(f)(4) of the Homeland Security Act of 2002 (6 U.S.C. 112(f)(4)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by inserting "and" after the semicolon at the end; and

(3) by adding at the end the following:

"(C) advise the Secretary on private sector preparedness issues, including effective methods for—

"(i) promoting voluntary preparedness standards to the private sector; and

"(ii) assisting the private sector in adopting voluntary preparedness standards;".

TITLE X—IMPROVING CRITICAL INFRASTRUCTURE SECURITY

SEC. 1001. NATIONAL ASSET DATABASE.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002, as amended by title V, is further amended by adding at the end the following new section:

"SEC. 210E. NATIONAL ASSET DATABASE.

"(a) ESTABLISHMENT.—

"(1) NATIONAL ASSET DATABASE.—The Secretary shall establish and maintain a national database of each system or asset that—

"(A) the Secretary, in consultation with appropriate homeland security officials of the States, determines to be vital and the loss, interruption, incapacity, or destruction of which would have a negative or debilitating effect on the economic security, public health, or safety of the United States, any State, or any local government; or

"(B) the Secretary determines is appropriate for inclusion in the database.

"(2) PRIORITIZED CRITICAL INFRASTRUCTURE LIST.—In accordance with Homeland Security Presidential Directive–7, as in effect on January 1, 2007, the Secretary shall establish and maintain a single classified prioritized list of systems and assets included in the database under paragraph (1) that the Secretary determines would, if destroyed or disrupted, cause national or regional catastrophic effects.

"(b) USE OF DATABASE.—The Secretary shall use the database established under subsection (a)(1) in the development and implementation of Department plans and programs as appropriate.

"(c) MAINTENANCE OF DATABASE.—

"(1) IN GENERAL.—The Secretary shall maintain and annually update the database established under subsection (a)(1) and the list established under subsection (a)(2), including—

"(A) establishing data collection guidelines and providing such guidelines to the appropriate homeland security official of each State;

"(B) regularly reviewing the guidelines established under subparagraph (A), including by consulting with the appropriate homeland security officials of States, to solicit feedback about the guidelines, as appropriate;

"(C) after providing the homeland security official of a State with the guidelines under subparagraph (A), allowing the official a reasonable amount of time to submit to the Secretary any data submissions recommended by the official for inclusion in the database established under subsection (a)(1);

"(D) examining the contents and identifying any submissions made by such an official that are described incorrectly or that do not meet the guidelines established under subparagraph (A); and

"(E) providing to the appropriate homeland security official of each relevant State a list of submissions identified under subparagraph (D) for review and possible correction

before the Secretary finalizes the decision of which submissions will be included in the database established under subsection (a)(1).

"(2) ORGANIZATION OF INFORMATION IN DATABASE.—The Secretary shall organize the contents of the database established under subsection (a)(1) and the list established under subsection (a)(2) as the Secretary determines is appropriate. Any organizational structure of such contents shall include the categorization of the contents—

"(A) according to the sectors listed in National Infrastructure Protection Plan developed pursuant to Homeland Security Presidential Directive–7; and

"(B) by the State and county of their location.

"(3) PRIVATE SECTOR INTEGRATION.—The Secretary shall identify and evaluate methods, including the Department's Protected Critical Infrastructure Information Program, to acquire relevant private sector information for the purpose of using that information to generate any database or list, including the database established under subsection (a)(1) and the list established under subsection (a)(2).

"(4) RETENTION OF CLASSIFICATION.—The classification of information required to be provided to Congress, the Department, or any other department or agency under this section by a sector-specific agency, including the assignment of a level of classification of such information, shall be binding on Congress, the Department, and that other Federal agency.

"(d) REPORTS.—

"(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and annually thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the database established under subsection (a)(1) and the list established under subsection (a)(2).

"(2) CONTENTS OF REPORT.—Each such report shall include the following:

"(A) The name, location, and sector classification of each of the systems and assets on the list established under subsection (a)(2).

"(B) The name, location, and sector classification of each of the systems and assets on such list that are determined by the Secretary to be most at risk to terrorism.

"(C) Any significant challenges in compiling the list of the systems and assets included on such list or in the database established under subsection (a)(1).

"(D) Any significant changes from the preceding report in the systems and assets included on such list or in such database.

"(E) If appropriate, the extent to which such database and such list have been used, individually or jointly, for allocating funds by the Federal Government to prevent, reduce, mitigate, or respond to acts of terrorism.

"(F) The amount of coordination between the Department and the private sector, through any entity of the Department that meets with representatives of private sector industries for purposes of such coordination, for the

purpose of ensuring the accuracy of such database and such list.

"(G) Any other information the Secretary deems relevant.

"(3) CLASSIFIED INFORMATION.—The report shall be submitted in unclassified form but may contain a classified annex.

"(e) INSPECTOR GENERAL STUDY.—By not later than two years after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department shall conduct a study of the implementation of this section.

"(f) NATIONAL INFRASTRUCTURE PROTECTION CONSORTIUM.—The Secretary may establish a consortium to be known as the 'National Infrastructure Protection Consortium'. The Consortium may advise the Secretary on the best way to identify, generate, organize, and maintain any database or list of systems and assets established by the Secretary, including the database established under subsection (a)(1) and the list established under subsection (a)(2). If the Secretary establishes the National Infrastructure Protection Consortium, the Consortium may—

"(1) be composed of national laboratories, Federal agencies, State and local homeland security organizations, academic institutions, or national Centers of Excellence that have demonstrated experience working with and identifying critical infrastructure and key resources; and

"(2) provide input to the Secretary on any request pertaining to the contents of such database or such list.".

(b) DEADLINES FOR IMPLEMENTATION AND NOTIFICATION OF CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit the first report required under section 210E(d) of the Homeland Security Act of 2002, as added by subsection (a).

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is further amended by inserting after the item relating to section 210D the following:

"Sec. 210E. National Asset Database.".

SEC. 1002. RISK ASSESSMENTS AND REPORT.

(a) RISK ASSESSMENTS.—Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following new paragraph:

"(25) To prepare and submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security in the House of Representatives, and to other appropriate congressional committees having jurisdiction over the critical infrastructure or key resources, for each sector identified in the National Infrastructure Protection Plan, a report on the comprehensive assessments carried out by the Secretary of the critical infrastructure and key resources of the United States, evaluating threat, vulnerability, and consequence, as required under this subsection. Each such report—

"(A) shall contain, if applicable, actions or countermeasures recommended or taken by the Secretary or the head of another Federal agency to address issues identified in the assessments;

"(B) shall be required for fiscal year 2007 and each subsequent fiscal year and shall be submitted not later

than 35 days after the last day of the fiscal year covered by the report; and

"(C) may be classified.".

(b) REPORT ON INDUSTRY PREPAREDNESS.—Not later than 6 months after the last day of fiscal year 2007 and each subsequent fiscal year, the Secretary of Homeland Security, in cooperation with the Secretary of Commerce, the Secretary of Transportation, the Secretary of Defense, and the Secretary of Energy, shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Financial Services and the Committee on Homeland Security of the House of Representatives a report that details the actions taken by the Federal Government to ensure, in accordance with subsections (a) and (c) of section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071), the preparedness of industry to reduce interruption of critical infrastructure and key resource operations during an act of terrorism, natural catastrophe, or other similar national emergency.

SEC. 1003. SENSE OF CONGRESS REGARDING THE INCLUSION OF LEVEES IN THE NATIONAL INFRASTRUCTURE PROTECTION PLAN.

It is the sense of Congress that the Secretary should ensure that levees are included in one of the critical infrastructure and key resources sectors identified in the National Infrastructure Protection Plan.

TITLE XI—ENHANCED DEFENSES AGAINST WEAPONS OF MASS DESTRUCTION

SEC. 1101. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

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

"SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

"(a) ESTABLISHMENT.—The Secretary shall establish, operate, and maintain a National Biosurveillance Integration Center (referred to in this section as the 'NBIC'), which shall be headed by a Directing Officer, under an office or directorate of the Department that is in existence as of the date of the enactment of this section.

"(b) PRIMARY MISSION.—The primary mission of the NBIC is to—

"(1) enhance the capability of the Federal Government to—

"(A) rapidly identify, characterize, localize, and track a biological event of national concern by integrating and analyzing data relating to human health, animal, plant, food, and environmental monitoring systems (both national and international); and

"(B) disseminate alerts and other information to Member Agencies and, in coordination with (and where possible through) Member Agencies, to agencies of State, local, and tribal governments, as appropriate, to enhance

the ability of such agencies to respond to a biological event of national concern; and

"(2) oversee development and operation of the National Biosurveillance Integration System.

"(c) REQUIREMENTS.—The NBIC shall detect, as early as possible, a biological event of national concern that presents a risk to the United States or the infrastructure or key assets of the United States, including by—

"(1) consolidating data from all relevant surveillance systems maintained by Member Agencies to detect biological events of national concern across human, animal, and plant species;

"(2) seeking private sources of surveillance, both foreign and domestic, when such sources would enhance coverage of critical surveillance gaps;

"(3) using an information technology system that uses the best available statistical and other analytical tools to identify and characterize biological events of national concern in as close to real-time as is practicable;

"(4) providing the infrastructure for such integration, including information technology systems and space, and support for personnel from Member Agencies with sufficient expertise to enable analysis and interpretation of data;

"(5) working with Member Agencies to create information technology systems that use the minimum amount of patient data necessary and consider patient confidentiality and privacy issues at all stages of development and apprise the Privacy Officer of such efforts; and

"(6) alerting Member Agencies and, in coordination with (and where possible through) Member Agencies, public health agencies of State, local, and tribal governments regarding any incident that could develop into a biological event of national concern.

"(d) RESPONSIBILITIES OF THE DIRECTING OFFICER OF THE NBIC.—

"(1) IN GENERAL.—The Directing Officer of the NBIC shall—

"(A) on an ongoing basis, monitor the availability and appropriateness of surveillance systems used by the NBIC and those systems that could enhance biological situational awareness or the overall performance of the NBIC;

"(B) on an ongoing basis, review and seek to improve the statistical and other analytical methods used by the NBIC;

"(C) receive and consider other relevant homeland security information, as appropriate; and

"(D) provide technical assistance, as appropriate, to all Federal, regional, State, local, and tribal government entities and private sector entities that contribute data relevant to the operation of the NBIC.

"(2) ASSESSMENTS.—The Directing Officer of the NBIC shall—

"(A) on an ongoing basis, evaluate available data for evidence of a biological event of national concern; and

"(B) integrate homeland security information with NBIC data to provide overall situational awareness and determine whether a biological event of national concern has occurred.

"(3) INFORMATION SHARING.—

"(A) IN GENERAL.—The Directing Officer of the NBIC shall—

"(i) establish a method of real-time communication with the National Operations Center;

"(ii) in the event that a biological event of national concern is detected, notify the Secretary and disseminate results of NBIC assessments relating to that biological event of national concern to appropriate Federal response entities and, in coordination with relevant Member Agencies, regional, State, local, and tribal governmental response entities in a timely manner;

"(iii) provide any report on NBIC assessments to Member Agencies and, in coordination with relevant Member Agencies, any affected regional, State, local, or tribal government, and any private sector entity considered appropriate that may enhance the mission of such Member Agencies, governments, or entities or the ability of the Nation to respond to biological events of national concern; and

"(iv) share NBIC incident or situational awareness reports, and other relevant information, consistent with the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) and any policies, guidelines, procedures, instructions, or standards established under that section.

"(B) CONSULTATION.—The Directing Officer of the NBIC shall implement the activities described in subparagraph (A) consistent with the policies, guidelines, procedures, instructions, or standards established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) and in consultation with the Director of National Intelligence, the Under Secretary for Intelligence and Analysis, and other offices or agencies of the Federal Government, as appropriate.

"(e) RESPONSIBILITIES OF THE NBIC MEMBER AGENCIES.—

"(1) IN GENERAL.—Each Member Agency shall—

"(A) use its best efforts to integrate biosurveillance information into the NBIC, with the goal of promoting information sharing between Federal, State, local, and tribal governments to detect biological events of national concern;

"(B) provide timely information to assist the NBIC in maintaining biological situational awareness for accurate detection and response purposes;

"(C) enable the NBIC to receive and use biosurveillance information from member agencies to carry out its requirements under subsection (c);

"(D) connect the biosurveillance data systems of that Member Agency to the NBIC data system under mutually agreed protocols that are consistent with subsection (c)(5);

"(E) participate in the formation of strategy and policy for the operation of the NBIC and its information sharing;

"(F) provide personnel to the NBIC under an interagency personnel agreement and consider the qualifications of such personnel necessary to provide human, animal,

and environmental data analysis and interpretation support to the NBIC; and

"(G) retain responsibility for the surveillance and intelligence systems of that department or agency, if applicable.

"(f) ADMINISTRATIVE AUTHORITIES.—

"(1) HIRING OF EXPERTS.—The Directing Officer of the NBIC shall hire individuals with the necessary expertise to develop and operate the NBIC.

"(2) DETAIL OF PERSONNEL.—Upon the request of the Directing Officer of the NBIC, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Department to assist the NBIC in carrying out this section.

"(g) NBIC INTERAGENCY WORKING GROUP.—The Directing Officer of the NBIC shall—

"(1) establish an interagency working group to facilitate interagency cooperation and to advise the Directing Officer of the NBIC regarding recommendations to enhance the biosurveillance capabilities of the Department; and

"(2) invite Member Agencies to serve on that working group.

"(h) RELATIONSHIP TO OTHER DEPARTMENTS AND AGENCIES.—The authority of the Directing Officer of the NBIC under this section shall not affect any authority or responsibility of any other department or agency of the Federal Government with respect to biosurveillance activities under any program administered by that department or agency.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

"(j) DEFINITIONS.—In this section:

"(1) The terms 'biological agent' and 'toxin' have the meanings given those terms in section 178 of title 18, United States Code.

"(2) The term 'biological event of national concern' means—

"(A) an act of terrorism involving a biological agent or toxin; or

"(B) a naturally occurring outbreak of an infectious disease that may result in a national epidemic.

"(3) The term 'homeland security information' has the meaning given that term in section 892.

"(4) The term 'Member Agency' means any Federal department or agency that, at the discretion of the head of that department or agency, has entered a memorandum of understanding regarding participation in the NBIC.

"(5) The term 'Privacy Officer' means the Privacy Officer appointed under section 222.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 315 the following:

"Sec. 316. National Biosurveillance Integration Center.".

(c) DEADLINE FOR IMPLEMENTATION.—The National Biosurveillance Integration Center under section 316 of the Homeland Security Act, as added by subsection (a), shall be fully operational by not later than September 30, 2008.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives an interim report on the status of the operations at the National Biosurveillance Integration Center that addresses the efforts of the Center to integrate the surveillance efforts of Federal, State, local, and tribal governments. When the National Biosurveillance Integration Center is fully operational, the Secretary shall submit to such committees a final report on the status of such operations.

SEC. 1102. BIOSURVEILLANCE EFFORTS.

The Comptroller General of the United States shall submit to Congress a report—

(1) describing the state of Federal, State, local, and tribal government biosurveillance efforts as of the date of such report;

(2) describing any duplication of effort at the Federal, State, local, or tribal government level to create biosurveillance systems; and

(3) providing the recommendations of the Comptroller General regarding—

(A) the integration of biosurveillance systems;

(B) the effective use of biosurveillance resources; and

(C) the effective use of the expertise of Federal, State, local, and tribal governments.

SEC. 1103. INTERAGENCY COORDINATION TO ENHANCE DEFENSES AGAINST NUCLEAR AND RADIOLOGICAL WEAPONS OF MASS DESTRUCTION.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 1906, as redesignated by section 104, the following:

"SEC. 1907. JOINT ANNUAL INTERAGENCY REVIEW OF GLOBAL NUCLEAR DETECTION ARCHITECTURE.

"(a) ANNUAL REVIEW.—

"(1) IN GENERAL.—The Secretary, the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence shall jointly ensure interagency coordination on the development and implementation of the global nuclear detection architecture by ensuring that, not less frequently than once each year—

"(A) each relevant agency, office, or entity—

"(i) assesses its involvement, support, and participation in the development, revision, and implementation of the global nuclear detection architecture; and

"(ii) examines and evaluates components of the global nuclear detection architecture (including associated strategies and acquisition plans) relating to the operations of that agency, office, or entity, to determine whether such components incorporate and address current threat assessments, scenarios, or intelligence analyses developed by the Director of National Intelligence or other agencies regarding threats relating to nuclear or radiological weapons of mass destruction; and

"(B) each agency, office, or entity deploying or operating any nuclear or radiological detection technology under the global nuclear detection architecture—

"(i) evaluates the deployment and operation of nuclear or radiological detection technologies under the global nuclear detection architecture by that agency, office, or entity;

"(ii) identifies performance deficiencies and operational or technical deficiencies in nuclear or radiological detection technologies deployed under the global nuclear detection architecture; and

"(iii) assesses the capacity of that agency, office, or entity to implement the responsibilities of that agency, office, or entity under the global nuclear detection architecture.

"(2) TECHNOLOGY.—Not less frequently than once each year, the Secretary shall examine and evaluate the development, assessment, and acquisition of radiation detection technologies deployed or implemented in support of the domestic portion of the global nuclear detection architecture.

"(b) ANNUAL REPORT ON JOINT INTERAGENCY REVIEW.—

"(1) IN GENERAL.—Not later than March 31 of each year, the Secretary, the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence, shall jointly submit a report regarding the implementation of this section and the results of the reviews required under subsection (a) to—

"(A) the President;

"(B) the Committee on Appropriations, the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(C) the Committee on Appropriations, the Committee on Armed Services, the Permanent Select Committee on Intelligence, the Committee on Homeland Security, and the Committee on Science and Technology of the House of Representatives.

"(2) FORM.—The annual report submitted under paragraph (1) shall be submitted in unclassified form to the maximum extent practicable, but may include a classified annex.

"(c) DEFINITION.—In this section, the term 'global nuclear detection architecture' means the global nuclear detection architecture developed under section 1902.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 note) is amended by inserting after the item relating to section 1906, as added by section 104, the following:

"Sec. 1907. Joint annual interagency review of global nuclear detection architecture.".

SEC. 1104. INTEGRATION OF DETECTION EQUIPMENT AND TECHNOLOGIES.

(a) RESPONSIBILITY OF SECRETARY.—The Secretary of Homeland Security shall have responsibility for ensuring that domestic chemical, biological, radiological, and nuclear detection equipment and technologies are integrated, as appropriate, with other border security systems and detection technologies.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a plan to develop a departmental technology assessment process to determine and certify the technology readiness levels of chemical, biological, radiological, and nuclear detection technologies before the full deployment of such technologies within the United States.

TITLE XII—TRANSPORTATION SECURITY PLANNING AND INFORMATION SHARING

SEC. 1201. DEFINITIONS.

For purposes of this title, the following terms apply:

(1) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(2) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

SEC. 1202. TRANSPORTATION SECURITY STRATEGIC PLANNING.

(a) IN GENERAL.—Section 114(t)(1)(B) of title 49, United States Code, is amended to read as follows:

"(B) transportation modal security plans addressing security risks, including threats, vulnerabilities, and consequences, for aviation, railroad, ferry, highway, maritime, pipeline, public transportation, over-the-road bus, and other transportation infrastructure assets.".

(b) CONTENTS OF THE NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—Section 114(t)(3) of such title is amended—

(1) in subparagraph (B), by inserting ", based on risk assessments conducted or received by the Secretary of Homeland Security (including assessments conducted under the Implementing Recommendations of the 9/11 Commission Act of 2007" after "risk based priorities";

(2) in subparagraph (D)—

(A) by striking "and local" and inserting "local, and tribal"; and

(B) by striking "private sector cooperation and participation" and inserting "cooperation and participation by private sector entities, including nonprofit employee labor organizations,";

(3) in subparagraph (E)—

(A) by striking "response" and inserting "prevention, response,"; and

(B) by inserting "and threatened and executed acts of terrorism outside the United States to the extent such acts affect United States transportation systems" before the period at the end;

(4) in subparagraph (F), by adding at the end the following: "Transportation security research and development projects shall be based, to the extent practicable, on such prioritization. Nothing in the preceding sentence shall be construed to require the termination of any research or development project initiated by the Secretary of Homeland Security or the Secretary of

Transportation before the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007."; and

(5) by adding at the end the following:

"(G) A 3- and 10-year budget for Federal transportation security programs that will achieve the priorities of the National Strategy for Transportation Security.

"(H) Methods for linking the individual transportation modal security plans and the programs contained therein, and a plan for addressing the security needs of intermodal transportation.

"(I) Transportation modal security plans described in paragraph (1)(B), including operational recovery plans to expedite, to the maximum extent practicable, the return to operation of an adversely affected transportation system following a major terrorist attack on that system or other incident. These plans shall be coordinated with the resumption of trade protocols required under section 202 of the SAFE Port Act (6 U.S.C. 942) and the National Maritime Transportation Security Plan required under section 70103(a) of title 46.".

(c) PERIODIC PROGRESS REPORTS.—Section 114(t)(4) of such title is amended—

(1) in subparagraph (C)—

(A) in clause (i) by inserting ", including the transportation modal security plans" before the period at the end; and

(B) by striking clause (ii) and inserting the following:

"(ii) CONTENT.—Each progress report submitted under this subparagraph shall include, at a minimum, the following:

"(I) Recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal and intermodal security plans that the Secretary of Homeland Security, in consultation with the Secretary of Transportation, considers appropriate.

"(II) An accounting of all grants for transportation security, including grants and contracts for research and development, awarded by the Secretary of Homeland Security in the most recent fiscal year and a description of how such grants accomplished the goals of the National Strategy for Transportation Security.

"(III) An accounting of all—

"(aa) funds requested in the President's budget submitted pursuant to section 1105 of title 31 for the most recent fiscal year for transportation security, by mode;

"(bb) personnel working on transportation security by mode, including the number of contractors; and

"(cc) information on the turnover in the previous year among senior staff of the Department of Homeland Security, including component agencies, working on transportation security issues. Such information shall

include the number of employees who have permanently left the office, agency, or area in which they worked, and the amount of time that they worked for the Department.

"(iii) WRITTEN EXPLANATION OF TRANSPORTATION SECURITY ACTIVITIES NOT DELINEATED IN THE NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—At the end of each fiscal year, the Secretary of Homeland Security shall submit to the appropriate congressional committees a written explanation of any Federal transportation security activity that is inconsistent with the National Strategy for Transportation Security, including the amount of funds to be expended for the activity and the number of personnel involved."; and

(2) by striking subparagraph (E) and inserting the following:

"(E) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Homeland Security and Governmental Affairs, and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(d) PRIORITY STATUS.—Section 114(t)(5)(B) of such title is amended—

(1) in clause (iii), by striking "and" at the end;

(2) by redesignating clause (iv) as clause (v); and

(3) by inserting after clause (iii) the following:

"(iv) the transportation sector specific plan required under Homeland Security Presidential Directive–7; and".

(e) COORDINATION AND PLAN DISTRIBUTION.—Section 114(t) of such title is amended by adding at the end the following:

"(6) COORDINATION.—In carrying out the responsibilities under this section, the Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall consult, as appropriate, with Federal, State, and local agencies, tribal governments, private sector entities (including nonprofit employee labor organizations), institutions of higher learning, and other entities.

"(7) PLAN DISTRIBUTION.—The Secretary of Homeland Security shall make available and appropriately publicize an unclassified version of the National Strategy for Transportation Security, including its component transportation modal security plans, to Federal, State, regional, local and tribal authorities, transportation system owners or operators, private sector stakeholders, including nonprofit employee labor organizations representing transportation employees, institutions of higher learning, and other appropriate entities.".

SEC. 1203. TRANSPORTATION SECURITY INFORMATION SHARING.

(a) IN GENERAL.—Section 114 of title 49, United States Code, is amended by adding at the end the following:

"(u) TRANSPORTATION SECURITY INFORMATION SHARING PLAN.—

"(1) DEFINITIONS.—In this subsection:

"(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' has the meaning given that term in subsection (t).

"(B) PLAN.—The term 'Plan' means the Transportation Security Information Sharing Plan established under paragraph (2).

"(C) PUBLIC AND PRIVATE STAKEHOLDERS.—The term 'public and private stakeholders' means Federal, State, and local agencies, tribal governments, and appropriate private entities, including nonprofit employee labor organizations representing transportation employees.

"(D) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

"(E) TRANSPORTATION SECURITY INFORMATION.—The term 'transportation security information' means information relating to the risks to transportation modes, including aviation, public transportation, railroad, ferry, highway, maritime, pipeline, and over-the-road bus transportation, and may include specific and general intelligence products, as appropriate.

"(2) ESTABLISHMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Secretary of Transportation, and public and private stakeholders, shall establish a Transportation Security Information Sharing Plan. In establishing the Plan, the Secretary shall gather input on the development of the Plan from private and public stakeholders and the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

"(3) PURPOSE OF PLAN.—The Plan shall promote sharing of transportation security information between the Department of Homeland Security and public and private stakeholders.

"(4) CONTENT OF PLAN.—The Plan shall include—

"(A) a description of how intelligence analysts within the Department of Homeland Security will coordinate their activities within the Department and with other Federal, State, and local agencies, and tribal governments, including coordination with existing modal information sharing centers and the center described in section 1410 of the Implementing Recommendations of the 9/11 Commission Act of 2007;

"(B) the establishment of a point of contact, which may be a single point of contact within the Department of Homeland Security, for each mode of transportation for the sharing of transportation security information with public and private stakeholders, including an explanation and justification to the appropriate congressional committees if the point of contact established pursuant to this subparagraph differs from the agency within the Department that has the primary authority, or has been delegated such authority by the Secretary, to regulate the security of that transportation mode;

"(C) a reasonable deadline by which the Plan will be implemented; and

"(D) a description of resource needs for fulfilling the Plan.

"(5) COORDINATION WITH INFORMATION SHARING .—The Plan shall be—

"(A) implemented in coordination, as appropriate, with the program manager for the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

"(B) consistent with the establishment of the information sharing environment and any policies, guidelines, procedures, instructions, or standards established by the President or the program manager for the implementation and management of the information sharing environment.

"(6) REPORTS TO CONGRESS.—

"(A) IN GENERAL.—Not later than 150 days after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit to the appropriate congressional committees, a report containing the Plan.

"(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall submit to the appropriate congressional committees a report on updates to and the implementation of the Plan.

"(7) SURVEY AND REPORT.—

"(A) IN GENERAL.—The Comptroller General of the United States shall conduct a biennial survey of the satisfaction of recipients of transportation intelligence reports disseminated under the Plan.

"(B) INFORMATION SOUGHT.—The survey conducted under subparagraph (A) shall seek information about the quality, speed, regularity, and classification of the transportation security information products disseminated by the Department of Homeland Security to public and private stakeholders.

"(C) REPORT.—Not later than 1 year after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and every even numbered year thereafter, the Comptroller General shall submit to the appropriate congressional committees, a report on the results of the survey conducted under subparagraph (A). The Comptroller General shall also provide a copy of the report to the Secretary.

"(8) SECURITY CLEARANCES.—The Secretary shall, to the greatest extent practicable, take steps to expedite the security clearances needed for designated public and private stakeholders to receive and obtain access to classified information distributed under this section, as appropriate.

"(9) CLASSIFICATION OF MATERIAL.—The Secretary, to the greatest extent practicable, shall provide designated public and private stakeholders with transportation security information in an unclassified format.".

(b) CONGRESSIONAL OVERSIGHT OF SECURITY ASSURANCE FOR PUBLIC AND PRIVATE STAKEHOLDERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall provide a semiannual report to the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the

Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(A) the number of public and private stakeholders who were provided with each report;

(B) a description of the measures the Secretary has taken, under section 114(u)(7) of title 49, United States Code, as added by this section, or otherwise, to ensure proper treatment and security for any classified information to be shared with the public and private stakeholders under the Plan; and

(C) an explanation of the reason for the denial of transportation security information to any stakeholder who had previously received such information.

(2) NO REPORT REQUIRED IF NO CHANGES IN STAKEHOLDERS.—The Secretary is not required to provide a semiannual report under paragraph (1) if no stakeholders have been added to or removed from the group of persons with whom transportation security information is shared under the plan since the end of the period covered by the last preceding semiannual report.

SEC. 1204. NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM.

(a) IN GENERAL.—The Secretary is authorized to establish, operate, and maintain a National Domestic Preparedness Consortium within the Department.

(b) MEMBERS.—Members of the National Domestic Preparedness Consortium shall consist of—

(1) the Center for Domestic Preparedness;

(2) the National Energetic Materials Research and Testing Center, New Mexico Institute of Mining and Technology;

(3) the National Center for Biomedical Research and Training, Louisiana State University;

(4) the National Emergency Response and Rescue Training Center, Texas A&M University;

(5) the National Exercise, Test, and Training Center, Nevada Test Site;

(6) the Transportation Technology Center, Incorporated, in Pueblo, Colorado; and

(7) the National Disaster Preparedness Training Center, University of Hawaii.

(c) DUTIES.—The National Domestic Preparedness Consortium shall identify, develop, test, and deliver training to State, local, and tribal emergency response providers, provide on-site and mobile training at the performance and management and planning levels, and facilitate the delivery of training by the training partners of the Department.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary—

(1) for the Center for Domestic Preparedness—

(A) $57,000,000 for fiscal year 2008;

(B) $60,000,000 for fiscal year 2009;

(C) $63,000,000 for fiscal year 2010; and

(D) $66,000,000 for fiscal year 2011; and

(2) for the National Energetic Materials Research and Testing Center, the National Center for Biomedical Research

and Training, the National Emergency Response and Rescue Training Center, the National Exercise, Test, and Training Center, the Transportation Technology Center, Incorporated, and the National Disaster Preparedness Training Center each—

(A) $22,000,000 for fiscal year 2008;

(B) $23,000,000 for fiscal year 2009;

(C) $24,000,000 for fiscal year 2010; and

(D) $25,500,000 for fiscal year 2011.

(e) SAVINGS PROVISION.—From the amounts appropriated pursuant to this section, the Secretary shall ensure that future amounts provided to each of the following entities are not less than the amounts provided to each such entity for participation in the Consortium in fiscal year 2007—

(1) the Center for Domestic Preparedness;

(2) the National Energetic Materials Research and Testing Center, New Mexico Institute of Mining and Technology;

(3) the National Center for Biomedical Research and Training, Louisiana State University;

(4) the National Emergency Response and Rescue Training Center, Texas A&M University; and

(5) the National Exercise, Test, and Training Center, Nevada Test Site.

SEC. 1205. NATIONAL TRANSPORTATION SECURITY CENTER OF EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary shall establish a National Transportation Security Center of Excellence to conduct research and education activities, and to develop or provide professional security training, including the training of transportation employees and transportation professionals.

(b) DESIGNATION.—The Secretary shall select one of the institutions identified in subsection (c) as the lead institution responsible for coordinating the National Transportation Security Center of Excellence.

(c) MEMBER INSTITUTIONS.—

(1) CONSORTIUM.—The institution of higher education selected under subsection (b) shall execute agreements with the other institutions of higher education identified in this subsection and other institutions designated by the Secretary to develop a consortium to assist in accomplishing the goals of the Center.

(2) MEMBERS.—The National Transportation Security Center of Excellence shall consist of—

(A) Texas Southern University in Houston, Texas;

(B) the National Transit Institute at Rutgers, The State University of New Jersey;

(C) Tougaloo College;

(D) the Connecticut Transportation Institute at the University of Connecticut;

(E) the Homeland Security Management Institute, Long Island University;

(F) the Mack-Blackwell National Rural Transportation Study Center at the University of Arkansas; and

(G) any additional institutions or facilities designated by the Secretary.

(3) CERTAIN INCLUSIONS.—To the extent practicable, the Secretary shall ensure that an appropriate number of any additional consortium colleges or universities designated by the Secretary under this subsection are Historically Black Colleges and Universities, Hispanic Serving Institutions, and Indian Tribally Controlled Colleges and Universities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $18,000,000 for fiscal year 2008;
(2) $18,000,000 for fiscal year 2009;
(3) $18,000,000 for fiscal year 2010; and
(4) $18,000,000 for fiscal year 2011.

SEC. 1206. IMMUNITY FOR REPORTS OF SUSPECTED TERRORIST ACTIVITY OR SUSPICIOUS BEHAVIOR AND RESPONSE.

(a) IMMUNITY FOR REPORTS OF SUSPECTED TERRORIST ACTIVITY OR SUSPICIOUS BEHAVIOR.—

(1) IN GENERAL.—Any person who, in good faith and based on objectively reasonable suspicion, makes, or causes to be made, a voluntary report of covered activity to an authorized official shall be immune from civil liability under Federal, State, and local law for such report.

(2) FALSE REPORTS.—Paragraph (1) shall not apply to any report that the person knew to be false or was made with reckless disregard for the truth at the time that person made that report.

(b) IMMUNITY FOR RESPONSE.—

(1) IN GENERAL.—Any authorized official who observes, or receives a report of, covered activity and takes reasonable action in good faith to respond to such activity shall have qualified immunity from civil liability for such action, consistent with applicable law in the relevant jurisdiction. An authorized official as defined by subsection (d)(1)(A) not entitled to assert the defense of qualified immunity shall nevertheless be immune from civil liability under Federal, State, and local law if such authorized official takes reasonable action, in good faith, to respond to the reported activity.

(2) SAVINGS CLAUSE.—Nothing in this subsection shall affect the ability of any authorized official to assert any defense, privilege, or immunity that would otherwise be available, and this subsection shall not be construed as affecting any such defense, privilege, or immunity.

(c) ATTORNEY FEES AND COSTS.—Any person or authorized official found to be immune from civil liability under this section shall be entitled to recover from the plaintiff all reasonable costs and attorney fees.

(d) DEFINITIONS.—In this section:

(1) AUTHORIZED OFFICIAL.—The term "authorized official" means—

(A) any employee or agent of a passenger transportation system or other person with responsibilities relating to the security of such systems;

(B) any officer, employee, or agent of the Department of Homeland Security, the Department of Transportation, or the Department of Justice with responsibilities relating to the security of passenger transportation systems; or

(C) any Federal, State, or local law enforcement officer.

(2) COVERED ACTIVITY.—The term "covered activity" means any suspicious transaction, activity, or occurrence that involves, or is directed against, a passenger transportation system or vehicle or its passengers indicating that an individual may be engaging, or preparing to engage, in a violation of law relating to—

(A) a threat to a passenger transportation system or passenger safety or security; or

(B) an act of terrorism (as that term is defined in section 3077 of title 18, United States Code).

(3) PASSENGER TRANSPORTATION.—The term "passenger transportation" means—

(A) public transportation, as defined in section 5302 of title 49, United States Code;

(B) over-the-road bus transportation, as defined in title XV of this Act, and school bus transportation;

(C) intercity passenger rail transportation as defined in section 24102 of title 49, United States Code;

(D) the transportation of passengers onboard a passenger vessel as defined in section 2101 of title 46, United States Code;

(E) other regularly scheduled waterborne transportation service of passengers by vessel of at least 20 gross tons; and

(F) air transportation, as defined in section 40102 of title 49, United States Code, of passengers.

(4) PASSENGER TRANSPORTATION SYSTEM.—The term "passenger transportation system" means an entity or entities organized to provide passenger transportation using vehicles, including the infrastructure used to provide such transportation.

(5) VEHICLE.—The term "vehicle" has the meaning given to that term in section 1992(16) of title 18, United States Code.

(e) EFFECTIVE DATE.—This section shall take effect on October 1, 2006, and shall apply to all activities and claims occurring on or after such date.

TITLE XIII—TRANSPORTATION SECURITY ENHANCEMENTS

SEC. 1301. DEFINITIONS.

For purposes of this title, the following terms apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Commerce, Science, and Transportation, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(3) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(4) STATE.—The term "State" means any one of the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(5) TERRORISM.—The term "terrorism" has the meaning that term has in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(6) UNITED STATES.—The term "United States" means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

SEC. 1302. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—Section 114 of title 49, United States Code, as amended by section 1203 of this Act, is further amended by adding at the end the following:

"(v) ENFORCEMENT OF REGULATIONS AND ORDERS OF THE SECRETARY OF HOMELAND SECURITY.—

"(1) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection applies to the enforcement of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of chapter 701 of title 46 and under a provision of this title other than a provision of chapter 449 (in this subsection referred to as an 'applicable provision of this title').

"(B) VIOLATIONS OF CHAPTER 449.—The penalties for violations of regulations prescribed and orders issued by the Secretary of Homeland Security under chapter 449 of this title are provided under chapter 463 of this title.

"(C) NONAPPLICATION TO CERTAIN VIOLATIONS.—

"(i) Paragraphs (2) through (5) do not apply to violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title—

"(I) involving the transportation of personnel or shipments of materials by contractors where the Department of Defense has assumed control and responsibility;

"(II) by a member of the armed forces of the United States when performing official duties; or

"(III) by a civilian employee of the Department of Defense when performing official duties.

"(ii) Violations described in subclause (I), (II), or (III) of clause (i) shall be subject to penalties as determined by the Secretary of Defense or the Secretary's designee.

"(2) CIVIL PENALTY.—

"(A) IN GENERAL.—A person is liable to the United States Government for a civil penalty of not more than $10,000 for a violation of a regulation prescribed, or order issued, by the Secretary of Homeland Security under an applicable provision of this title.

"(B) REPEAT VIOLATIONS.—A separate violation occurs under this paragraph for each day the violation continues.

"(3) ADMINISTRATIVE IMPOSITION OF CIVIL PENALTIES.—

"(A) IN GENERAL.—The Secretary of Homeland Security may impose a civil penalty for a violation of a regulation

prescribed, or order issued, under an applicable provision of this title. The Secretary shall give written notice of the finding of a violation and the penalty.

"(B) SCOPE OF CIVIL ACTION.—In a civil action to collect a civil penalty imposed by the Secretary under this subsection, a court may not re-examine issues of liability or the amount of the penalty.

"(C) JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction of civil actions to collect a civil penalty imposed by the Secretary under this subsection if—

"(i) the amount in controversy is more than—

"(I) $400,000, if the violation was committed by a person other than an individual or small business concern; or

"(II) $50,000 if the violation was committed by an individual or small business concern;

"(ii) the action is in rem or another action in rem based on the same violation has been brought; or

"(iii) another action has been brought for an injunction based on the same violation.

"(D) MAXIMUM PENALTY.—The maximum civil penalty the Secretary administratively may impose under this paragraph is—

"(i) $400,000, if the violation was committed by a person other than an individual or small business concern; or

"(ii) $50,000, if the violation was committed by an individual or small business concern.

"(E) NOTICE AND OPPORTUNITY TO REQUEST HEARING.—Before imposing a penalty under this section the Secretary shall provide to the person against whom the penalty is to be imposed—

"(i) written notice of the proposed penalty; and

"(ii) the opportunity to request a hearing on the proposed penalty, if the Secretary receives the request not later than 30 days after the date on which the person receives notice.

"(4) COMPROMISE AND SETOFF.—

"(A) The Secretary may compromise the amount of a civil penalty imposed under this subsection.

"(B) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

"(5) INVESTIGATIONS AND PROCEEDINGS.—Chapter 461 shall apply to investigations and proceedings brought under this subsection to the same extent that it applies to investigations and proceedings brought with respect to aviation security duties designated to be carried out by the Secretary.

"(6) DEFINITIONS.—In this subsection:

"(A) PERSON.—The term 'person' does not include—

"(i) the United States Postal Service; or

"(ii) the Department of Defense.

"(B) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

"(7) ENFORCEMENT TRANSPARENCY.—

"(A) IN GENERAL.—Not later than December 31, 2008, and annually thereafter, the Secretary shall—

"(i) provide an annual summary to the public of all enforcement actions taken by the Secretary under this subsection; and

"(ii) include in each such summary the docket number of each enforcement action, the type of alleged violation, the penalty or penalties proposed, and the final assessment amount of each penalty.

"(B) ELECTRONIC AVAILABILITY.—Each summary under this paragraph shall be made available to the public by electronic means.

"(C) RELATIONSHIP TO THE FREEDOM OF INFORMATION ACT AND THE PRIVACY ACT.—Nothing in this subsection shall be construed to require disclosure of information or records that are exempt from disclosure under sections 552 or 552a of title 5.

"(D) ENFORCEMENT GUIDANCE.—Not later than 180 days after the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary shall provide a report to the public describing the enforcement process established under this subsection.".

(b) CONFORMING AMENDMENT.—Section 46301(a)(4) of title 49, United States Code, is amended by striking "or another requirement under this title administered by the Under Secretary of Transportation for Security".

SEC. 1303. AUTHORIZATION OF VISIBLE INTERMODAL PREVENTION AND RESPONSE TEAMS.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Transportation Security Administration, may develop Visible Intermodal Prevention and Response (referred to in this section as "VIPR") teams to augment the security of any mode of transportation at any location within the United States. In forming a VIPR team, the Secretary—

(1) may use any asset of the Department, including Federal air marshals, surface transportation security inspectors, canine detection teams, and advanced screening technology;

(2) may determine when a VIPR team shall be deployed, as well as the duration of the deployment;

(3) shall, prior to and during the deployment, consult with local security and law enforcement officials in the jurisdiction where the VIPR team is or will be deployed, to develop and agree upon the appropriate operational protocols and provide relevant information about the mission of the VIPR team, as appropriate; and

(4) shall, prior to and during the deployment, consult with all transportation entities directly affected by the deployment of a VIPR team, as appropriate, including railroad carriers, air carriers, airport owners, over-the-road bus operators and terminal owners and operators, motor carriers, public transportation agencies, owners or operators of highways, port operators and facility owners, vessel owners and operators and pipeline operators.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section such sums as necessary for fiscal years 2007 through 2011.

SEC. 1304. SURFACE TRANSPORTATION SECURITY INSPECTORS.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Transportation Security Administration, is authorized to train, employ, and utilize surface transportation security inspectors.

(b) MISSION.—The Secretary shall use surface transportation security inspectors to assist surface transportation carriers, operators, owners, entities, and facilities to enhance their security against terrorist attack and other security threats and to assist the Secretary in enforcing applicable surface transportation security regulations and directives.

(c) AUTHORITIES.—Surface transportation security inspectors employed pursuant to this section shall be authorized such powers and delegated such responsibilities as the Secretary determines appropriate, subject to subsection (e).

(d) REQUIREMENTS.—The Secretary shall require that surface transportation security inspectors have relevant transportation experience and other security and inspection qualifications, as determined appropriate.

(e) LIMITATIONS.—

(1) INSPECTORS.—Surface transportation inspectors shall be prohibited from issuing fines to public transportation agencies, as defined in title XIV, for violations of the Department's regulations or orders except through the process described in paragraph (2).

(2) CIVIL PENALTIES.—The Secretary shall be prohibited from assessing civil penalties against public transportation agencies, as defined in title XIV, for violations of the Department's regulations or orders, except in accordance with the following:

(A) In the case of a public transportation agency that is found to be in violation of a regulation or order issued by the Secretary, the Secretary shall seek correction of the violation through a written notice to the public transportation agency and shall give the public transportation agency reasonable opportunity to correct the violation or propose an alternative means of compliance acceptable to the Secretary.

(B) If the public transportation agency does not correct the violation or propose an alternative means of compliance acceptable to the Secretary within a reasonable time period that is specified in the written notice, the Secretary may take any action authorized in section 114 of title 49, United States Code, as amended by this Act.

(3) LIMITATION ON SECRETARY.—The Secretary shall not initiate civil enforcement actions for violations of administrative and procedural requirements pertaining to the application for, and expenditure of, funds awarded under transportation security grant programs under this Act.

(f) NUMBER OF INSPECTORS.—The Secretary shall employ up to a total of—

(1) 100 surface transportation security inspectors in fiscal year 2007;

(2) 150 surface transportation security inspectors in fiscal year 2008;

(3) 175 surface transportation security inspectors in fiscal year 2009; and

(4) 200 surface transportation security inspectors in fiscal years 2010 and 2011.

(g) COORDINATION.—The Secretary shall ensure that the mission of the surface transportation security inspectors is consistent with any relevant risk assessments required by this Act or completed by the Department, the modal plans required under section 114(t) of title 49, United States Code, the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities, dated September 28, 2004, and any and all subsequent annexes to this Memorandum of Understanding, and other relevant documents setting forth the Department's transportation security strategy, as appropriate.

(h) CONSULTATION.—The Secretary shall periodically consult with the surface transportation entities which are or may be inspected by the surface transportation security inspectors, including, as appropriate, railroad carriers, over-the-road bus operators and terminal owners and operators, motor carriers, public transportation agencies, owners or operators of highways, and pipeline operators on—

(1) the inspectors' duties, responsibilities, authorities, and mission; and

(2) strategies to improve transportation security and to ensure compliance with transportation security requirements.

(i) REPORT.—Not later than September 30, 2008, the Department of Homeland Security Inspector General shall transmit a report to the appropriate congressional committees on the performance and effectiveness of surface transportation security inspectors, whether there is a need for additional inspectors, and other recommendations.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $11,400,000 for fiscal year 2007;

(2) $17,100,000 for fiscal year 2008;

(3) $19,950,000 for fiscal year 2009;

(4) $22,800,000 for fiscal year 2010; and

(5) $22,800,000 for fiscal year 2011.

SEC. 1305. SURFACE TRANSPORTATION SECURITY TECHNOLOGY INFORMATION SHARING.

(a) IN GENERAL.—

(1) INFORMATION SHARING.—The Secretary, in consultation with the Secretary of Transportation, shall establish a program to provide appropriate information that the Department has gathered or developed on the performance, use, and testing of technologies that may be used to enhance railroad, public transportation, and surface transportation security to surface transportation entities, including railroad carriers, over-the-road bus operators and terminal owners and operators, motor carriers, public transportation agencies, owners or operators of highways, pipeline operators, and State, local, and tribal governments that provide security assistance to such entities.

(2) DESIGNATION OF QUALIFIED ANTITERRORISM TECHNOLOGIES.—The Secretary shall include in such information

provided in paragraph (1) whether the technology is designated as a qualified antiterrorism technology under the Support Antiterrorism by Fostering Effective Technologies Act of 2002 (Public Law 107–296), as appropriate.

(b) PURPOSE.—The purpose of the program is to assist eligible grant recipients under this Act and others, as appropriate, to purchase and use the best technology and equipment available to meet the security needs of the Nation's surface transportation system.

(c) COORDINATION.—The Secretary shall ensure that the program established under this section makes use of and is consistent with other Department technology testing, information sharing, evaluation, and standards-setting programs, as appropriate.

SEC. 1306. TSA PERSONNEL LIMITATIONS.

Any statutory limitation on the number of employees in the Transportation Security Administration does not apply to employees carrying out this title and titles XII, XIV, and XV.

SEC. 1307. NATIONAL EXPLOSIVES DETECTION CANINE TEAM TRAINING PROGRAM.

(a) DEFINITIONS.—For purposes of this section, the term "explosives detection canine team" means a canine and a canine handler that are trained to detect explosives, radiological materials, chemical, nuclear or biological weapons, or other threats as defined by the Secretary.

(b) IN GENERAL.—

(1) INCREASED CAPACITY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall—

(A) begin to increase the number of explosives detection canine teams certified by the Transportation Security Administration for the purposes of transportation-related security by up to 200 canine teams annually by the end of 2010; and

(B) encourage State, local, and tribal governments and private owners of high-risk transportation facilities to strengthen security through the use of highly trained explosives detection canine teams.

(2) EXPLOSIVES DETECTION CANINE TEAMS.—The Secretary of Homeland Security shall increase the number of explosives detection canine teams by—

(A) using the Transportation Security Administration's National Explosives Detection Canine Team Training Center, including expanding and upgrading existing facilities, procuring and breeding additional canines, and increasing staffing and oversight commensurate with the increased training and deployment capabilities;

(B) partnering with other Federal, State, or local agencies, nonprofit organizations, universities, or the private sector to increase the training capacity for canine detection teams;

(C) procuring explosives detection canines trained by nonprofit organizations, universities, or the private sector provided they are trained in a manner consistent with the standards and requirements developed pursuant to subsection (c) or other criteria developed by the Secretary; or

(D) a combination of subparagraphs (A), (B), and (C), as appropriate.

(c) STANDARDS FOR EXPLOSIVES DETECTION CANINE TEAMS.—

(1) IN GENERAL.—Based on the feasibility in meeting the ongoing demand for quality explosives detection canine teams, the Secretary shall establish criteria, including canine training curricula, performance standards, and other requirements approved by the Transportation Security Administration necessary to ensure that explosives detection canine teams trained by nonprofit organizations, universities, and private sector entities are adequately trained and maintained.

(2) EXPANSION.—In developing and implementing such curriculum, performance standards, and other requirements, the Secretary shall—

(A) coordinate with key stakeholders, including international, Federal, State, and local officials, and private sector and academic entities to develop best practice guidelines for such a standardized program, as appropriate;

(B) require that explosives detection canine teams trained by nonprofit organizations, universities, or private sector entities that are used or made available by the Secretary be trained consistent with specific training criteria developed by the Secretary; and

(C) review the status of the private sector programs on at least an annual basis to ensure compliance with training curricula, performance standards, and other requirements.

(d) DEPLOYMENT.—The Secretary shall—

(1) use the additional explosives detection canine teams as part of the Department's efforts to strengthen security across the Nation's transportation network, and may use the canine teams on a more limited basis to support other homeland security missions, as determined appropriate by the Secretary;

(2) make available explosives detection canine teams to all modes of transportation, for high-risk areas or to address specific threats, on an as-needed basis and as otherwise determined appropriate by the Secretary;

(3) encourage, but not require, any transportation facility or system to deploy TSA-certified explosives detection canine teams developed under this section; and

(4) consider specific needs and training requirements for explosives detection canine teams to be deployed across the Nation's transportation network, including in venues of multiple modes of transportation, as appropriate.

(e) CANINE PROCUREMENT.—The Secretary, acting through the Administrator of the Transportation Security Administration, shall work to ensure that explosives detection canine teams are procured as efficiently as possible and at the best price, while maintaining the needed level of quality, including, if appropriate, through increased domestic breeding.

(f) STUDY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall report to the appropriate congressional committees on the utilization of explosives detection canine teams to strengthen security and the capacity of the national explosive detection canine team program.

(g) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section for fiscal years 2007 through 2011.

SEC. 1308. MARITIME AND SURFACE TRANSPORTATION SECURITY USER FEE STUDY.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a study of the need for, and feasibility of, establishing a system of maritime and surface transportation-related user fees that may be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for legitimate improvements to, and maintenance of, maritime and surface transportation security, including vessel and facility plans required under section 70103(c) of title 46, United States Code. In developing the study, the Secretary shall consult with maritime and surface transportation carriers, shippers, passengers, facility owners and operators, and other persons as determined by the Secretary. Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that contains—

(1) the results of the study;

(2) an assessment of the annual sources of funding collected through maritime and surface transportation at ports of entry and a detailed description of the distribution and use of such funds, including the amount and percentage of such sources that are dedicated to improve and maintain security;

(3) an assessment of—

(A) the fees, charges, and standards imposed on United States ports, port terminal operators, shippers, carriers, and other persons who use United States ports of entry compared with the fees and charges imposed on Canadian and Mexican ports, Canadian and Mexican port terminal operators, shippers, carriers, and other persons who use Canadian or Mexican ports of entry; and

(B) the impact of such fees, charges, and standards on the competitiveness of United States ports, port terminal operators, railroad carriers, motor carriers, pipelines, other transportation modes, and shippers;

(4) the private efforts and investments to secure maritime and surface transportation modes, including those that are operational and those that are planned; and

(5) the Secretary's recommendations based upon the study, and an assessment of the consistency of such recommendations with the international obligations and commitments of the United States.

(b) DEFINITIONS.—In this section:

(1) PORT OF ENTRY.—The term "port of entry" means any port or other facility through which foreign goods are permitted to enter the customs territory of a country under official supervision.

(2) MARITIME AND SURFACE TRANSPORTATION.—The term "maritime and surface transportation" includes ocean borne and vehicular transportation.

SEC. 1309. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO CONVICTED FELONS.

(a) IN GENERAL.—Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by striking "decides that the individual poses a security risk under subsection (c)" and inserting "determines under subsection (c) that the individual poses a security risk"; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

"(1) DISQUALIFICATIONS.—

"(A) PERMANENT DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is permanently disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following felonies:

"(i) Espionage or conspiracy to commit espionage.

"(ii) Sedition or conspiracy to commit sedition.

"(iii) Treason or conspiracy to commit treason.

"(iv) A Federal crime of terrorism (as defined in section 2332b(g) of title 18), a crime under a comparable State law, or conspiracy to commit such crime.

"(v) A crime involving a transportation security incident.

"(vi) Improper transportation of a hazardous material in violation of section 5104(b) of title 49, or a comparable State law.

"(vii) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, an explosive or explosive device. In this clause, an explosive or explosive device includes—

"(I) an explosive (as defined in sections 232(5) and 844(j) of title 18);

"(II) explosive materials (as defined in subsections (c) through (f) of section 841 of title 18); and

"(III) a destructive device (as defined in 921(a)(4) of title 18 or section 5845(f) of the Internal Revenue Code of 1986).

"(viii) Murder.

"(ix) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a State or other government facility, a public transportation system, or an infrastructure facility.

"(x) A violation of chapter 96 of title 18, popularly known as the Racketeer Influenced and Corrupt Organizations Act, or a comparable State law, if one of the predicate acts found by a jury or admitted by the defendant consists of one of the crimes listed in this subparagraph.

"(xi) Attempt to commit any of the crimes listed in clauses (i) through (iv).

"(xii) Conspiracy or attempt to commit any of the crimes described in clauses (v) through (x).

"(B) INTERIM DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, during the 7-year period ending on the date on which the individual applies for such card, or was released from incarceration during the 5-year period ending on the date on which the individual applies for such card, of any of the following felonies:

"(i) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, a firearm or other weapon. In this clause, a firearm or other weapon includes—

"(I) firearms (as defined in section 921(a)(3) of title 18 or section 5845(a) of the Internal Revenue Code of 1986); and

"(II) items contained on the U.S. Munitions Import List under section 447.21 of title 27, Code of Federal Regulations.

"(ii) Extortion.

"(iii) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering if the money laundering is related to a crime described in this subparagraph or subparagraph (A). In this clause, welfare fraud and passing bad checks do not constitute dishonesty, fraud, or misrepresentation.

"(iv) Bribery.

"(v) Smuggling.

"(vi) Immigration violations.

"(vii) Distribution of, possession with intent to distribute, or importation of a controlled substance.

"(viii) Arson.

"(ix) Kidnaping or hostage taking.

"(x) Rape or aggravated sexual abuse.

"(xi) Assault with intent to kill.

"(xii) Robbery.

"(xiii) Conspiracy or attempt to commit any of the crimes listed in this subparagraph.

"(xiv) Fraudulent entry into a seaport in violation of section 1036 of title 18, or a comparable State law.

"(xv) A violation of the chapter 96 of title 18, popularly known as the Racketeer Influenced and Corrupt Organizations Act or a comparable State law, other than any of the violations listed in subparagraph (A)(x).

"(C) UNDER WANT, WARRANT, OR INDICTMENT.—An applicant who is wanted, or under indictment, in any civilian or military jurisdiction for a felony listed in paragraph (1)(A), is disqualified from being issued a biometric transportation security card under subsection (b) until the want or warrant is released or the indictment is dismissed.

"(D) OTHER POTENTIAL DISQUALIFICATIONS.—Except as provided under subparagraphs (A) through (C), an individual may not be denied a transportation security card

under subsection (b) unless the Secretary determines that individual—

"(i) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

"(I) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

"(II) for causing a severe transportation security incident;

"(ii) has been released from incarceration within the preceding 5-year period for committing a felony described in clause (i);

"(iii) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

"(iv) otherwise poses a terrorism security risk to the United States.

"(E) MODIFICATION OF LISTED OFFENSES.—The Secretary may, by rulemaking, add to or modify the list of disqualifying crimes described in paragraph (1)(B).".

SEC. 1310. ROLES OF THE DEPARTMENT OF HOMELAND SECURITY AND THE DEPARTMENT OF TRANSPORTATION.

The Secretary of Homeland Security is the principal Federal official responsible for transportation security. The roles and responsibilities of the Department of Homeland Security and the Department of Transportation in carrying out this title and titles XII, XIV, and XV are the roles and responsibilities of such Departments pursuant to the Aviation and Transportation Security Act (Public Law 107–71); the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458); the National Infrastructure Protection Plan required by Homeland Security Presidential Directive–7; The Homeland Security Act of 2002; The National Response Plan; Executive Order No. 13416: Strengthening Surface Transportation Security, dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities, dated September 28, 2004, and any and all subsequent annexes to this Memorandum of Understanding; and any other relevant agreements between the two Departments.

TITLE XIV—PUBLIC TRANSPORTATION SECURITY

SEC. 1401. SHORT TITLE.

This title may be cited as the "National Transit Systems Security Act of 2007".

SEC. 1402. DEFINITIONS.

For purposes of this title, the following terms apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Banking, Housing, and Urban Affairs, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee

on Transportation and Infrastructure of the House of Representatives.

(2) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(3) DISADVANTAGED BUSINESSES CONCERNS.—The term "disadvantaged business concerns" means small businesses that are owned and controlled by socially and economically disadvantaged individuals as defined in section 124, title 13, Code of Federal Regulations.

(4) FRONTLINE EMPLOYEE.—The term "frontline employee" means an employee of a public transportation agency who is a transit vehicle driver or operator, dispatcher, maintenance and maintenance support employee, station attendant, customer service employee, security employee, or transit police, or any other employee who has direct contact with riders on a regular basis, and any other employee of a public transportation agency that the Secretary determines should receive security training under section 1408.

(5) PUBLIC TRANSPORTATION AGENCY.—The term "public transportation agency" means a publicly owned operator of public transportation eligible to receive Federal assistance under chapter 53 of title 49, United States Code.

(6) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

SEC. 1403. FINDINGS.

Congress finds that—

(1) 182 public transportation systems throughout the world have been primary targets of terrorist attacks;

(2) more than 6,000 public transportation agencies operate in the United States;

(3) people use public transportation vehicles 33,000,000 times each day;

(4) the Federal Transit Administration has invested $93,800,000,000 since 1992 for construction and improvements;

(5) the Federal investment in transit security has been insufficient; and

(6) greater Federal investment in transit security improvements per passenger boarding is necessary to better protect the American people, given transit's vital importance in creating mobility and promoting our Nation's economy.

SEC. 1404. NATIONAL STRATEGY FOR PUBLIC TRANSPORTATION SECURITY.

(a) NATIONAL STRATEGY.—Not later than 9 months after the date of enactment of this Act and based upon the previous and ongoing security assessments conducted by the Department and the Department of Transportation, the Secretary, consistent with and as required by section 114(t) of title 49, United States Code, shall develop and implement the modal plan for public transportation, entitled the "National Strategy for Public Transportation Security".

(b) PURPOSE.—

(1) GUIDELINES.—In developing the National Strategy for Public Transportation Security, the Secretary shall establish guidelines for public transportation security that—

(A) minimize security threats to public transportation systems; and

(B) maximize the abilities of public transportation systems to mitigate damage resulting from terrorist attack or other major incident.

(2) ASSESSMENTS AND CONSULTATIONS.—In developing the National Strategy for Public Transportation Security, the Secretary shall—

(A) use established and ongoing public transportation security assessments as the basis of the National Strategy for Public Transportation Security; and

(B) consult with all relevant stakeholders, including public transportation agencies, nonprofit labor organizations representing public transportation employees, emergency responders, public safety officials, and other relevant parties.

(c) CONTENTS.—In the National Strategy for Public Transportation Security, the Secretary shall describe prioritized goals, objectives, policies, actions, and schedules to improve the security of public transportation.

(d) RESPONSIBILITIES.—The Secretary shall include in the National Strategy for Public Transportation Security a description of the roles, responsibilities, and authorities of Federal, State, and local agencies, tribal governments, and appropriate stakeholders. The plan shall also include—

(1) the identification of, and a plan to address, gaps and unnecessary overlaps in the roles, responsibilities, and authorities of Federal agencies; and

(2) a process for coordinating existing or future security strategies and plans for public transportation, including the National Infrastructure Protection Plan required by Homeland Security Presidential Directive–7; Executive Order No. 13416: Strengthening Surface Transportation Security dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities dated September 28, 2004; and subsequent annexes and agreements.

(e) ADEQUACY OF EXISTING PLANS AND STRATEGIES.—In developing the National Strategy for Public Transportation Security, the Secretary shall use relevant existing risk assessments and strategies developed by the Department or other Federal agencies, including those developed or implemented pursuant to section 114(t) of title 49, United States Code, or Homeland Security Presidential Directive–7.

(f) FUNDING.—There is authorized to be appropriated to the Secretary to carry out this section $2,000,000 for fiscal year 2008.

SEC. 1405. SECURITY ASSESSMENTS AND PLANS.

(a) PUBLIC TRANSPORTATION SECURITY ASSESSMENTS.—

(1) SUBMISSION.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Secretary.

(2) SECRETARIAL REVIEW.—Not later than 60 days after receiving the submission under paragraph (1), the Secretary shall review and augment the security assessments received, and conduct additional security assessments as necessary to ensure that at a minimum, all high risk public transportation

agencies, as determined by the Secretary, will have a completed security assessment.

(3) CONTENT.—The Secretary shall ensure that each completed security assessment includes—

(A) identification of critical assets, infrastructure, and systems and their vulnerabilities; and

(B) identification of any other security weaknesses, including weaknesses in emergency response planning and employee training.

(b) BUS AND RURAL PUBLIC TRANSPORTATION SYSTEMS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(1) conduct security assessments, based on a representative sample, to determine the specific needs of—

(A) local bus-only public transportation systems; and

(B) public transportation systems that receive funds under section 5311 of title 49, United States Code; and

(2) make the representative assessments available for use by similarly situated systems.

(c) SECURITY PLANS.—

(1) REQUIREMENT FOR PLAN.—

(A) HIGH RISK AGENCIES.—The Secretary shall require public transportation agencies determined by the Secretary to be at high risk for terrorism to develop a comprehensive security plan. The Secretary shall provide technical assistance and guidance to public transportation agencies in preparing and implementing security plans under this section.

(B) OTHER AGENCIES.—Provided that no public transportation agency that has not been designated high risk shall be required to develop a security plan, the Secretary may also establish a security program for public transportation agencies not designated high risk by the Secretary, to assist those public transportation agencies which request assistance, including—

(i) guidance to assist such agencies in conducting security assessments and preparing and implementing security plans; and

(ii) a process for the Secretary to review and approve such assessments and plans, as appropriate.

(2) CONTENTS OF PLAN.—The Secretary shall ensure that security plans include, as appropriate—

(A) a prioritized list of all items included in the public transportation agency's security assessment that have not yet been addressed;

(B) a detailed list of any additional capital and operational improvements identified by the Department or the public transportation agency and a certification of the public transportation agency's technical capacity for operating and maintaining any security equipment that may be identified in such list;

(C) specific procedures to be implemented or used by the public transportation agency in response to a terrorist attack, including evacuation and passenger communication plans and appropriate evacuation and communication measures for the elderly and individuals with disabilities;

(D) a coordinated response plan that establishes procedures for appropriate interaction with State and local law enforcement agencies, emergency responders, and Federal officials in order to coordinate security measures and plans for response in the event of a terrorist attack or other major incident;

(E) a strategy and timeline for conducting training under section 1408;

(F) plans for providing redundant and other appropriate backup systems necessary to ensure the continued operation of critical elements of the public transportation system in the event of a terrorist attack or other major incident;

(G) plans for providing service capabilities throughout the system in the event of a terrorist attack or other major incident in the city or region which the public transportation system serves;

(H) methods to mitigate damage within a public transportation system in case of an attack on the system, including a plan for communication and coordination with emergency responders; and

(I) other actions or procedures as the Secretary determines are appropriate to address the security of the public transportation system.

(3) REVIEW.—Not later than 6 months after receiving the plans required under this section, the Secretary shall—

(A) review each security plan submitted;

(B) require the public transportation agency to make any amendments needed to ensure that the plan meets the requirements of this section; and

(C) approve any security plan that meets the requirements of this section.

(4) EXEMPTION.—The Secretary shall not require a public transportation agency to develop a security plan under paragraph (1) if the agency does not receive a grant under section 1406.

(5) WAIVER.—The Secretary may waive the exemption provided in paragraph (4) to require a public transportation agency to develop a security plan under paragraph (1) in the absence of grant funds under section 1406 if not less than 3 days after making the determination the Secretary provides the appropriate congressional committees and the public transportation agency written notification detailing the need for the security plan, the reasons grant funding has not been made available, and the reason the agency has been designated high risk.

(d) CONSISTENCY WITH OTHER PLANS.—The Secretary shall ensure that the security plans developed by public transportation agencies under this section are consistent with the security assessments developed by the Department and the National Strategy for Public Transportation Security developed under section 1404.

(e) UPDATES.—Not later than September 30, 2008, and annually thereafter, the Secretary shall—

(1) update the security assessments referred to in subsection (a);

(2) update the security improvement priorities required under subsection (f); and

(3) require public transportation agencies to update the security plans required under subsection (c) as appropriate.

(f) SECURITY IMPROVEMENT PRIORITIES.—

(1) IN GENERAL.—Beginning in fiscal year 2008 and each fiscal year thereafter, the Secretary, after consultation with management and nonprofit employee labor organizations representing public transportation employees as appropriate, and with appropriate State and local officials, shall utilize the information developed or received in this section to establish security improvement priorities unique to each individual public transportation agency that has been assessed.

(2) ALLOCATIONS.—The Secretary shall use the security improvement priorities established in paragraph (1) as the basis for allocating risk-based grant funds under section 1406, unless the Secretary notifies the appropriate congressional committees that the Secretary has determined an adjustment is necessary to respond to an urgent threat or other significant national security factors.

(g) SHARED FACILITIES.—The Secretary shall encourage the development and implementation of coordinated assessments and security plans to the extent a public transportation agency shares facilities (such as tunnels, bridges, stations, or platforms) with another public transportation agency, a freight or passenger railroad carrier, or over-the-road bus operator that are geographically close or otherwise co-located.

(h) NONDISCLOSURE OF INFORMATION.—

(1) SUBMISSION OF INFORMATION TO CONGRESS.—Nothing in this section shall be construed as authorizing the withholding of any information from Congress.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section shall be construed as affecting any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from a public transportation agency under any other Federal law.

(i) DETERMINATION.—In response to a petition by a public transportation agency or at the discretion of the Secretary, the Secretary may recognize existing procedures, protocols, and standards of a public transportation agency that the Secretary determines meet all or part of the requirements of this section regarding security assessments or security plans.

SEC. 1406. PUBLIC TRANSPORTATION SECURITY ASSISTANCE.

(a) SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a program for making grants to eligible public transportation agencies for security improvements described in subsection (b).

(2) ELIGIBILITY.—A public transportation agency is eligible for a grant under this section if the Secretary has performed a security assessment or the agency has developed a security plan under section 1405. Grant funds shall only be awarded for permissible uses under subsection (b) to—

(A) address items included in a security assessment; or

(B) further a security plan.

(b) USES OF FUNDS.—A recipient of a grant under subsection (a) shall use the grant funds for one or more of the following:

(1) Capital uses of funds, including—

(A) tunnel protection systems;

(B) perimeter protection systems, including access control, installation of improved lighting, fencing, and barricades;

(C) redundant critical operations control systems;

(D) chemical, biological, radiological, or explosive detection systems, including the acquisition of canines used for such detection;

(E) surveillance equipment;

(F) communications equipment, including mobile service equipment to provide access to wireless Enhanced 911 (E911) emergency services in an underground fixed guideway system;

(G) emergency response equipment, including personal protective equipment;

(H) fire suppression and decontamination equipment;

(I) global positioning or tracking and recovery equipment, and other automated-vehicle-locator-type system equipment;

(J) evacuation improvements;

(K) purchase and placement of bomb-resistant trash cans throughout public transportation facilities, including subway exits, entrances, and tunnels;

(L) capital costs associated with security awareness, security preparedness, and security response training, including training under section 1408 and exercises under section 1407;

(M) security improvements for public transportation systems, including extensions thereto, in final design or under construction;

(N) security improvements for stations and other public transportation infrastructure, including stations and other public transportation infrastructure owned by State or local governments; and

(O) other capital security improvements determined appropriate by the Secretary.

(2) Operating uses of funds, including—

(A) security training, including training under section 1408 and training developed by institutions of higher education and by nonprofit employee labor organizations, for public transportation employees, including frontline employees;

(B) live or simulated exercises under section 1407;

(C) public awareness campaigns for enhanced public transportation security;

(D) canine patrols for chemical, radiological, biological, or explosives detection;

(E) development of security plans under section 1405;

(F) overtime reimbursement including reimbursement of State, local, and tribal governments, for costs for enhanced security personnel during significant national and international public events;

(G) operational costs, including reimbursement of State, local, and tribal governments for costs for personnel assigned to full-time or part-time security or counterterrorism duties related to public transportation,

provided that this expense totals no more than 10 percent of the total grant funds received by a public transportation agency in any 1 year; and

(H) other operational security costs determined appropriate by the Secretary, excluding routine, ongoing personnel costs, other than those set forth in this section.

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

(2) pursuant to subsection (a)(2), select the recipients of grants based solely on risk; and

(3) pursuant to subsection (b), establish the priorities for which grant funds may be used under this section.

(d) DISTRIBUTION OF GRANTS.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall determine the most effective and efficient way to distribute grant funds to the recipients of grants determined by the Secretary under subsection (a). Subject to the determination made by the Secretaries, the Secretary may transfer funds to the Secretary of Transportation for the purposes of disbursing funds to the grant recipient.

(e) SUBJECT TO CERTAIN TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a grant provided under this section shall be subject to the terms and conditions applicable to a grant made under section 5307 of title 49, United States Code, as in effect on January 1, 2007, and such other terms and conditions as are determined necessary by the Secretary.

(f) LIMITATION ON USES OF FUNDS.—Grants made under this section may not be used to make any State or local government cost-sharing contribution under any other Federal law.

(g) ANNUAL REPORTS.—Each recipient of a grant under this section shall report annually to the Secretary on the use of the grant funds.

(h) GUIDELINES.—Before distribution of funds to recipients of grants, the Secretary shall issue guidelines to ensure that, to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall use small, minority, women-owned, or disadvantaged business concerns as contractors or subcontractors to the extent practicable.

(i) COORDINATION WITH STATE HOMELAND SECURITY PLANS.—In establishing security improvement priorities under section 1405 and in awarding grants for capital security improvements and operational security improvements under subsection (b), the Secretary shall act consistently with relevant State homeland security plans.

(j) MULTISTATE TRANSPORTATION SYSTEMS.—In cases in which a public transportation system operates in more than one State, the Secretary shall give appropriate consideration to the risks of the entire system, including those portions of the States into which the system crosses, in establishing security improvement priorities under section 1405 and in awarding grants for capital security improvements and operational security improvements under subsection (b).

(k) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before the award of any grant under this section, the Secretary

shall notify simultaneously, the appropriate congressional committees of the intent to award such grant.

(l) RETURN OF MISSPENT GRANT FUNDS.—The Secretary shall establish a process to require the return of any misspent grant funds received under this section determined to have been spent for a purpose other than those specified in the grant award.

(m) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated to the Secretary to make grants under this section—

(A) such sums as are necessary for fiscal year 2007;

(B) $650,000,000 for fiscal year 2008, except that not more than 50 percent of such funds may be used for operational costs under subsection (b)(2);

(C) $750,000,000 for fiscal year 2009, except that not more than 30 percent of such funds may be used for operational costs under subsection (b)(2);

(D) $900,000,000 for fiscal year 2010, except that not more than 20 percent of such funds may be used for operational costs under subsection (b)(2); and

(E) $1,100,000,000 for fiscal year 2011, except that not more than 10 percent of such funds may be used for operational costs under subsection (b)(2).

(2) PERIOD OF AVAILABILITY.—Sums appropriated to carry out this section shall remain available until expended.

(3) WAIVER.—The Secretary may waive the limitation on operational costs specified in subparagraphs (B) through (E) of paragraph (1) if the Secretary determines that such a waiver is required in the interest of national security, and if the Secretary provides a written justification to the appropriate congressional committees prior to any such action.

(4) EFFECTIVE DATE.—Funds provided for fiscal year 2007 transit security grants under Public Law 110–28 shall be allocated based on security assessments that are in existence as of the date of enactment of this Act.

SEC. 1407. SECURITY EXERCISES.

(a) IN GENERAL.—The Secretary shall establish a program for conducting security exercises for public transportation agencies for the purpose of assessing and improving the capabilities of entities described in subsection (b) to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism.

(b) COVERED ENTITIES.—Entities to be assessed under the program shall include—

(1) Federal, State, and local agencies and tribal governments;

(2) public transportation agencies;

(3) governmental and nongovernmental emergency response providers and law enforcement personnel, including transit police; and

(4) any other organization or entity that the Secretary determines appropriate.

(c) REQUIREMENTS.—The Secretary shall ensure that the program—

(1) requires, for public transportation agencies which the Secretary deems appropriate, exercises to be conducted that are—

(A) scaled and tailored to the needs of specific public transportation systems, and include taking into account the needs of the elderly and individuals with disabilities;

(B) live;

(C) coordinated with appropriate officials;

(D) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

(E) inclusive, as appropriate, of frontline employees and managers; and

(F) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, and other such national initiatives;

(2) provides that exercises described in paragraph (1) will be—

(A) evaluated by the Secretary against clear and consistent performance measures;

(B) assessed by the Secretary to learn best practices, which shall be shared with appropriate Federal, State, local, and tribal officials, governmental and nongovernmental emergency response providers, law enforcement personnel, including railroad and transit police, and appropriate stakeholders; and

(C) followed by remedial action by covered entities in response to lessons learned;

(3) involves individuals in neighborhoods around the infrastructure of a public transportation system; and

(4) assists State, local, and tribal governments and public transportation agencies in designing, implementing, and evaluating exercises that conform to the requirements of paragraph (2).

(d) NATIONAL EXERCISE PROGRAM.—The Secretary shall ensure that the exercise program developed under subsection (a) is a component of the National Exercise Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109–295; 6 U.S.C. 748).

(e) FERRY SYSTEM EXEMPTION.—This section does not apply to any ferry system for which drills are required to be conducted pursuant to section 70103 of title 46, United States Code.

SEC. 1408. PUBLIC TRANSPORTATION SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall develop and issue detailed interim final regulations, and not later than 1 year after the date of enactment of this Act, the Secretary shall develop and issue detailed final regulations, for a public transportation security training program to prepare public transportation employees, including frontline employees, for potential security threats and conditions.

(b) CONSULTATION.—The Secretary shall develop the interim final and final regulations under subsection (a) in consultation with—

(1) appropriate law enforcement, fire service, security, and terrorism experts;

(2) representatives of public transportation agencies; and

(3) nonprofit employee labor organizations representing public transportation employees or emergency response personnel.

(c) PROGRAM ELEMENTS.—The interim final and final regulations developed under subsection (a) shall require security training programs to include, at a minimum, elements to address the following:

(1) Determination of the seriousness of any occurrence or threat.

(2) Crew and passenger communication and coordination.

(3) Appropriate responses to defend oneself, including using nonlethal defense devices.

(4) Use of personal protective devices and other protective equipment.

(5) Evacuation procedures for passengers and employees, including individuals with disabilities and the elderly.

(6) Training related to behavioral and psychological understanding of, and responses to, terrorist incidents, including the ability to cope with hijacker behavior, and passenger responses.

(7) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(8) Recognition and reporting of dangerous substances and suspicious packages, persons, and situations.

(9) Understanding security incident procedures, including procedures for communicating with governmental and nongovernmental emergency response providers and for on scene interaction with such emergency response providers.

(10) Operation and maintenance of security equipment and systems.

(11) Other security training activities that the Secretary deems appropriate.

(d) REQUIRED PROGRAMS.—

(1) DEVELOPMENT AND SUBMISSION TO SECRETARY.—Not later than 90 days after a public transportation agency meets the requirements under subsection (e), each such public transportation agency shall develop a security training program in accordance with the regulations developed under subsection (a) and submit the program to the Secretary for approval.

(2) APPROVAL.—Not later than 60 days after receiving a security training program proposal under this subsection, the Secretary shall approve the program or require the public transportation agency that developed the program to make any revisions to the program that the Secretary determines necessary for the program to meet the requirements of the regulations. A public transportation agency shall respond to the Secretary's comments within 30 days after receiving them.

(3) TRAINING.—Not later than 1 year after the Secretary approves a security training program proposal in accordance with this subsection, the public transportation agency that developed the program shall complete the training of all employees covered under the program.

(4) UPDATES OF REGULATIONS AND PROGRAM REVISIONS.—The Secretary shall periodically review and update, as appropriate, the training regulations issued under subsection (a) to reflect new or changing security threats. Each public

transportation agency shall revise its training program accordingly and provide additional training as necessary to its workers within a reasonable time after the regulations are updated.

(e) APPLICABILITY.—A public transportation agency that receives a grant award under this title shall be required to develop and implement a security training program pursuant to this section.

(f) LONG-TERM TRAINING REQUIREMENT.—Any public transportation agency required to develop a security training program pursuant to this section shall provide routine and ongoing training for employees covered under the program, regardless of whether the public transportation agency receives subsequent grant awards.

(g) NATIONAL TRAINING PROGRAM.—The Secretary shall ensure that the training program developed under subsection (a) is a component of the National Training Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109–295; 6 U.S.C. 748).

(h) FERRY EXEMPTION.—This section shall not apply to any ferry system for which training is required to be conducted pursuant to section 70103 of title 46, United States Code.

(i) REPORT.—Not later than 2 years after the date of issuance of the final regulation, the Comptroller General shall review implementation of the training program, including interviewing a representative sample of public transportation agencies and employees, and report to the appropriate congressional committees, on the number of reviews conducted and the results. The Comptroller General may submit the report in both classified and redacted formats as necessary.

SEC. 1409. PUBLIC TRANSPORTATION RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary shall carry out a research and development program through the Homeland Security Advanced Research Projects Agency in the Science and Technology Directorate and in consultation with the Transportation Security Administration and with the Federal Transit Administration, for the purpose of improving the security of public transportation systems.

(b) GRANTS AND CONTRACTS AUTHORIZED.—The Secretary shall award grants or contracts to public or private entities to conduct research and demonstrate technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems.

(c) USE OF FUNDS.—Grants or contracts awarded under subsection (a)—

(1) shall be coordinated with activities of the Homeland Security Advanced Research Projects Agency; and

(2) may be used to—

(A) research chemical, biological, radiological, or explosive detection systems that do not significantly impede passenger access;

(B) research imaging technologies;

(C) conduct product evaluations and testing;

(D) improve security and redundancy for critical communications, electrical power, and computer and train control systems;

(E) develop technologies for securing tunnels, transit bridges and aerial structures;

(F) research technologies that mitigate damages in the event of a cyber attack; and

(G) research other technologies or methods for reducing or deterring terrorist attacks against public transportation systems, or mitigating damage from such attacks.

(d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.—

(1) CONSULTATION.—In carrying out research and development projects under this section, the Secretary shall consult with the Chief Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department, as appropriate, and in accordance with section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142).

(2) PRIVACY IMPACT ASSESSMENTS.—In accordance with sections 222 and 705 of the Homeland Security Act of 2002 (6 U.S.C. 142; 345), the Chief Privacy Officer shall conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section.

(e) REPORTING REQUIREMENT.—Each entity that is awarded a grant or contract under this section shall report annually to the Department on the use of grant or contract funds received under this section to ensure that the awards made are expended in accordance with the purposes of this title and the priorities developed by the Secretary.

(f) COORDINATION.—The Secretary shall ensure that the research is consistent with the priorities established in the National Strategy for Public Transportation Security and is coordinated, to the extent practicable, with other Federal, State, local, tribal, and private sector public transportation, railroad, commuter railroad, and over-the-road bus research initiatives to leverage resources and avoid unnecessary duplicative efforts.

(g) RETURN OF MISSPENT GRANT OR CONTRACT FUNDS.—If the Secretary determines that a grantee or contractor used any portion of the grant or contract funds received under this section for a purpose other than the allowable uses specified under subsection (c), the grantee or contractor shall return any amount so used to the Treasury of the United States.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to make grants under this section—

(1) such sums as necessary for fiscal year 2007;

(2) $25,000,000 for fiscal year 2008;

(3) $25,000,000 for fiscal year 2009;

(4) $25,000,000 for fiscal year 2010; and

(5) $25,000,000 for fiscal year 2011.

SEC. 1410. INFORMATION SHARING.

(a) INTELLIGENCE SHARING.—The Secretary shall ensure that the Department of Transportation receives appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.

(b) INFORMATION SHARING ANALYSIS CENTER.—

(1) AUTHORIZATION.—The Secretary shall provide for the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the "ISAC").

(2) PARTICIPATION.—The Secretary—

(A) shall require public transportation agencies that the Secretary determines to be at high risk of terrorist attack to participate in the ISAC;

(B) shall encourage all other public transportation agencies to participate in the ISAC;

(C) shall encourage the participation of nonprofit employee labor organizations representing public transportation employees, as appropriate; and

(D) shall not charge a fee for participating in the ISAC.

(c) REPORT.—The Comptroller General shall report, not less than 3 years after the date of enactment of this Act, to the appropriate congressional committees, as to the value and efficacy of the ISAC along with any other public transportation information-sharing programs ongoing at the Department. The report shall include an analysis of the user satisfaction of public transportation agencies on the state of information-sharing and the value that each system provides the user, the costs and benefits of all centers and programs, the coordination among centers and programs, how each center or program contributes to implementing the information sharing plan under section 1203, and analysis of the extent to which the ISAC is duplicative with the Department's information-sharing program.

(d) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this section—

(A) $600,000 for fiscal year 2008;

(B) $600,000 for fiscal year 2009;

(C) $600,000 for fiscal year 2010; and

(D) such sums as may be necessary for 2011, provided the report required in subsection (c) of this section has been submitted to Congress.

(2) AVAILABILITY OF FUNDS.—Such sums shall remain available until expended.

SEC. 1411. THREAT ASSESSMENTS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a name-based security background check against the consolidated terrorist watchlist and an immigration status check for all public transportation frontline employees, similar to the threat assessment screening program required for facility employees and longshoremen by the Commandant of the Coast Guard under Coast Guard Notice USCG–2006–24189 (71 Fed. Reg. 25066 (April 8, 2006)).

SEC. 1412. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than March 31 of each year, the Secretary shall submit a report, containing the information described in paragraph (2), to the appropriate congressional committees.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the implementation of the provisions of this title;

(B) the amount of funds appropriated to carry out the provisions of this title that have not been expended or obligated;

(C) the National Strategy for Public Transportation Security required under section 1404;

(D) an estimate of the cost to implement the National Strategy for Public Transportation Security which shall break out the aggregated total cost of needed capital and operational security improvements for fiscal years 2008–2018; and

(E) the state of public transportation security in the United States, which shall include detailing the status of security assessments, the progress being made around the country in developing prioritized lists of security improvements necessary to make public transportation facilities and passengers more secure, the progress being made by agencies in developing security plans and how those plans differ from the security assessments and a prioritized list of security improvements being compiled by other agencies, as well as a random sample of an equal number of large- and small-scale projects currently underway.

(3) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(b) ANNUAL REPORT TO GOVERNORS.—

(1) IN GENERAL.—Not later than March 31 of each year, the Secretary shall submit a report to the Governor of each State with a public transportation agency that has received a grant under this Act.

(2) CONTENTS.—The report submitted under paragraph (1) shall specify—

(A) the amount of grant funds distributed to each such public transportation agency; and

(B) the use of such grant funds.

SEC. 1413. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIONS.

(a) IN GENERAL.—A public transportation agency, a contractor or a subcontractor of such agency, or an officer or employee of such agency, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee's lawful, good faith act done, or perceived by the employer to have been done or about to be done—

(1) to provide information, directly cause information to be provided, or otherwise directly assist in any investigation regarding any conduct which the employee reasonably believes constitutes a violation of any Federal law, rule, or regulation relating to public transportation safety or security, or fraud, waste, or abuse of Federal grants or other public funds intended to be used for public transportation safety or security, if the information or assistance is provided to or an investigation stemming from the provided information is conducted by—

(A) a Federal, State, or local regulatory or law enforcement agency (including an office of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95–452);

(B) any Member of Congress, any Committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the employee or such other person who has the authority to investigate, discover, or terminate the misconduct;

(2) to refuse to violate or assist in the violation of any Federal law, rule, or regulation relating to public transportation safety or security;

(3) to file a complaint or directly cause to be brought a proceeding related to the enforcement of this section or to testify in that proceeding;

(4) to cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

(5) to furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with public transportation.

(b) HAZARDOUS SAFETY OR SECURITY CONDITIONS.—(1) A public transportation agency, or a contractor or a subcontractor of such agency, or an officer or employee of such agency, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee for—

(A) reporting a hazardous safety or security condition;

(B) refusing to work when confronted by a hazardous safety or security condition related to the performance of the employee's duties, if the conditions described in paragraph (2) exist; or

(C) refusing to authorize the use of any safety- or security-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the equipment, track, or structures are in a hazardous safety or security condition, if the conditions described in paragraph (2) of this subsection exist.

(2) A refusal is protected under paragraph (1)(B) and (C) if—

(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

(i) the hazardous condition presents an imminent danger of death or serious injury; and

(ii) the urgency of the situation does not allow sufficient time to eliminate the danger without such refusal; and

(C) the employee, where possible, has notified the public transportation agency of the existence of the hazardous condition and the intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.

(3) In this subsection, only subsection (b)(1)(A) shall apply to security personnel, including transit police, employed or utilized by a public transportation agency to protect riders, equipment, assets, or facilities.

(c) ENFORCEMENT ACTION.—

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) or (b) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of a complaint filed under this paragraph, the Secretary of Labor shall notify, in writing, the person named in the complaint and the person's employer of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION; PRELIMINARY ORDER.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) or (b) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) or (b) has occurred, the Secretary of Labor shall accompany the Secretary of Labor's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in subsection (a) or (b) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under clause (i), no investigation otherwise required under paragraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would

have taken the same unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY OF LABOR.—The Secretary of Labor may determine that a violation of subsection (a) or (b) has occurred only if the complainant demonstrates that any behavior described in subsection (a) or (b) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under paragraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) or (b) has occurred, the Secretary of Labor shall order the person who committed such violation to—

(i) take affirmative action to abate the violation; and

(ii) provide the remedies described in subsection (d).

(C) ORDER.—If an order is issued under subparagraph (B), the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

(D) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer reasonable attorney fees not exceeding $1,000.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance

of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(7) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary of Labor.

(d) REMEDIES.—

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

(2) DAMAGES.—Relief in an action under subsection (c) (including an action described in (c)(7)) shall include—

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

(B) any backpay, with interest; and

(C) compensatory damages, including compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(3) POSSIBLE RELIEF.—Relief in any action under subsection (c) may include punitive damages in an amount not to exceed $250,000.

(e) ELECTION OF REMEDIES.—An employee may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the public transportation agency.

(f) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(h) DISCLOSURE OF IDENTITY.—

(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose the name of an employee who has provided information described in subsection (a)(1).

(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosure shall provide reasonable advance notice to the affected employee if disclosure of that person's identity or identifying information is to occur.

(i) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ESTABLISHMENT OF PROCESS.—The Secretary shall establish through regulations after an opportunity for notice and comment, and provide information to the public regarding, a process by which any person may submit a report to the Secretary regarding public transportation security problems, deficiencies, or vulnerabilities.

(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary shall respond promptly to such person and acknowledge receipt of the report.

(3) STEPS TO ADDRESS PROBLEM.—The Secretary shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.

SEC. 1414. SECURITY BACKGROUND CHECKS OF COVERED INDIVIDUALS FOR PUBLIC TRANSPORTATION.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) SECURITY BACKGROUND CHECK.—The term "security background check" means reviewing the following for the purpose of identifying individuals who may pose a threat to transportation security, national security, or of terrorism:

(A) Relevant criminal history databases.

(B) In the case of an alien (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))), the relevant databases to determine the status of the alien under the immigration laws of the United States.

(C) Other relevant information or databases, as determined by the Secretary.

(2) COVERED INDIVIDUAL.—The term "covered individual" means an employee of a public transportation agency or a contractor or subcontractor of a public transportation agency.

(b) GUIDANCE.—

(1) Any guidance, recommendations, suggested action items, or any other widely disseminated voluntary action item issued by the Secretary to a public transportation agency or a contractor or subcontractor of a public transportation agency relating to performing a security background check of a covered individual shall contain recommendations on the appropriate scope and application of such a security background check, including the time period covered, the types of disqualifying offenses, and a redress process for adversely impacted covered individuals consistent with subsections (c) and (d) of this section.

(2) Not later than 60 days after the date of enactment of this Act, any guidance, recommendations, suggested action items, or any other widely disseminated voluntary action item issued by the Secretary prior to the date of enactment of this Act to a public transportation agency or a contractor or subcontractor of a public transportation agency relating to performing a security background check of a covered individual shall be updated in compliance with paragraph (b)(1).

(3) If a public transportation agency or a contractor or subcontractor of a public transportation agency performs a security background check on a covered individual to fulfill guidance issued by the Secretary under paragraph (1) or (2), the Secretary shall not consider such guidance fulfilled unless an adequate redress process as described in subsection (d) is provided to covered individuals.

(c) REQUIREMENTS.—If the Secretary issues a rule, regulation or directive requiring a public transportation agency or contractor or subcontractor of a public transportation agency to perform a security background check of a covered individual, then the Secretary shall prohibit a public transportation agency or contractor or subcontractor of a public transportation agency from making an adverse employment decision, including removal or suspension of the employee, due to such rule, regulation, or directive with respect to a covered individual unless the public transportation agency or contractor or subcontractor of a public transportation agency determines that the covered individual—

(1) has been convicted of, has been found not guilty of by reason of insanity, or is under want, warrant, or indictment for a permanent disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations;

(2) was convicted of or found not guilty by reason of insanity of an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, within 7 years of the date that the public transportation agency or contractor

or subcontractor of the public transportation agency performs the security background check; or

(3) was incarcerated for an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, and released from incarceration within 5 years of the date that the public transportation agency or contractor or subcontractor of a public transportation agency performs the security background check.

(d) REDRESS PROCESS.—If the Secretary issues a rule, regulation, or directive requiring a public transportation agency or contractor or subcontractor of a public transportation agency to perform a security background check of a covered individual, the Secretary shall—

(1) provide an adequate redress process for a covered individual subjected to an adverse employment decision, including removal or suspension of the employee, due to such rule, regulation, or directive that is consistent with the appeals and waiver process established for applicants for commercial motor vehicle hazardous materials endorsements and transportation workers at ports, as required by section 70105(c) of title 49, United States Code; and

(2) have the authority to order an appropriate remedy, including reinstatement of the covered individual, should the Secretary determine that a public transportation agency or contractor or subcontractor of a public transportation agency wrongfully made an adverse employment decision regarding a covered individual pursuant to such rule, regulation, or directive.

(e) FALSE STATEMENTS.—A public transportation agency or a contractor or subcontractor of a public transportation agency may not knowingly misrepresent to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check. Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a regulation that prohibits a public transportation agency or a contractor or subcontractor of a public transportation agency from knowingly misrepresenting to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check.

(f) RIGHTS AND RESPONSIBILITIES.—Nothing in this section shall be construed to abridge a public transportation agency's or a contractor or subcontractor of a public transportation agency's rights or responsibilities to make adverse employment decisions permitted by other Federal, State, or local laws. Nothing in the section shall be construed to abridge rights and responsibilities of covered individuals, a public transportation agency, or a contractor or subcontractor of a public transportation agency under any other Federal, State, or local laws or collective bargaining agreement.

(g) NO PREEMPTION OF FEDERAL OR STATE LAW.—Nothing in this section shall be construed to preempt a Federal, State, or local law that requires criminal history background checks,

immigration status checks, or other background checks of covered individuals.

(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the process for review established under section 70105(c) of title 46, United States Code, including regulations issued pursuant to such section.

SEC. 1415. LIMITATION ON FINES AND CIVIL PENALTIES.

(a) INSPECTORS.—Surface transportation inspectors shall be prohibited from issuing fines to public transportation agencies for violations of the Department's regulations or orders except through the process described in subsection (b).

(b) CIVIL PENALTIES.—The Secretary shall be prohibited from assessing civil penalties against public transportation agencies for violations of the Department's regulations or orders, except in accordance with the following:

(1) In the case of a public transportation agency that is found to be in violation of a regulation or order issued by the Secretary, the Secretary shall seek correction of the violation through a written notice to the public transportation agency and shall give the public transportation agency reasonable opportunity to correct the violation or propose an alternative means of compliance acceptable to the Secretary.

(2) If the public transportation agency does not correct the violation or propose an alternative means of compliance acceptable to the Secretary within a reasonable time period that is specified in the written notice, the Secretary may take any action authorized in section 114 of title 49, United States Code, as amended by this Act.

(c) LIMITATION ON SECRETARY.—The Secretary shall not initiate civil enforcement actions for violations of administrative and procedural requirements pertaining to the application for and expenditure of funds awarded under transportation security grant programs under this title.

TITLE XV—SURFACE TRANSPORTATION SECURITY

Subtitle A—General Provisions

SEC. 1501. DEFINITIONS.

In this title, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(3) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(4) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(5) OVER-THE-ROAD BUS FRONTLINE EMPLOYEES.—In this section, the term "over-the-road bus frontline employees" means over-the-road bus drivers, security personnel, dispatchers, maintenance and maintenance support personnel, ticket agents, other terminal employees, and other employees of an over-the-road bus operator or terminal owner or operator that the Secretary determines should receive security training under this title.

(6) RAILROAD FRONTLINE EMPLOYEES.—In this section, the term "railroad frontline employees" means security personnel, dispatchers, locomotive engineers, conductors, trainmen, other onboard employees, maintenance and maintenance support personnel, bridge tenders, and any other employees of railroad carriers that the Secretary determines should receive security training under this title.

(7) RAILROAD.—The term "railroad" has the meaning that term has in section 20102 of title 49, United States Code.

(8) RAILROAD CARRIER.—The term "railroad carrier" has the meaning that term has in section 20102 of title 49, United States Code.

(9) STATE.—The term "State" means any one of the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(10) TERRORISM.—The term "terrorism" has the meaning that term has in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(11) TRANSPORTATION.—The term "transportation", as used with respect to an over-the-road bus, means the movement of passengers or property by an over-the-road bus—

(A) in the jurisdiction of the United States between a place in a State and a place outside the State (including a place outside the United States); or

(B) in a State that affects trade, traffic, and transportation described in subparagraph (A).

(12) UNITED STATES.—The term "United States" means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(13) SECURITY-SENSITIVE MATERIAL.—The term "security-sensitive material" means a material, or a group or class of material, in a particular amount and form that the Secretary, in consultation with the Secretary of Transportation, determines, through a rulemaking with opportunity for public comment, poses a significant risk to national security while being transported in commerce due to the potential use of the material in an act of terrorism. In making such a designation, the Secretary shall, at a minimum, consider the following:

(A) Class 7 radioactive materials.

(B) Division 1.1, 1.2, or 1.3 explosives.

(C) Materials poisonous or toxic by inhalation, including Division 2.3 gases and Division 6.1 materials.

(D) A select agent or toxin regulated by the Centers for Disease Control and Prevention under part 73 of title 42, Code of Federal Regulations.

(14) DISADVANTAGED BUSINESS CONCERNS.—The term "disadvantaged business concerns" means small businesses that are owned and controlled by socially and economically disadvantaged individuals as defined in section 124, of title 13, Code of Federal Regulations.

(15) AMTRAK.—The term "Amtrak" means the National Railroad Passenger Corporation.

SEC. 1502. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary, in coordination with Secretary of Transportation for grants awarded to Amtrak, shall establish necessary procedures, including monitoring and audits, to ensure that grants made under this title are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.

(b) ADDITIONAL AUDITS AND REVIEWS.—The Secretary, and the Secretary of Transportation for grants awarded to Amtrak, may award contracts to undertake additional audits and reviews of the safety, security, procurement, management, and financial compliance of a recipient of amounts under this title.

(c) PROCEDURES FOR GRANT AWARD.—Not later than 180 days after the date of enactment of this Act, the Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures, and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107(i) and (j) of title 46, United States Code.

(d) ADDITIONAL AUTHORITY.—

(1) ISSUANCE.—The Secretary may issue non-binding letters of intent to recipients of a grant under this title, to commit funding from future budget authority of an amount, not more than the Federal Government's share of the project's cost, for a capital improvement project.

(2) SCHEDULE.—The letter of intent under this subsection shall establish a schedule under which the Secretary will reimburse the recipient for the Government's share of the project's costs, as amounts become available, if the recipient, after the Secretary issues that letter, carries out the project without receiving amounts under a grant issued under this title.

(3) NOTICE TO SECRETARY.—A recipient that has been issued a letter of intent under this section shall notify the Secretary of the recipient's intent to carry out a project before the project begins.

(4) NOTICE TO CONGRESS.—The Secretary shall transmit to the appropriate congressional committees a written notification at least 5 days before the issuance of a letter of intent under this subsection.

(5) LIMITATIONS.—A letter of intent issued under this subsection is not an obligation of the Federal Government under section 1501 of title 31, United States Code, and the letter is not deemed to be an administrative commitment for

financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(e) RETURN OF MISSPENT GRANT FUNDS.—As part of the grant agreement under subsection (c), the Secretary shall require grant applicants to return any misspent grant funds received under this title that the Secretary considers to have been spent for a purpose other than those specified in the grant award. The Secretary shall take all necessary actions to recover such funds.

(f) CONGRESSIONAL NOTIFICATION.—Not later than 5 days before the award of any grant is made under this title, the Secretary shall notify the appropriate congressional committees of the intent to award such grant.

(g) GUIDELINES.—The Secretary shall ensure, to the extent practicable, that grant recipients under this title who use contractors or subcontractors use small, minority, women-owned, or disadvantaged business concerns as contractors or subcontractors when appropriate.

SEC. 1503. AUTHORIZATION OF APPROPRIATIONS.

(a) TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION.—Section 114 of title 49, United States Code, as amended by section 1302 of this Act, is further amended by adding at the end the following:

"(w) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for—

"(1) railroad security—
"(A) $488,000,000 for fiscal year 2008;
"(B) $483,000,000 for fiscal year 2009;
"(C) $508,000,000 for fiscal year 2010; and
"(D) $508,000,000 for fiscal year 2011;

"(2) over-the-road bus and trucking security—
"(A) $14,000,000 for fiscal year 2008;
"(B) $27,000,000 for fiscal year 2009;
"(C) $27,000,000 for fiscal year 2010; and
"(D) $27,000,000 for fiscal year 2011; and

"(3) hazardous material and pipeline security—
"(A) $12,000,000 for fiscal year 2008;
"(B) $12,000,000 for fiscal year 2009; and
"(C) $12,000,000 for fiscal year 2010.".

(b) DEPARTMENT OF TRANSPORTATION.—There are authorized to be appropriated to the Secretary of Transportation to carry out section 1515—

(1) $38,000,000 for fiscal year 2008;
(2) $40,000,000 for fiscal year 2009;
(3) $55,000,000 for fiscal year 2010; and
(4) $70,000,000 for fiscal year 2011.

SEC. 1504. PUBLIC AWARENESS.

Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a national plan for railroad and over-the-road bus security public outreach and awareness. Such a plan shall be designed to increase awareness of measures that the general public, passengers, and employees of railroad carriers and over-the-road bus operators can take to increase the security of the national railroad and over-the-road bus transportation systems. Such a plan shall also provide outreach to railroad carriers

and over-the-road bus operators and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve security. Not later than 9 months after the date of enactment of this Act, the Secretary shall implement the plan developed under this section.

Subtitle B—Railroad Security

SEC. 1511. RAILROAD TRANSPORTATION SECURITY RISK ASSESSMENT AND NATIONAL STRATEGY.

(a) RISK ASSESSMENT.—The Secretary shall establish a Federal task force, including the Transportation Security Administration and other agencies within the Department, the Department of Transportation, and other appropriate Federal agencies, to complete, within 6 months of the date of enactment of this Act, a nationwide risk assessment of a terrorist attack on railroad carriers. The assessment shall include—

(1) a methodology for conducting the risk assessment, including timelines, that addresses how the Department will work with the entities described in subsection (c) and make use of existing Federal expertise within the Department, the Department of Transportation, and other appropriate agencies;

(2) identification and evaluation of critical assets and infrastructure, including tunnels used by railroad carriers in high-threat urban areas;

(3) identification of risks to those assets and infrastructure;

(4) identification of risks that are specific to the transportation of hazardous materials via railroad;

(5) identification of risks to passenger and cargo security, transportation infrastructure protection systems, operations, communications systems, and any other area identified by the assessment;

(6) an assessment of employee training and emergency response planning;

(7) an assessment of public and private operational recovery plans, taking into account the plans for the maritime sector required under section 70103 of title 46, United States Code, to expedite, to the maximum extent practicable, the return of an adversely affected railroad transportation system or facility to its normal performance level after a major terrorist attack or other security event on that system or facility; and

(8) an account of actions taken or planned by both public and private entities to address identified railroad security issues and an assessment of the effective integration of such actions.

(b) NATIONAL STRATEGY.—

(1) REQUIREMENT.—Not later than 9 months after the date of enactment of this Act and based upon the assessment conducted under subsection (a), the Secretary, consistent with and as required by section 114(t) of title 49, United States Code, shall develop and implement the modal plan for railroad transportation, entitled the "National Strategy for Railroad Transportation Security".

(2) CONTENTS.—The modal plan shall include prioritized goals, actions, objectives, policies, mechanisms, and schedules for, at a minimum—

(A) improving the security of railroad tunnels, railroad bridges, railroad switching and car storage areas, other railroad infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant railroad-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of railroad service or on operations served or otherwise affected by railroad service;

(B) deploying equipment and personnel to detect security threats, including those posed by explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) consistent with section 1517, training railroad employees in terrorism prevention, preparedness, passenger evacuation, and response activities;

(D) conducting public outreach campaigns for railroads regarding security, including educational initiatives designed to inform the public on how to prevent, prepare for, respond to, and recover from a terrorist attack on railroad transportation;

(E) providing additional railroad security support for railroads at high or severe threat levels of alert;

(F) ensuring, in coordination with freight and intercity and commuter passenger railroads, the continued movement of freight and passengers in the event of an attack affecting the railroad system, including the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station;

(G) coordinating existing and planned railroad security initiatives undertaken by the public and private sectors;

(H) assessing—

(i) the usefulness of covert testing of railroad security systems;

(ii) the ability to integrate security into infrastructure design; and

(iii) the implementation of random searches of passengers and baggage; and

(I) identifying the immediate and long-term costs of measures that may be required to address those risks and public and private sector sources to fund such measures.

(3) RESPONSIBILITIES.—The Secretary shall include in the modal plan a description of the roles, responsibilities, and authorities of Federal, State, and local agencies, government-sponsored entities, tribal governments, and appropriate stakeholders described in subsection (c). The plan shall also include—

(A) the identification of, and a plan to address, gaps and unnecessary overlaps in the roles, responsibilities, and authorities described in this paragraph;

(B) a methodology for how the Department will work with the entities described in subsection (c), and make use of existing Federal expertise within the Department,

the Department of Transportation, and other appropriate agencies;

(C) a process for facilitating security clearances for the purpose of intelligence and information sharing with the entities described in subsection (c), as appropriate;

(D) a strategy and timeline, coordinated with the research and development program established under section 1518, for the Department, the Department of Transportation, other appropriate Federal agencies and private entities to research and develop new technologies for securing railroad systems; and

(E) a process for coordinating existing or future security strategies and plans for railroad transportation, including the National Infrastructure Protection Plan required by Homeland Security Presidential Directive–7; Executive Order No. 13416: "Strengthening Surface Transportation Security" dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities dated September 28, 2004, and any and all subsequent annexes to this Memorandum of Understanding, and any other relevant agreements between the two Departments.

(c) CONSULTATION WITH STAKEHOLDERS.—In developing the National Strategy required under this section, the Secretary shall consult with railroad management, nonprofit employee organizations representing railroad employees, owners or lessors of railroad cars used to transport hazardous materials, emergency responders, offerors of security-sensitive materials, public safety officials, and other relevant parties.

(d) ADEQUACY OF EXISTING PLANS AND STRATEGIES.—In developing the risk assessment and National Strategy required under this section, the Secretary shall utilize relevant existing plans, strategies, and risk assessments developed by the Department or other Federal agencies, including those developed or implemented pursuant to section 114(t) of title 49, United States Code, or Homeland Security Presidential Directive–7, and, as appropriate, assessments developed by other public and private stakeholders.

(e) REPORT.—

(1) CONTENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the appropriate congressional committees a report containing—

(A) the assessment and the National Strategy required by this section; and

(B) an estimate of the cost to implement the National Strategy.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(f) ANNUAL UPDATES.—Consistent with the requirements of section 114(t) of title 49, United States Code, the Secretary shall update the assessment and National Strategy each year and transmit a report, which may be submitted in both classified and redacted formats, to the appropriate congressional committees containing the updated assessment and recommendations.

(g) FUNDING.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section

1503 of this title, there shall be made available to the Secretary to carry out this section $5,000,000 for fiscal year 2008.

SEC. 1512. RAILROAD CARRIER ASSESSMENTS AND PLANS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary shall issue regulations that—

(1) require each railroad carrier assigned to a high-risk tier under this section to—

(A) conduct a vulnerability assessment in accordance with subsections (c) and (d); and

(B) to prepare, submit to the Secretary for approval, and implement a security plan in accordance with this section that addresses security performance requirements; and

(2) establish standards and guidelines, based on and consistent with the risk assessment and National Strategy for Railroad Transportation Security developed under section 1511, for developing and implementing the vulnerability assessments and security plans for railroad carriers assigned to high-risk tiers.

(b) NON HIGH-RISK PROGRAMS.—The Secretary may establish a security program for railroad carriers not assigned to a high-risk tier, including—

(1) guidance for such carriers in conducting vulnerability assessments and preparing and implementing security plans, as determined appropriate by the Secretary; and

(2) a process to review and approve such assessments and plans, as appropriate.

(c) DEADLINE FOR SUBMISSION.—Not later than 9 months after the date of issuance of the regulations under subsection (a), the vulnerability assessments and security plans required by such regulations for railroad carriers assigned to a high-risk tier shall be completed and submitted to the Secretary for review and approval.

(d) VULNERABILITY ASSESSMENTS.—

(1) REQUIREMENTS.—The Secretary shall provide technical assistance and guidance to railroad carriers in conducting vulnerability assessments under this section and shall require that each vulnerability assessment of a railroad carrier assigned to a high-risk tier under this section, include, as applicable—

(A) identification and evaluation of critical railroad carrier assets and infrastructure, including platforms, stations, intermodal terminals, tunnels, bridges, switching and storage areas, and information systems as appropriate;

(B) identification of the vulnerabilities to those assets and infrastructure;

(C) identification of strengths and weaknesses in—

(i) physical security;

(ii) passenger and cargo security, including the security of security-sensitive materials being transported by railroad or stored on railroad property;

(iii) programmable electronic devices, computers, or other automated systems which are used in providing the transportation;

(iv) alarms, cameras, and other protection systems;

(v) communications systems and utilities needed for railroad security purposes, including dispatching and notification systems;

(vi) emergency response planning;

(vii) employee training; and

(viii) such other matters as the Secretary determines appropriate; and

(D) identification of redundant and backup systems required to ensure the continued operation of critical elements of a railroad carrier's system in the event of an attack or other incident, including disruption of commercial electric power or communications network.

(2) THREAT INFORMATION.—The Secretary shall provide in a timely manner to the appropriate employees of a railroad carrier, as designated by the railroad carrier, threat information that is relevant to the carrier when preparing and submitting a vulnerability assessment and security plan, including an assessment of the most likely methods that could be used by terrorists to exploit weaknesses in railroad security.

(e) SECURITY PLANS.—

(1) REQUIREMENTS.—The Secretary shall provide technical assistance and guidance to railroad carriers in preparing and implementing security plans under this section, and shall require that each security plan of a railroad carrier assigned to a high-risk tier under this section include, as applicable—

(A) identification of a security coordinator having authority—

(i) to implement security actions under the plan;

(ii) to coordinate security improvements; and

(iii) to receive immediate communications from appropriate Federal officials regarding railroad security;

(B) a list of needed capital and operational improvements;

(C) procedures to be implemented or used by the railroad carrier in response to a terrorist attack, including evacuation and passenger communication plans that include individuals with disabilities as appropriate;

(D) identification of steps taken with State and local law enforcement agencies, emergency responders, and Federal officials to coordinate security measures and plans for response to a terrorist attack;

(E) a strategy and timeline for conducting training under section 1517;

(F) enhanced security measures to be taken by the railroad carrier when the Secretary declares a period of heightened security risk;

(G) plans for providing redundant and backup systems required to ensure the continued operation of critical elements of the railroad carrier's system in the event of a terrorist attack or other incident;

(H) a strategy for implementing enhanced security for shipments of security-sensitive materials, including plans for quickly locating and securing such shipments in the event of a terrorist attack or security incident; and

(I) such other actions or procedures as the Secretary determines are appropriate to address the security of railroad carriers.

(2) SECURITY COORDINATOR REQUIREMENTS.—The Secretary shall require that the individual serving as the security coordinator identified in paragraph (1)(A) is a citizen of the United States. The Secretary may waive this requirement with respect to an individual if the Secretary determines that it is appropriate to do so based on a background check of the individual and a review of the consolidated terrorist watchlist.

(3) CONSISTENCY WITH OTHER PLANS.—The Secretary shall ensure that the security plans developed by railroad carriers under this section are consistent with the risk assessment and National Strategy for Railroad Transportation Security developed under section 1511.

(f) DEADLINE FOR REVIEW PROCESS.—Not later than 6 months after receiving the assessments and plans required under this section, the Secretary shall—

(1) review each vulnerability assessment and security plan submitted to the Secretary in accordance with subsection (c);

(2) require amendments to any security plan that does not meet the requirements of this section; and

(3) approve any vulnerability assessment or security plan that meets the requirements of this section.

(g) INTERIM SECURITY MEASURES.—The Secretary may require railroad carriers, during the period before the deadline established under subsection (c), to submit a security plan under subsection (e) to implement any necessary interim security measures essential to providing adequate security of the railroad carrier's system. An interim plan required under this subsection will be superseded by a plan required under subsection (e).

(h) TIER ASSIGNMENT.—Utilizing the risk assessment and National Strategy for Railroad Transportation Security required under section 1511, the Secretary shall assign each railroad carrier to a risk-based tier established by the Secretary:

(1) PROVISION OF INFORMATION.—The Secretary may request, and a railroad carrier shall provide, information necessary for the Secretary to assign a railroad carrier to the appropriate tier under this subsection.

(2) NOTIFICATION.—Not later than 60 days after the date a railroad carrier is assigned to a tier under this subsection, the Secretary shall notify the railroad carrier of the tier to which it is assigned and the reasons for such assignment.

(3) HIGH-RISK TIERS.—At least one of the tiers established by the Secretary under this subsection shall be designated a tier for high-risk railroad carriers.

(4) REASSIGNMENT.—The Secretary may reassign a railroad carrier to another tier, as appropriate, in response to changes in risk. The Secretary shall notify the railroad carrier not later than 60 days after such reassignment and provide the railroad carrier with the reasons for such reassignment.

(i) NONDISCLOSURE OF INFORMATION.—

(1) SUBMISSION OF INFORMATION TO CONGRESS.—Nothing in this section shall be construed as authorizing the withholding of any information from Congress.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section shall be construed as affecting

any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from a railroad carrier under any other Federal law.

(j) EXISTING PROCEDURES, PROTOCOLS AND STANDARDS.—

(1) DETERMINATION.—In response to a petition by a railroad carrier or at the discretion of the Secretary, the Secretary may determine that existing procedures, protocols, and standards meet all or part of the requirements of this section, including regulations issued under subsection (a), regarding vulnerability assessments and security plans.

(2) ELECTION.—Upon review and written determination by the Secretary that existing procedures, protocols, or standards of a railroad carrier satisfy the requirements of this section, the railroad carrier may elect to comply with those procedures, protocols, or standards instead of the requirements of this section.

(3) PARTIAL APPROVAL.—If the Secretary determines that the existing procedures, protocols, or standards of a railroad carrier satisfy only part of the requirements of this section, the Secretary may accept such submission, but shall require submission by the railroad carrier of any additional information relevant to the vulnerability assessment and security plan of the railroad carrier to ensure that the remaining requirements of this section are fulfilled.

(4) NOTIFICATION.—If the Secretary determines that particular existing procedures, protocols, or standards of a railroad carrier under this subsection do not satisfy the requirements of this section, the Secretary shall provide to the railroad carrier a written notification that includes an explanation of the determination.

(5) REVIEW.—Nothing in this subsection shall relieve the Secretary of the obligation—

(A) to review the vulnerability assessment and security plan submitted by a railroad carrier under this section; and

(B) to approve or disapprove each submission on an individual basis.

(k) PERIODIC EVALUATION BY RAILROAD CARRIERS REQUIRED.—

(1) SUBMISSION OF EVALUATION.—Not later than 3 years after the date on which a vulnerability assessment or security plan required to be submitted to the Secretary under subsection (c) is approved, and at least once every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), a railroad carrier who submitted a vulnerability assessment and security plan and who is still assigned to the high-risk tier must also submit to the Secretary an evaluation of the adequacy of the vulnerability assessment and security plan that includes a description of any material changes made to the vulnerability assessment or security plan.

(2) REVIEW OF EVALUATION.—Not later than 180 days after the date on which an evaluation is submitted, the Secretary shall review the evaluation and notify the railroad carrier submitting the evaluation of the Secretary's approval or disapproval of the evaluation.

(l) SHARED FACILITIES.—The Secretary may permit under this section the development and implementation of coordinated vulnerability assessments and security plans to the extent that a railroad

carrier shares facilities with, or is colocated with, other transportation entities or providers that are required to develop vulnerability assessments and security plans under Federal law.

(m) CONSULTATION.—In carrying out this section, the Secretary shall consult with railroad carriers, nonprofit employee labor organizations representation railroad employees, and public safety and law enforcement officials.

SEC. 1513. RAILROAD SECURITY ASSISTANCE.

(a) SECURITY IMPROVEMENT GRANTS.—(1) The Secretary, in consultation with the Administrator of the Transportation Security Administration and other appropriate agencies or officials, is authorized to make grants to railroad carriers, the Alaska Railroad, security-sensitive materials offerors who ship by railroad, owners of railroad cars used in the transportation of security-sensitive materials, State and local governments (for railroad passenger facilities and infrastructure not owned by Amtrak), and Amtrak for intercity passenger railroad and freight railroad security improvements described in subsection (b) as approved by the Secretary.

(2) A railroad carrier is eligible for a grant under this section if the carrier has completed a vulnerability assessment and developed a security plan that the Secretary has approved in accordance with section 1512.

(3) A recipient of a grant under this section may use grant funds only for permissible uses under subsection (b) to further a railroad security plan that meets the requirements of paragraph (2).

(4) Notwithstanding the requirement for eligibility and uses of funds in paragraphs (2) and (3), a railroad carrier is eligible for a grant under this section if the applicant uses the funds solely for the development of assessments or security plans under section 1512.

(5) Notwithstanding the requirements for eligibility and uses of funds in paragraphs (2) and (3), prior to the earlier of 1 year after the date of issuance of final regulations requiring vulnerability assessments and security plans under section 1512 or 3 years after the date of enactment of this Act, the Secretary may award grants under this section for rail security improvements listed under subsection (b) based upon railroad carrier vulnerability assessments and security plans that the Secretary determines are sufficient for the purposes of this section but have not been approved by the Secretary in accordance with section 1512.

(b) USES OF FUNDS.—A recipient of a grant under this section shall use the grant funds for one or more of the following:

(1) Security and redundancy for critical communications, computer, and train control systems essential for secure railroad operations.

(2) Accommodation of railroad cargo or passenger security inspection facilities, related infrastructure, and operations at or near United States international borders or other ports of entry.

(3) The security of security-sensitive materials transportation by railroad.

(4) Chemical, biological, radiological, or explosive detection, including canine patrols for such detection.

(5) The security of intercity passenger railroad stations, trains, and infrastructure, including security capital improvement projects that the Secretary determines enhance railroad station security.

(6) Technologies to reduce the vulnerabilities of railroad cars, including structural modification of railroad cars transporting security-sensitive materials to improve their resistance to acts of terrorism.

(7) The sharing of intelligence and information about security threats.

(8) To obtain train tracking and communications equipment, including equipment that is interoperable with Federal, State, and local agencies and tribal governments.

(9) To hire, train, and employ police and security officers, including canine units, assigned to full-time security or counterterrorism duties related to railroad transportation.

(10) Overtime reimbursement, including reimbursement of State, local, and tribal governments for costs, for enhanced security personnel assigned to duties related to railroad security during periods of high or severe threat levels and National Special Security Events or other periods of heightened security as determined by the Secretary.

(11) Perimeter protection systems, including access control, installation of improved lighting, fencing, and barricades at railroad facilities.

(12) Tunnel protection systems.

(13) Passenger evacuation and evacuation-related capital improvements.

(14) Railroad security inspection technologies, including verified visual inspection technologies using hand-held readers.

(15) Surveillance equipment.

(16) Cargo or passenger screening equipment.

(17) Emergency response equipment, including fire suppression and decontamination equipment, personal protective equipment, and defibrillators.

(18) Operating and capital costs associated with security awareness, preparedness, and response training, including training under section 1517, and training developed by universities, institutions of higher education, and nonprofit employee labor organizations, for railroad employees, including frontline employees.

(19) Live or simulated exercises, including exercises described in section 1516.

(20) Public awareness campaigns for enhanced railroad security.

(21) Development of assessments or security plans under section 1512.

(22) Other security improvements—

(A) identified, required, or recommended under sections 1511 and 1512, including infrastructure, facilities, and equipment upgrades; or

(B) that the Secretary considers appropriate.

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants;

(2) establish priorities for uses of funds for grant recipients;

(3) award the funds authorized by this section based on risk, as identified by the plans required under sections 1511 and 1512, or assessment or plan described in subsection (a)(5);

(4) take into account whether stations or facilities are used by commuter railroad passengers as well as intercity railroad passengers in reviewing grant applications;

(5) encourage non-Federal financial participation in projects funded by grants; and

(6) not later than 5 business days after awarding a grant to Amtrak under this section, transfer grant funds to the Secretary of Transportation to be disbursed to Amtrak.

(d) MULTIYEAR AWARDS.—Grant funds awarded under this section may be awarded for projects that span multiple years.

(e) LIMITATION ON USES OF FUNDS.—A grant made under this section may not be used to make any State or local government cost-sharing contribution under any other Federal law.

(f) ANNUAL REPORTS.—Each recipient of a grant under this section shall report annually to the Secretary on the use of grant funds.

(g) NON-FEDERAL MATCH STUDY.—Not later than 240 days after the date of enactment of this Act, the Secretary shall provide a report to the appropriate congressional committees on the feasibility and appropriateness of requiring a non-Federal match for grants awarded to freight railroad carriers and other private entities under this section.

(h) SUBJECT TO CERTAIN STANDARDS.—A recipient of a grant under this section and sections 1514 and 1515 shall be required to comply with the standards of section 24312 of title 49, United States Code, as in effect on January 1, 2007, with respect to the project in the same manner as Amtrak is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of that title.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this title, there shall be made available to the Secretary to carry out this section—

(A) $300,000,000 for fiscal year 2008;

(B) $300,000,000 for fiscal year 2009;

(C) $300,000,000 for fiscal year 2010; and

(D) $300,000,000 for fiscal year 2011.

(2) PERIOD OF AVAILABILITY.—Sums appropriated to carry out this section shall remain available until expended.

SEC. 1514. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL.—

(1) GRANTS.—Subject to subsection (b), the Secretary, in consultation with the Administrator of the Transportation Security Administration, is authorized to make grants to Amtrak in accordance with the provisions of this section.

(2) GENERAL PURPOSES.—The Secretary may make such grants for the purposes of—

(A) protecting underwater and underground assets and systems;

(B) protecting high-risk and high-consequence assets identified through systemwide risk assessments;

(C) providing counterterrorism or security training;

(D) providing both visible and unpredictable deterrence; and

(E) conducting emergency preparedness drills and exercises.

(3) SPECIFIC PROJECTS.—The Secretary shall make such grants—

(A) to secure major tunnel access points and ensure tunnel integrity in New York, New Jersey, Maryland, and Washington, DC;

(B) to secure Amtrak trains;

(C) to secure Amtrak stations;

(D) to obtain a watchlist identification system approved by the Secretary;

(E) to obtain train tracking and interoperable communications systems that are coordinated with Federal, State, and local agencies and tribal governments to the maximum extent possible;

(F) to hire, train, and employ police and security officers, including canine units, assigned to full-time security or counterterrorism duties related to railroad transportation;

(G) for operating and capital costs associated with security awareness, preparedness, and response training, including training under section 1517, and training developed by universities, institutions of higher education, and nonprofit employee labor organizations, for railroad employees, including frontline employees; and

(H) for live or simulated exercises, including exercises described in section 1516.

(b) CONDITIONS.—The Secretary shall award grants to Amtrak under this section for projects contained in a systemwide security plan approved by the Secretary developed pursuant to section 1512. Not later than 5 business days after awarding a grant to Amtrak under this section, the Secretary shall transfer the grant funds to the Secretary of Transportation to be disbursed to Amtrak.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system and consistent with the risk assessment required under section 1511 and Amtrak's vulnerability assessment and security plan developed under section 1512, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this title, there shall be made available to the Secretary and the Administrator of the Transportation Security Administration to carry out this section—

(A) $150,000,000 for fiscal year 2008;

(B) $150,000,000 for fiscal year 2009;

(C) $175,000,000 for fiscal year 2010; and

(D) $175,000,000 for fiscal year 2011.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1515. FIRE AND LIFE SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—There are authorized to be appropriated to the Secretary of Transportation for making grants to Amtrak for the purpose of carrying out projects to make fire and life safety improvements to Amtrak tunnels on the Northeast Corridor the following amounts:

(1) For the 6 New York and New Jersey tunnels to provide ventilation, electrical, and fire safety technology improvements, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $25,000,000 for fiscal year 2008;
(B) $30,000,000 for fiscal year 2009;
(C) $45,000,000 for fiscal year 2010; and
(D) $60,000,000 for fiscal year 2011.

(2) For the Baltimore Potomac Tunnel and the Union Tunnel, together, to provide adequate drainage and ventilation, communication, lighting, standpipe, and passenger egress improvements—

(A) $5,000,000 for fiscal year 2008;
(B) $5,000,000 for fiscal year 2009;
(C) $5,000,000 for fiscal year 2010; and
(D) $5,000,000 for fiscal year 2011.

(3) For the Union Station tunnels in the District of Columbia to improve ventilation, communication, lighting, and passenger egress improvements—

(A) $5,000,000 for fiscal year 2008;
(B) $5,000,000 for fiscal year 2009;
(C) $5,000,000 for fiscal year 2010; and
(D) $5,000,000 for fiscal year 2011.

(b) INFRASTRUCTURE UPGRADES.—Out of funds appropriated pursuant to section 1503(b), there shall be made available to the Secretary of Transportation for fiscal year 2008, $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(c) AVAILABILITY OF AMOUNTS.—Amounts appropriated pursuant to this section shall remain available until expended.

(d) PLANS REQUIRED.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary of Transportation, and the Secretary of Transportation has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary of Transportation has approved a project management plan prepared by Amtrak.

(e) REVIEW OF PLANS.—

(1) IN GENERAL.—The Secretary of Transportation shall complete the review of a plan required under subsection (d) and approve or disapprove the plan within 45 days after the date on which each such plan is submitted by Amtrak.

(2) INCOMPLETE OR DEFICIENT PLAN.—If the Secretary of Transportation determines that a plan is incomplete or deficient, the Secretary of Transportation shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary of Transportation's

notification, submit a modified plan for the Secretary of Transportation's review.

(3) APPROVAL OF PLAN.—Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary of Transportation shall either approve the modified plan, or if the Secretary of Transportation finds the plan is still incomplete or deficient, the Secretary of Transportation shall—

(A) identify in writing to the appropriate congressional committees the portions of the plan the Secretary finds incomplete or deficient;

(B) approve all other portions of the plan;

(C) obligate the funds associated with those portions; and

(D) execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(f) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary of Transportation, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a), shall—

(1) consider the extent to which railroad carriers other than Amtrak use or plan to use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other railroad carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other railroad carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

SEC. 1516. RAILROAD CARRIER EXERCISES.

(a) IN GENERAL.—The Secretary shall establish a program for conducting security exercises for railroad carriers for the purpose of assessing and improving the capabilities of entities described in subsection (b) to prevent, prepare for, mitigate, respond to, and recover from acts of terrorism.

(b) COVERED ENTITIES.—Entities to be assessed under the program shall include—

(1) Federal, State, and local agencies and tribal governments;

(2) railroad carriers;

(3) governmental and nongovernmental emergency response providers, law enforcement agencies, and railroad and transit police, as appropriate; and

(4) any other organization or entity that the Secretary determines appropriate.

(c) REQUIREMENTS.—The Secretary shall ensure that the program—

(1) consolidates existing security exercises for railroad carriers administered by the Department and the Department of Transportation, as jointly determined by the Secretary and the Secretary of Transportation, unless the Secretary waives this consolidation requirement as appropriate;

(2) consists of exercises that are—

(A) scaled and tailored to the needs of the carrier, including addressing the needs of the elderly and individuals with disabilities;

(B) live, in the case of the most at-risk facilities to a terrorist attack;

(C) coordinated with appropriate officials;

(D) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

(E) inclusive, as appropriate, of railroad frontline employees; and

(F) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, and other such national initiatives;

(3) provides that exercises described in paragraph (2) will be—

(A) evaluated by the Secretary against clear and consistent performance measures;

(B) assessed by the Secretary to identify best practices, which shall be shared, as appropriate, with railroad carriers, nonprofit employee organizations that represent railroad carrier employees, Federal, State, local, and tribal officials, governmental and nongovernmental emergency response providers, law enforcement personnel, including railroad carrier and transit police, and other stakeholders; and

(C) used to develop recommendations, as appropriate, from the Secretary to railroad carriers on remedial action to be taken in response to lessons learned;

(4) allows for proper advanced notification of communities and local governments in which exercises are held, as appropriate; and

(5) assists State, local, and tribal governments and railroad carriers in designing, implementing, and evaluating additional exercises that conform to the requirements of paragraph (1).

(d) NATIONAL EXERCISE PROGRAM.—The Secretary shall ensure that the exercise program developed under subsection (c) is a component of the National Exercise Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109–295; 6 U.S.C. 748).

SEC. 1517. RAILROAD SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall develop and issue regulations for a training program to prepare railroad frontline employees for potential security threats and conditions. The regulations shall take into consideration any current security training requirements or best practices.

(b) CONSULTATION.—The Secretary shall develop the regulations under subsection (a) in consultation with—

(1) appropriate law enforcement, fire service, emergency response, security, and terrorism experts;

(2) railroad carriers;

(3) railroad shippers; and

(4) nonprofit employee labor organizations representing railroad employees or emergency response personnel.

(c) PROGRAM ELEMENTS.—The regulations developed under subsection (a) shall require security training programs described in subsection (a) to include, at a minimum, elements to address the following, as applicable:

(1) Determination of the seriousness of any occurrence or threat.

(2) Crew and passenger communication and coordination.

(3) Appropriate responses to defend or protect oneself.

(4) Use of personal and other protective equipment.

(5) Evacuation procedures for passengers and railroad employees, including individuals with disabilities and the elderly.

(6) Psychology, behavior, and methods of terrorists, including observation and analysis.

(7) Training related to psychological responses to terrorist incidents, including the ability to cope with hijacker behavior and passenger responses.

(8) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(9) Recognition and reporting of dangerous substances, suspicious packages, and situations.

(10) Understanding security incident procedures, including procedures for communicating with governmental and nongovernmental emergency response providers and for on-scene interaction with such emergency response providers.

(11) Operation and maintenance of security equipment and systems.

(12) Other security training activities that the Secretary considers appropriate.

(d) REQUIRED PROGRAMS.—

(1) DEVELOPMENT AND SUBMISSION TO SECRETARY.—Not later than 90 days after the Secretary issues regulations under subsection (a), each railroad carrier shall develop a security training program in accordance with this section and submit the program to the Secretary for approval.

(2) APPROVAL OR DISAPPROVAL.—Not later than 60 days after receiving a security training program proposal under this subsection, the Secretary shall approve the program or require the railroad carrier that developed the program to make any revisions to the program that the Secretary considers necessary for the program to meet the requirements of this section. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them.

(3) TRAINING.—Not later than 1 year after the Secretary approves a security training program in accordance with this subsection, the railroad carrier that developed the program shall complete the training of all railroad frontline employees who were hired by a carrier more than 30 days preceding such date. For such employees employed less than 30 days by a carrier preceding such date, training shall be completed within the first 60 days of employment.

(4) UPDATES OF REGULATIONS AND PROGRAM REVISIONS.—The Secretary shall periodically review and update as appropriate the training regulations issued under subsection (a) to reflect new or changing security threats. Each railroad carrier

shall revise its training program accordingly and provide additional training as necessary to its frontline employees within a reasonable time after the regulations are updated.

(e) NATIONAL TRAINING PROGRAM.—The Secretary shall ensure that the training program developed under subsection (a) is a component of the National Training Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109–295; 6 U.S.C. 748).

(f) REPORTING REQUIREMENTS.—Not later than 2 years after the date of regulation issuance, the Secretary shall review implementation of the training program of a representative sample of railroad carriers and railroad frontline employees, and report to the appropriate congressional committees on the number of reviews conducted and the results of such reviews. The Secretary may submit the report in both classified and redacted formats as necessary.

(g) OTHER EMPLOYEES.—The Secretary shall issue guidance and best practices for a railroad shipper employee security program containing the elements listed under subsection (c).

SEC. 1518. RAILROAD SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary, acting through the Under Secretary for Science and Technology and the Administrator of the Transportation Security Administration, shall carry out a research and development program for the purpose of improving the security of railroad transportation systems.

(b) ELIGIBLE PROJECTS.—The research and development program may include projects—

(1) to reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances, including the development of technology to screen passengers in large numbers at peak commuting times with minimal interference and disruption;

(2) to test new emergency response and recovery techniques and technologies, including those used at international borders;

(3) to develop improved railroad security technologies, including—

(A) technologies for sealing or modifying railroad tank cars;

(B) automatic inspection of railroad cars;

(C) communication-based train control systems;

(D) emergency response training, including training in a tunnel environment;

(E) security and redundancy for critical communications, electrical power, computer, and train control systems; and

(F) technologies for securing bridges and tunnels;

(4) to test wayside detectors that can detect tampering;

(5) to support enhanced security for the transportation of security-sensitive materials by railroad;

(6) to mitigate damages in the event of a cyber attack; and

(7) to address other vulnerabilities and risks identified by the Secretary.

(c) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary—

(1) shall ensure that the research and development program is consistent with the National Strategy for Railroad Transportation Security developed under section 1511 and any other transportation security research and development programs required by this Act;

(2) shall, to the extent practicable, coordinate the research and development activities of the Department with other ongoing research and development security-related initiatives, including research being conducted by—

(A) the Department of Transportation, including University Transportation Centers and other institutes, centers, and simulators funded by the Department of Transportation;

(B) the National Academy of Sciences;

(C) the Technical Support Working Group;

(D) other Federal departments and agencies; and

(E) other Federal and private research laboratories, research entities, and universities and institutions of higher education, including Historically Black Colleges and Universities, Hispanic Serving Institutions, or Indian Tribally Controlled Colleges and Universities;

(3) shall carry out any research and development project authorized by this section through a reimbursable agreement with an appropriate Federal agency, if the agency—

(A) is currently sponsoring a research and development project in a similar area; or

(B) has a unique facility or capability that would be useful in carrying out the project;

(4) may award grants, or enter into cooperative agreements, contracts, other transactions, or reimbursable agreements to the entities described in paragraph (2) and the eligible grant recipients under section 1513; and

(5) shall make reasonable efforts to enter into memoranda of understanding, contracts, grants, cooperative agreements, or other transactions with railroad carriers willing to contribute both physical space and other resources.

(d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.—

(1) CONSULTATION.—In carrying out research and development projects under this section, the Secretary shall consult with the Chief Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department as appropriate and in accordance with section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142).

(2) PRIVACY IMPACT ASSESSMENTS.—In accordance with sections 222 and 705 of the Homeland Security Act of 2002 (6 U.S.C. 142; 345), the Chief Privacy Officer shall conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section that the Secretary determines could have an impact on privacy, civil rights, or civil liberties.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503, there shall be made available to the Secretary to carry out this section—

(A) $33,000,000 for fiscal year 2008;

(B) $33,000,000 for fiscal year 2009;
(C) $33,000,000 for fiscal year 2010; and
(D) $33,000,000 for fiscal year 2011.

(2) PERIOD OF AVAILABILITY.—Such sums shall remain available until expended.

SEC. 1519. RAILROAD TANK CAR SECURITY TESTING.

(a) RAILROAD TANK CAR VULNERABILITY ASSESSMENT.—

(1) ASSESSMENT.—The Secretary shall assess the likely methods of a deliberate terrorist attack against a railroad tank car used to transport toxic-inhalation-hazard materials, and for each method assessed, the degree to which it may be successful in causing death, injury, or serious adverse effects to human health, the environment, critical infrastructure, national security, the national economy, or public welfare.

(2) THREATS.—In carrying out paragraph (1), the Secretary shall consider the most current threat information as to likely methods of a successful terrorist attack on a railroad tank car transporting toxic-inhalation-hazard materials, and may consider the following:

(A) Explosive devices placed along the tracks or attached to a railroad tank car.

(B) The use of missiles, grenades, rockets, mortars, or other high-caliber weapons against a railroad tank car.

(3) PHYSICAL TESTING.—In developing the assessment required under paragraph (1), the Secretary shall conduct physical testing of the vulnerability of railroad tank cars used to transport toxic-inhalation-hazard materials to different methods of a deliberate attack, using technical information and criteria to evaluate the structural integrity of railroad tank cars.

(4) REPORT.—Not later than 30 days after the completion of the assessment under paragraph (1), the Secretary shall provide to the appropriate congressional committees a report, in the appropriate format, on such assessment.

(b) RAILROAD TANK CAR DISPERSION MODELING.—

(1) IN GENERAL.—The Secretary, acting through the National Infrastructure Simulation and Analysis Center, shall conduct an air dispersion modeling analysis of release scenarios of toxic-inhalation-hazard materials resulting from a terrorist attack on a loaded railroad tank car carrying such materials in urban and rural environments.

(2) CONSIDERATIONS.—The analysis under this subsection shall take into account the following considerations:

(A) The most likely means of attack and the resulting dispersal rate.

(B) Different times of day, to account for differences in cloud coverage and other atmospheric conditions in the environment being modeled.

(C) Differences in population size and density.

(D) Historically accurate wind speeds, temperatures, and wind directions.

(E) Differences in dispersal rates or other relevant factors related to whether a railroad tank car is in motion or stationary.

(F) Emergency response procedures by local officials.

(G) Any other considerations the Secretary believes would develop an accurate, plausible dispersion model for toxic-inhalation-hazard materials released from a railroad tank car as a result of a terrorist act.

(3) CONSULTATION.—In conducting the dispersion modeling under paragraph (1), the Secretary shall consult with the Secretary of Transportation, hazardous materials experts, railroad carriers, nonprofit employee labor organizations representing railroad employees, appropriate State, local, and tribal officials, and other Federal agencies, as appropriate.

(4) INFORMATION SHARING.—Upon completion of the analysis required under paragraph (1), the Secretary shall share the information developed with the appropriate stakeholders, given appropriate information protection provisions as may be required by the Secretary.

(5) REPORT.—Not later than 30 days after completion of all dispersion analyses under paragraph (1), the Secretary shall submit to the appropriate congressional committees a report detailing the Secretary's conclusions and findings in an appropriate format.

SEC. 1520. RAILROAD THREAT ASSESSMENTS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a name-based security background check against the consolidated terrorist watchlist and an immigration status check for all railroad frontline employees, similar to the threat assessment screening program required for facility employees and longshoremen by the Commandant of the Coast Guard under Coast Guard Notice USCG–2006–24189 (71 Fed. Reg. 25066 (April 8, 2006)).

SEC. 1521. RAILROAD EMPLOYEE PROTECTIONS.

Section 20109 of title 49, United States Code, is amended to read:

"SEC. 20109. EMPLOYEE PROTECTIONS.

"(a) IN GENERAL.—A railroad carrier engaged in interstate or foreign commerce, a contractor or a subcontractor of such a railroad carrier, or an officer or employee of such a railroad carrier, may not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee's lawful, good faith act done, or perceived by the employer to have been done or about to be done—

"(1) to provide information, directly cause information to be provided, or otherwise directly assist in any investigation regarding any conduct which the employee reasonably believes constitutes a violation of any Federal law, rule, or regulation relating to railroad safety or security, or gross fraud, waste, or abuse of Federal grants or other public funds intended to be used for railroad safety or security, if the information or assistance is provided to or an investigation stemming from the provided information is conducted by—

"(A) a Federal, State, or local regulatory or law enforcement agency (including an office of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95–452);

"(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

"(C) a person with supervisory authority over the employee or such other person who has the authority to investigate, discover, or terminate the misconduct;

"(2) to refuse to violate or assist in the violation of any Federal law, rule, or regulation relating to railroad safety or security;

"(3) to file a complaint, or directly cause to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or to testify in that proceeding;

"(4) to notify, or attempt to notify, the railroad carrier or the Secretary of Transportation of a work-related personal injury or work-related illness of an employee;

"(5) to cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board;

"(6) to furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with railroad transportation; or

"(7) to accurately report hours on duty pursuant to chapter 211.

"(b) HAZARDOUS SAFETY OR SECURITY CONDITIONS.—(1) A railroad carrier engaged in interstate or foreign commerce, or an officer or employee of such a railroad carrier, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee for—

"(A) reporting, in good faith, a hazardous safety or security condition;

"(B) refusing to work when confronted by a hazardous safety or security condition related to the performance of the employee's duties, if the conditions described in paragraph (2) exist; or

"(C) refusing to authorize the use of any safety-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the equipment, track, or structures are in a hazardous safety or security condition, if the conditions described in paragraph (2) exist.

"(2) A refusal is protected under paragraph (1)(B) and (C) if—

"(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

"(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

"(i) the hazardous condition presents an imminent danger of death or serious injury; and

"(ii) the urgency of the situation does not allow sufficient time to eliminate the danger without such refusal; and

"(C) the employee, where possible, has notified the railroad carrier of the existence of the hazardous condition and the

intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.

"(3) In this subsection, only paragraph (1)(A) shall apply to security personnel employed by a railroad carrier to protect individuals and property transported by railroad.

"(c) ENFORCEMENT ACTION.—

"(1) IN GENERAL.—An employee who alleges discharge, discipline, or other discrimination in violation of subsection (a) or (b) of this section, may seek relief in accordance with the provisions of this section, with any petition or other request for relief under this section to be initiated by filing a complaint with the Secretary of Labor.

"(2) PROCEDURE.—

"(A) IN GENERAL.—Any action under paragraph (1) shall be governed under the rules and procedures set forth in section 42121(b), including:

"(i) BURDENS OF PROOF.—Any action brought under (c)(1) shall be governed by the legal burdens of proof set forth in section 42121(b).

"(ii) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the alleged violation of subsection (a) or (b) of this section occurs.

"(iii) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued by the Secretary of Labor pursuant to the procedures in section 42121(b), the Secretary of Labor may bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred, as set forth in 42121.

"(B) EXCEPTION.—Notification made under section 42121(b)(1) shall be made to the person named in the complaint and the person's employer.

"(3) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

"(4) APPEALS.—Any person adversely affected or aggrieved by an order issued pursuant to the procedures in section 42121(b), may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. The review shall conform to chapter 7 of title 5. The commencement of proceedings under this paragraph shall not, unless ordered by the court, operate as a stay of the order.

"(d) REMEDIES.—

"(1) IN GENERAL.—An employee prevailing in any action under subsection (c) shall be entitled to all relief necessary to make the employee whole.

"(2) DAMAGES.—Relief in an action under subsection (c) (including an action described in subsection (c)(3)) shall include—

"(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

"(B) any backpay, with interest; and

"(C) compensatory damages, including compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

"(3) POSSIBLE RELIEF.—Relief in any action under subsection (c) may include punitive damages in an amount not to exceed $250,000.

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

"(f) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

"(g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

"(h) DISCLOSURE OF IDENTITY.—

"(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions.

"(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosures shall provide reasonable advance notice to the affected employee if disclosure of that person's identity or identifying information is to occur.

"(i) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

"(1) ESTABLISHMENT OF PROCESS.—The Secretary of Homeland Security shall establish through regulations, after an opportunity for notice and comment, a process by which any person may report to the Secretary of Homeland Security regarding railroad security problems, deficiencies, or vulnerabilities.

"(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report,

the Secretary of Homeland Security shall respond promptly to such person and acknowledge receipt of the report.

"(3) STEPS TO ADDRESS PROBLEM.—The Secretary of Homeland Security shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.".

SEC. 1522. SECURITY BACKGROUND CHECKS OF COVERED INDIVIDUALS.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) SECURITY BACKGROUND CHECK.—The term "security background check" means reviewing, for the purpose of identifying individuals who may pose a threat to transportation security or national security, or of terrorism—

(A) relevant criminal history databases;

(B) in the case of an alien (as defined in the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)), the relevant databases to determine the status of the alien under the immigration laws of the United States; and

(C) other relevant information or databases, as determined by the Secretary.

(2) COVERED INDIVIDUAL.—The term "covered individual" means an employee of a railroad carrier or a contractor or subcontractor of a railroad carrier.

(b) GUIDANCE.—

(1) Any guidance, recommendations, suggested action items, or any other widely disseminated voluntary action items issued by the Secretary to a railroad carrier or a contractor or subcontractor of a railroad carrier relating to performing a security background check of a covered individual shall contain recommendations on the appropriate scope and application of such a security background check, including the time period covered, the types of disqualifying offenses, and a redress process for adversely impacted covered individuals consistent with subsections (c) and (d) of this section.

(2) Within 60 days after the date of enactment of this Act, any guidance, recommendations, suggested action items, or any other widely disseminated voluntary action item issued by the Secretary prior to the date of enactment of this Act to a railroad carrier or a contractor or subcontractor of a railroad carrier relating to performing a security background check of a covered individual shall be updated in compliance with paragraph (1).

(3) If a railroad carrier or a contractor or subcontractor of a railroad carrier performs a security background check on a covered individual to fulfill guidance issued by the Secretary under paragraph (1) or (2), the Secretary shall not consider such guidance fulfilled unless an adequate redress process as described in subsection (d) is provided to covered individuals.

(c) REQUIREMENTS.—If the Secretary issues a rule, regulation, or directive requiring a railroad carrier or contractor or subcontractor of a railroad carrier to perform a security background check of a covered individual, then the Secretary shall prohibit the railroad carrier or contractor or subcontractor of a railroad carrier from making an adverse employment decision, including removal

or suspension of the covered individual, due to such rule, regulation, or directive with respect to a covered individual unless the railroad carrier or contractor or subcontractor of a railroad carrier determines that the covered individual—

(1) has been convicted of, has been found not guilty by reason of insanity, or is under want, warrant, or indictment for a permanent disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations;

(2) was convicted of or found not guilty by reason of insanity of an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, within 7 years of the date that the railroad carrier or contractor or subcontractor of a railroad carrier performs the security background check; or

(3) was incarcerated for an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, and released from incarceration within 5 years of the date that the railroad carrier or contractor or subcontractor of a railroad carrier performs the security background check.

(d) REDRESS PROCESS.—If the Secretary issues a rule, regulation, or directive requiring a railroad carrier or contractor or subcontractor of a railroad carrier to perform a security background check of a covered individual, the Secretary shall—

(1) provide an adequate redress process for a covered individual subjected to an adverse employment decision, including removal or suspension of the employee, due to such rule, regulation, or directive that is consistent with the appeals and waiver process established for applicants for commercial motor vehicle hazardous materials endorsements and transportation employees at ports, as required by section 70105(c) of title 46, United States Code; and

(2) have the authority to order an appropriate remedy, including reinstatement of the covered individual, should the Secretary determine that a railroad carrier or contractor or subcontractor of a railroad carrier wrongfully made an adverse employment decision regarding a covered individual pursuant to such rule, regulation, or directive.

(e) FALSE STATEMENTS.—A railroad carrier or a contractor or subcontractor of a railroad carrier may not knowingly misrepresent to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check. Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a regulation that prohibits a railroad carrier or a contractor or subcontractor of a railroad carrier from knowingly misrepresenting to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check.

(f) RIGHTS AND RESPONSIBILITIES.—Nothing in this section shall be construed to abridge a railroad carrier's or a contractor or subcontractor of a railroad carrier's rights or responsibilities to make adverse employment decisions permitted by other Federal,

State, or local laws. Nothing in the section shall be construed to abridge rights and responsibilities of covered individuals, a railroad carrier, or a contractor or subcontractor of a railroad carrier, under any other Federal, State, or local laws or under any collective bargaining agreement.

(g) NO PREEMPTION OF FEDERAL OR STATE LAW.—Nothing in this section shall be construed to preempt a Federal, State, or local law that requires criminal history background checks, immigration status checks, or other background checks, of covered individuals.

(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the process for review established under section 70105(c) of title 46, United States Code, including regulations issued pursuant to such section.

SEC. 1523. NORTHERN BORDER RAILROAD PASSENGER REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Transportation Security Administration, the Secretary of Transportation, heads of other appropriate Federal departments and agencies and Amtrak shall transmit a report to the appropriate congressional committees that contains—

(1) a description of the current system for screening passengers and baggage on passenger railroad service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in "The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America", dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the "Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States", dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for railroad passengers traveling between the United States and Canada to the Department;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers;

(7) a draft of any changes in existing Federal law necessary to provide for prescreening of such passengers and providing prescreened passenger lists to the Department; and

(8) an analysis of the feasibility of reinstating in-transit inspections onboard international Amtrak trains.

(b) PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.—

(1) CONSULTATION.—In preparing the report under this section, the Secretary shall consult with the Chief Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department as appropriate and in accordance with section 222 of the Homeland Security Act of 2002.

(2) PRIVACY IMPACT ASSESSMENTS.—In accordance with sections 222 and 705 of the Homeland Security Act of 2002, the report must contain a privacy impact assessment conducted by the Chief Privacy Officer and a review conducted by the Officer for Civil Rights and Civil Liberties.

SEC. 1524. INTERNATIONAL RAILROAD SECURITY PROGRAM.

(a) IN GENERAL.—

(1) The Secretary shall develop a system to detect both undeclared passengers and contraband, with a primary focus on the detection of nuclear and radiological materials entering the United States by railroad.

(2) SYSTEM REQUIREMENTS.—In developing the system under paragraph (1), the Secretary may, in consultation with the Domestic Nuclear Detection Office, Customs and Border Protection, and the Transportation Security Administration—

(A) deploy radiation detection equipment and nonintrusive imaging equipment at locations where railroad shipments cross an international border to enter the United States;

(B) consider the integration of radiation detection technologies with other nonintrusive inspection technologies where feasible;

(C) ensure appropriate training, operations, and response protocols are established for Federal, State, and local personnel;

(D) implement alternative procedures to check railroad shipments at locations where the deployment of nonintrusive inspection imaging equipment is determined to not be practicable;

(E) ensure, to the extent practicable, that such technologies deployed can detect terrorists or weapons, including weapons of mass destruction; and

(F) take other actions, as appropriate, to develop the system.

(b) ADDITIONAL INFORMATION.—The Secretary shall—

(1) identify and seek the submission of additional data elements for improved high-risk targeting related to the movement of cargo through the international supply chain utilizing a railroad prior to importation into the United States;

(2) utilize data collected and maintained by the Secretary of Transportation in the targeting of high-risk cargo identified under paragraph (1); and

(3) analyze the data provided in this subsection to identify high-risk cargo for inspection.

(c) REPORT TO CONGRESS.—Not later than September 30, 2008, the Secretary shall transmit to the appropriate congressional committees a report that describes the progress of the system being developed under subsection (a).

(d) DEFINITIONS.—In this section:

(1) INTERNATIONAL SUPPLY CHAIN.—The term "international supply chain" means the end-to-end process for shipping goods to or from the United States, beginning at the point of origin (including manufacturer, supplier, or vendor) through a point of distribution to the destination.

(2) RADIATION DETECTION EQUIPMENT.—The term "radiation detection equipment" means any technology that is capable of detecting or identifying nuclear and radiological material or nuclear and radiological explosive devices.

(3) INSPECTION.—The term "inspection" means the comprehensive process used by Customs and Border Protection to assess goods entering the United States to appraise them for duty purposes, to detect the presence of restricted or prohibited items, and to ensure compliance with all applicable laws.

SEC. 1525. TRANSMISSION LINE REPORT.

(a) STUDY.—The Comptroller General shall undertake an assessment of the placement of high-voltage, direct-current, electric transmission lines along active railroad and other transportation rights-of-way. In conducting the assessment, the Comptroller General shall evaluate any economic, safety, and security risks and benefits to inhabitants living adjacent to such rights-of-way and to consumers of electric power transmitted by such transmission lines.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall transmit the results of the assessment in subsection (a) to the appropriate congressional committees.

SEC. 1526. RAILROAD SECURITY ENHANCEMENTS.

(a) RAILROAD POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "Under"; and

(2) by adding at the end the following:

"(b) ASSIGNMENT.—A railroad police officer employed by a railroad carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second railroad carrier in carrying out law enforcement duties upon the request of the second railroad carrier, at which time the police officer shall be considered to be an employee of the second railroad carrier and shall have authority to enforce the laws of any jurisdiction in which the second railroad carrier owns property to the same extent as provided in subsection (a).".

(b) MODEL STATE LEGISLATION.—Not later than November 2, 2007, the Secretary of Transportation shall develop and make available to States model legislation to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation. In developing the model State legislation the Secretary shall solicit the input of the States, railroads carriers, and railroad carrier employees. The Secretary shall review and, if necessary, revise such model State legislation periodically.

SEC. 1527. APPLICABILITY OF DISTRICT OF COLUMBIA LAW TO CERTAIN AMTRAK CONTRACTS.

Section 24301 of title 49, United States Code, is amended by adding at the end the following:

"(o) APPLICABILITY OF DISTRICT OF COLUMBIA LAW.—Any lease or contract entered into between Amtrak and the State of Maryland, or any department or agency of the State of Maryland, after the date of the enactment of this subsection shall be governed by the laws of the District of Columbia.".

SEC. 1528. RAILROAD PREEMPTION CLARIFICATION.

Section 20106 of title 49, United States Code, is amended to read as follows:

"§ 20106. Preemption

"(a) NATIONAL UNIFORMITY OF REGULATION.—(1) Laws, regulations, and orders related to railroad safety and laws, regulations, and orders related to railroad security shall be nationally uniform to the extent practicable.

"(2) A State may adopt or continue in force a law, regulation, or order related to railroad safety or security until the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety or security when the law, regulation, or order—

"(A) is necessary to eliminate or reduce an essentially local safety or security hazard;

"(B) is not incompatible with a law, regulation, or order of the United States Government; and

"(C) does not unreasonably burden interstate commerce.

"(b) CLARIFICATION REGARDING STATE LAW CAUSES OF ACTION.—(1) Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party—

"(A) has failed to comply with the Federal standard of care established by a regulation or order issued by the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters), covering the subject matter as provided in subsection (a) of this section;

"(B) has failed to comply with its own plan, rule, or standard that it created pursuant to a regulation or order issued by either of the Secretaries; or

"(C) has failed to comply with a State law, regulation, or order that is not incompatible with subsection (a)(2).

"(2) This subsection shall apply to all pending State law causes of action arising from events or activities occurring on or after January 18, 2002.

"(c) JURISDICTION.—Nothing in this section creates a Federal cause of action on behalf of an injured party or confers Federal question jurisdiction for such State law causes of action.".

Subtitle C—Over-the-Road Bus and Trucking Security

SEC. 1531. OVER-THE-ROAD BUS SECURITY ASSESSMENTS AND PLANS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue regulations that—

(1) require each over-the-road bus operator assigned to a high-risk tier under this section—

(A) to conduct a vulnerability assessment in accordance with subsections (c) and (d); and

(B) to prepare, submit to the Secretary for approval, and implement a security plan in accordance with subsection (e); and

(2) establish standards and guidelines for developing and implementing the vulnerability assessments and security plans for carriers assigned to high-risk tiers consistent with this section.

(b) NON HIGH-RISK PROGRAMS.—The Secretary may establish a security program for over-the-road bus operators not assigned to a high-risk tier, including—

(1) guidance for such operators in conducting vulnerability assessments and preparing and implementing security plans, as determined appropriate by the Secretary; and

(2) a process to review and approve such assessments and plans, as appropriate.

(c) DEADLINE FOR SUBMISSION.—Not later than 9 months after the date of issuance of the regulations under subsection (a), the vulnerability assessments and security plans required by such regulations for over-the-road bus operators assigned to a high-risk tier shall be completed and submitted to the Secretary for review and approval.

(d) VULNERABILITY ASSESSMENTS.—

(1) REQUIREMENTS.—The Secretary shall provide technical assistance and guidance to over-the-road bus operators in conducting vulnerability assessments under this section and shall require that each vulnerability assessment of an operator assigned to a high-risk tier under this section includes, as appropriate—

(A) identification and evaluation of critical assets and infrastructure, including platforms, stations, terminals, and information systems;

(B) identification of the vulnerabilities to those assets and infrastructure; and

(C) identification of weaknesses in—

(i) physical security;

(ii) passenger and cargo security;

(iii) the security of programmable electronic devices, computers, or other automated systems which are used in providing over-the-road bus transportation;

(iv) alarms, cameras, and other protection systems;

(v) communications systems and utilities needed for over-the-road bus security purposes, including dispatching systems;

(vi) emergency response planning;

(vii) employee training; and

(viii) such other matters as the Secretary determines appropriate.

(2) THREAT INFORMATION.—The Secretary shall provide in a timely manner to the appropriate employees of an over-the-road bus operator, as designated by the over-the-road bus operator, threat information that is relevant to the operator when preparing and submitting a vulnerability assessment and security plan, including an assessment of the most likely methods that could be used by terrorists to exploit weaknesses in over-the-road bus security.

(e) SECURITY PLANS.—

(1) REQUIREMENTS.—The Secretary shall provide technical assistance and guidance to over-the-road bus operators in preparing and implementing security plans under this section and shall require that each security plan of an over-the-road bus operator assigned to a high-risk tier under this section includes, as appropriate—

(A) the identification of a security coordinator having authority—

(i) to implement security actions under the plan;

(ii) to coordinate security improvements; and

(iii) to receive communications from appropriate Federal officials regarding over-the-road bus security;

(B) a list of needed capital and operational improvements;

(C) procedures to be implemented or used by the over-the-road bus operator in response to a terrorist attack, including evacuation and passenger communication plans that include individuals with disabilities, as appropriate;

(D) the identification of steps taken with State and local law enforcement agencies, emergency responders, and Federal officials to coordinate security measures and plans for response to a terrorist attack;

(E) a strategy and timeline for conducting training under section 1534;

(F) enhanced security measures to be taken by the over-the-road bus operator when the Secretary declares a period of heightened security risk;

(G) plans for providing redundant and backup systems required to ensure the continued operation of critical elements of the over-the-road bus operator's system in the event of a terrorist attack or other incident; and

(H) such other actions or procedures as the Secretary determines are appropriate to address the security of over-the-road bus operators.

(2) SECURITY COORDINATOR REQUIREMENTS.—The Secretary shall require that the individual serving as the security coordinator identified in paragraph (1)(A) is a citizen of the United States. The Secretary may waive this requirement with respect to an individual if the Secretary determines that it is appropriate to do so based on a background check of the individual and a review of the consolidated terrorist watchlist.

(f) DEADLINE FOR REVIEW PROCESS.—Not later than 6 months after receiving the assessments and plans required under this section, the Secretary shall—

(1) review each vulnerability assessment and security plan submitted to the Secretary in accordance with subsection (c);

(2) require amendments to any security plan that does not meet the requirements of this section; and

(3) approve any vulnerability assessment or security plan that meets the requirements of this section.

(g) INTERIM SECURITY MEASURES.—The Secretary may require over-the-road bus operators, during the period before the deadline established under subsection (c), to submit a security plan to implement any necessary interim security measures essential to providing adequate security of the over-the-road bus operator's system. An interim plan required under this subsection shall be superseded by a plan required under subsection (c).

(h) TIER ASSIGNMENT.—The Secretary shall assign each over-the-road bus operator to a risk-based tier established by the Secretary:

(1) PROVISION OF INFORMATION.—The Secretary may request, and an over-the-road bus operator shall provide, information necessary for the Secretary to assign an over-the-road bus operator to the appropriate tier under this subsection.

(2) NOTIFICATION.—Not later than 60 days after the date an over-the-road bus operator is assigned to a tier under this section, the Secretary shall notify the operator of the tier to which it is assigned and the reasons for such assignment.

(3) HIGH-RISK TIERS.—At least one of the tiers established by the Secretary under this section shall be a tier designated for high-risk over-the-road bus operators.

(4) REASSIGNMENT.—The Secretary may reassign an over-the-road bus operator to another tier, as appropriate, in response to changes in risk and the Secretary shall notify the over-the-road bus operator within 60 days after such reassignment and provide the operator with the reasons for such reassignment.

(i) EXISTING PROCEDURES, PROTOCOLS, AND STANDARDS.—

(1) DETERMINATION.—In response to a petition by an over-the-road bus operator or at the discretion of the Secretary, the Secretary may determine that existing procedures, protocols, and standards meet all or part of the requirements of this section regarding vulnerability assessments and security plans.

(2) ELECTION.—Upon review and written determination by the Secretary that existing procedures, protocols, or standards of an over-the-road bus operator satisfy the requirements of this section, the over-the-road bus operator may elect to comply with those procedures, protocols, or standards instead of the requirements of this section.

(3) PARTIAL APPROVAL.—If the Secretary determines that the existing procedures, protocols, or standards of an over-the-road bus operator satisfy only part of the requirements of this section, the Secretary may accept such submission, but shall require submission by the operator of any additional information relevant to the vulnerability assessment and security plan of the operator to ensure that the remaining requirements of this section are fulfilled.

(4) NOTIFICATION.—If the Secretary determines that particular existing procedures, protocols, or standards of an over-the-road bus operator under this subsection do not satisfy the requirements of this section, the Secretary shall provide to

the operator a written notification that includes an explanation of the reasons for nonacceptance.

(5) REVIEW.—Nothing in this subsection shall relieve the Secretary of the obligation—

(A) to review the vulnerability assessment and security plan submitted by an over-the-road bus operator under this section; and

(B) to approve or disapprove each submission on an individual basis.

(j) PERIODIC EVALUATION BY OVER-THE-ROAD BUS PROVIDER REQUIRED.—

(1) SUBMISSION OF EVALUATION.—Not later than 3 years after the date on which a vulnerability assessment or security plan required to be submitted to the Secretary under subsection (c) is approved, and at least once every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), an over-the-road bus operator who submitted a vulnerability assessment and security plan and who is still assigned to the high-risk tier shall also submit to the Secretary an evaluation of the adequacy of the vulnerability assessment and security plan that includes a description of any material changes made to the vulnerability assessment or security plan.

(2) REVIEW OF EVALUATION.—Not later than 180 days after the date on which an evaluation is submitted, the Secretary shall review the evaluation and notify the over-the-road bus operator submitting the evaluation of the Secretary's approval or disapproval of the evaluation.

(k) SHARED FACILITIES.—The Secretary may permit under this section the development and implementation of coordinated vulnerability assessments and security plans to the extent that an over-the-road bus operator shares facilities with, or is colocated with, other transportation entities or providers that are required to develop vulnerability assessments and security plans under Federal law.

(l) NONDISCLOSURE OF INFORMATION.—

(1) SUBMISSION OF INFORMATION TO CONGRESS.—Nothing in this section shall be construed as authorizing the withholding of any information from Congress.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section shall be construed as affecting any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from an over-the-road bus operator under any other Federal law.

SEC. 1532. OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Secretary shall establish a program for making grants to eligible private operators providing transportation by an over-the-road bus for security improvements described in subsection (b).

(b) USES OF FUNDS.—A recipient of a grant received under subsection (a) shall use the grant funds for one or more of the following:

(1) Constructing and modifying terminals, garages, and facilities, including terminals and other over-the-road bus facilities owned by State or local governments, to increase their security.

(2) Modifying over-the-road buses to increase their security.

(3) Protecting or isolating the driver of an over-the-road bus.

(4) Acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or other means and for information links with government agencies, for security purposes.

(5) Installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities.

(6) Establishing and improving an emergency communications system linking drivers and over-the-road buses to the recipient's operations center or linking the operations center to law enforcement and emergency personnel.

(7) Implementing and operating passenger screening programs for weapons and explosives.

(8) Public awareness campaigns for enhanced over-the-road bus security.

(9) Operating and capital costs associated with over-the-road bus security awareness, preparedness, and response training, including training under section 1534 and training developed by institutions of higher education and by nonprofit employee labor organizations, for over-the-road bus employees, including frontline employees.

(10) Chemical, biological, radiological, or explosive detection, including canine patrols for such detection.

(11) Overtime reimbursement, including reimbursement of State, local, and tribal governments for costs, for enhanced security personnel assigned to duties related to over-the-road bus security during periods of high or severe threat levels, National Special Security Events, or other periods of heightened security as determined by the Secretary.

(12) Live or simulated exercises, including those described in section 1533.

(13) Operational costs to hire, train, and employ police and security officers, including canine units, assigned to full-time security or counterterrorism duties related to over-the-road bus transportation, including reimbursement of State, local, and tribal government costs for such personnel.

(14) Development of assessments or security plans under section 1531.

(15) Such other improvements as the Secretary considers appropriate.

(c) DUE CONSIDERATION.—In making grants under this section, the Secretary shall prioritize grant funding based on security risks to bus passengers and the ability of a project to reduce, or enhance response to, that risk, and shall not penalize private operators of over-the-road buses that have taken measures to enhance over-the-road bus transportation security prior to September 11, 2001.

(d) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

(2) select grant recipients;

(3) award the funds authorized by this section based on risk, as identified by the plans required under section 1531 or assessment or plan described in subsection (f)(2); and

(4) pursuant to subsection (c), establish priorities for the use of funds for grant recipients.

(e) DISTRIBUTION OF GRANTS.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall determine the most effective and efficient way to distribute grant funds to the recipients of grants determined by the Secretary under subsection (a). Subject to the determination made by the Secretaries, the Secretary may transfer funds to the Secretary of Transportation for the purposes of disbursing funds to the grant recipient.

(f) ELIGIBILITY.—

(1) A private operator providing transportation by an over-the-road bus is eligible for a grant under this section if the operator has completed a vulnerability assessment and developed a security plan that the Secretary has approved under section 1531. Grant funds may only be used for permissible uses under subsection (b) to further an over-the-road bus security plan.

(2) Notwithstanding the requirements for eligibility and uses in paragraph (1), prior to the earlier of 1 year after the date of issuance of final regulations requiring vulnerability assessments and security plans under section 1531 or 3 years after the date of enactment of this Act, the Secretary may award grants under this section for over-the-road bus security improvements listed under subsection (b) based upon over-the-road bus vulnerability assessments and security plans that the Secretary deems are sufficient for the purposes of this section but have not been approved by the Secretary in accordance with section 1531.

(g) SUBJECT TO CERTAIN TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a grant made under this section shall be subject to the terms and conditions applicable to subrecipients who provide over-the-road bus transportation under section 5311(f) of title 49, United States Code, and such other terms and conditions as are determined necessary by the Secretary.

(h) LIMITATION ON USES OF FUNDS.—A grant made under this section may not be used to make any State or local government cost-sharing contribution under any other Federal law.

(i) ANNUAL REPORTS.—Each recipient of a grant under this section shall report annually to the Secretary and on the use of such grant funds.

(j) CONSULTATION.—In carrying out this section, the Secretary shall consult with over-the-road bus operators and nonprofit employee labor organizations representing over-the-road bus employees, public safety and law enforcement officials.

(k) AUTHORIZATION.—

(1) IN GENERAL.—From the amounts appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this Act, there shall be made available to the Secretary to make grants under this section—

(A) $12,000,000 for fiscal year 2008;

(B) $25,000,000 for fiscal year 2009;

(C) $25,000,000 for fiscal year 2010; and

(D) $25,000,000 for fiscal year 2011.

(2) PERIOD OF AVAILABILITY.—Sums appropriated to carry out this section shall remain available until expended.

SEC. 1533. OVER-THE-ROAD BUS EXERCISES.

(a) IN GENERAL.—The Secretary shall establish a program for conducting security exercises for over-the-road bus transportation for the purpose of assessing and improving the capabilities of entities described in subsection (b) to prevent, prepare for, mitigate, respond to, and recover from acts of terrorism.

(b) COVERED ENTITIES.—Entities to be assessed under the program shall include—

(1) Federal, State, and local agencies and tribal governments;

(2) over-the-road bus operators and over-the-road bus terminal owners and operators;

(3) governmental and nongovernmental emergency response providers and law enforcement agencies; and

(4) any other organization or entity that the Secretary determines appropriate.

(c) REQUIREMENTS.—The Secretary shall ensure that the program—

(1) consolidates existing security exercises for over-the-road bus operators and terminals administered by the Department and the Department of Transportation, as jointly determined by the Secretary and the Secretary of Transportation, unless the Secretary waives this consolidation requirement, as appropriate;

(2) consists of exercises that are—

(A) scaled and tailored to the needs of the over-the-road bus operators and terminals, including addressing the needs of the elderly and individuals with disabilities;

(B) live, in the case of the most at-risk facilities to a terrorist attack;

(C) coordinated with appropriate officials;

(D) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

(E) inclusive, as appropriate, of over-the-road bus frontline employees; and

(F) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, and other such national initiatives;

(3) provides that exercises described in paragraph (2) will be—

(A) evaluated by the Secretary against clear and consistent performance measures;

(B) assessed by the Secretary to identify best practices, which shall be shared, as appropriate, with operators providing over-the-road bus transportation, nonprofit employee organizations that represent over-the-road bus employees, Federal, State, local, and tribal officials, governmental and nongovernmental emergency response providers, and law enforcement personnel; and

(C) used to develop recommendations, as appropriate, provided to over-the-road bus operators and terminal

owners and operators on remedial action to be taken in response to lessons learned;

(4) allows for proper advanced notification of communities and local governments in which exercises are held, as appropriate; and

(5) assists State, local, and tribal governments and over-the-road bus operators and terminal owners and operators in designing, implementing, and evaluating additional exercises that conform to the requirements of paragraph (2).

(d) NATIONAL EXERCISE PROGRAM.—The Secretary shall ensure that the exercise program developed under subsection (c) is consistent with the National Exercise Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109–295; 6 U.S.C. 748).

SEC. 1534. OVER-THE-ROAD BUS SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall develop and issue regulations for an over-the-road bus training program to prepare over-the-road bus frontline employees for potential security threats and conditions. The regulations shall take into consideration any current security training requirements or best practices.

(b) CONSULTATION.—The Secretary shall develop regulations under subsection (a) in consultation with—

(1) appropriate law enforcement, fire service, emergency response, security, and terrorism experts;

(2) operators providing over-the-road bus transportation; and

(3) nonprofit employee labor organizations representing over-the-road bus employees and emergency response personnel.

(c) PROGRAM ELEMENTS.—The regulations developed under subsection (a) shall require security training programs, to include, at a minimum, elements to address the following, as applicable:

(1) Determination of the seriousness of any occurrence or threat.

(2) Driver and passenger communication and coordination.

(3) Appropriate responses to defend or protect oneself.

(4) Use of personal and other protective equipment.

(5) Evacuation procedures for passengers and over-the-road bus employees, including individuals with disabilities and the elderly.

(6) Psychology, behavior, and methods of terrorists, including observation and analysis.

(7) Training related to psychological responses to terrorist incidents, including the ability to cope with hijacker behavior and passenger responses.

(8) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(9) Recognition and reporting of dangerous substances, suspicious packages, and situations.

(10) Understanding security incident procedures, including procedures for communicating with emergency response providers and for on-scene interaction with such emergency response providers.

(11) Operation and maintenance of security equipment and systems.

(12) Other security training activities that the Secretary considers appropriate.

(d) REQUIRED PROGRAMS.—

(1) DEVELOPMENT AND SUBMISSION TO SECRETARY.—Not later than 90 days after the Secretary issues the regulations under subsection (a), each over-the-road bus operator shall develop a security training program in accordance with such regulations and submit the program to the Secretary for approval.

(2) APPROVAL.—Not later than 60 days after receiving a security training program under this subsection, the Secretary shall approve the program or require the over-the-road bus operator that developed the program to make any revisions to the program that the Secretary considers necessary for the program to meet the requirements of the regulations. An over-the-road bus operator shall respond to the Secretary's comments not later than 30 days after receiving them.

(3) TRAINING.—Not later than 1 year after the Secretary approves a security training program in accordance with this subsection, the over-the-road bus operator that developed the program shall complete the training of all over-the-road bus frontline employees who were hired by the operator more than 30 days preceding such date. For such employees employed less than 30 days by an operator preceding such date, training shall be completed within the first 60 days of employment.

(4) UPDATES OF REGULATIONS AND PROGRAM REVISIONS.—The Secretary shall periodically review and update, as appropriate, the training regulations issued under subsection (a) to reflect new or changing security threats. Each over-the-road bus operator shall revise its training program accordingly and provide additional training as necessary to its employees within a reasonable time after the regulations are updated.

(e) NATIONAL TRAINING PROGRAM.—The Secretary shall ensure that the training program developed under subsection (a) is a component of the National Training Program established under section 648 of the Post Katrina Emergency Management Reform Act (Public Law 109–295; 6 U.S.C. 748).

(f) REPORTING REQUIREMENTS.—Not later than 2 years after the date of regulation issuance, the Secretary shall review implementation of the training program of a representative sample of over-the-road bus operators and over-the-road bus frontline employees, and report to the appropriate congressional committees of such reviews. The Secretary may submit the report in both classified and redacted formats as necessary.

SEC. 1535. OVER-THE-ROAD BUS SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary, acting through the Under Secretary for Science and Technology and the Administrator of the Transportation Security Administration, shall carry out a research and development program for the purpose of improving the security of over-the-road buses.

(b) ELIGIBLE PROJECTS.—The research and development program may include projects—

(1) to reduce the vulnerability of over-the-road buses, stations, terminals, and equipment to explosives and hazardous

chemical, biological, and radioactive substances, including the development of technology to screen passengers in large numbers with minimal interference and disruption;

(2) to test new emergency response and recovery techniques and technologies, including those used at international borders;

(3) to develop improved technologies, including those for—

(A) emergency response training, including training in a tunnel environment, if appropriate; and

(B) security and redundancy for critical communications, electrical power, computer, and over-the-road bus control systems; and

(4) to address other vulnerabilities and risks identified by the Secretary.

(c) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary—

(1) shall ensure that the research and development program is consistent with the other transportation security research and development programs required by this Act;

(2) shall, to the extent practicable, coordinate the research and development activities of the Department with other ongoing research and development security-related initiatives, including research being conducted by—

(A) the Department of Transportation, including University Transportation Centers and other institutes, centers, and simulators funded by the Department of Transportation;

(B) the National Academy of Sciences;

(C) the Technical Support Working Group;

(D) other Federal departments and agencies; and

(E) other Federal and private research laboratories, research entities, and institutions of higher education, including Historically Black Colleges and Universities, Hispanic Serving Institutions, and Indian Tribally Controlled Colleges and Universities;

(3) shall carry out any research and development project authorized by this section through a reimbursable agreement with an appropriate Federal agency, if the agency—

(A) is currently sponsoring a research and development project in a similar area; or

(B) has a unique facility or capability that would be useful in carrying out the project;

(4) may award grants and enter into cooperative agreements, contracts, other transactions, or reimbursable agreements to the entities described in paragraph (2) and eligible recipients under section 1532; and

(5) shall make reasonable efforts to enter into memoranda of understanding, contracts, grants, cooperative agreements, or other transactions with private operators providing over-the-road bus transportation willing to contribute assets, physical space, and other resources.

(d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.—

(1) CONSULTATION.—In carrying out research and development projects under this section, the Secretary shall consult with the Chief Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department as appropriate and in accordance with section 222 of the Homeland Security Act of 2002.

(2) PRIVACY IMPACT ASSESSMENTS.—In accordance with sections 222 and 705 of the Homeland Security Act of 2002, the Chief Privacy Officer shall conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section that the Secretary determines could have an impact on privacy, civil rights, or civil liberties.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—From the amounts appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this Act, there shall be made available to the Secretary to carry out this section—

(A) $2,000,000 for fiscal year 2008;

(B) $2,000,000 for fiscal year 2009;

(C) $2,000,000 for fiscal year 2010; and

(D) $2,000,000 for fiscal year 2011.

(2) PERIOD OF AVAILABILITY.—Such sums shall remain available until expended.

SEC. 1536. MOTOR CARRIER EMPLOYEE PROTECTIONS.

Section 31105 of title 49, United States Code, is amended to read:

"(a) PROHIBITIONS.—(1) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because—

"(A)(i) the employee, or another person at the employee's request, has filed a complaint or begun a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order, or has testified or will testify in such a proceeding; or

"(ii) the person perceives that the employee has filed or is about to file a complaint or has begun or is about to begin a proceeding related to a violation of a commercial motor vehicle safety or security regulation, standard, or order;

"(B) the employee refuses to operate a vehicle because—

"(i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety, health, or security; or

"(ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle's hazardous safety or security condition;

"(C) the employee accurately reports hours on duty pursuant to chapter 315;

"(D) the employee cooperates, or the person perceives that the employee is about to cooperate, with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board; or

"(E) the employee furnishes, or the person perceives that the employee is or is about to furnish, information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with commercial motor vehicle transportation.

"(2) Under paragraph (1)(B)(ii) of this subsection, an employee's apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the hazardous safety or security condition establishes a real danger of accident, injury, or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the hazardous safety or security condition.

"(b) FILING COMPLAINTS AND PROCEDURES.—(1) An employee alleging discharge, discipline, or discrimination in violation of subsection (a) of this section, or another person at the employee's request, may file a complaint with the Secretary of Labor not later than 180 days after the alleged violation occurred. All complaints initiated under this section shall be governed by the legal burdens of proof set forth in section 42121(b). On receiving the complaint, the Secretary of Labor shall notify, in writing, the person alleged to have committed the violation of the filing of the complaint.

"(2)(A) Not later than 60 days after receiving a complaint, the Secretary of Labor shall conduct an investigation, decide whether it is reasonable to believe the complaint has merit, and notify, in writing, the complainant and the person alleged to have committed the violation of the findings. If the Secretary of Labor decides it is reasonable to believe a violation occurred, the Secretary of Labor shall include with the decision findings and a preliminary order for the relief provided under paragraph (3) of this subsection.

"(B) Not later than 30 days after the notice under subparagraph (A) of this paragraph, the complainant and the person alleged to have committed the violation may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of objections does not stay a reinstatement ordered in the preliminary order. If a hearing is not requested within the 30 days, the preliminary order is final and not subject to judicial review.

"(C) A hearing shall be conducted expeditiously. Not later than 120 days after the end of the hearing, the Secretary of Labor shall issue a final order. Before the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

"(3)(A) If the Secretary of Labor decides, on the basis of a complaint, a person violated subsection (a) of this section, the Secretary of Labor shall order the person to—

"(i) take affirmative action to abate the violation;

"(ii) reinstate the complainant to the former position with the same pay and terms and privileges of employment; and

"(iii) pay compensatory damages, including backpay with interest and compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

"(B) If the Secretary of Labor issues an order under subparagraph (A) of this paragraph and the complainant requests, the Secretary of Labor may assess against the person against whom the order is issued the costs (including attorney fees) reasonably

incurred by the complainant in bringing the complaint. The Secretary of Labor shall determine the costs that reasonably were incurred.

"(C) Relief in any action under subsection (b) may include punitive damages in an amount not to exceed $250,000.

"(c) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

"(d) JUDICIAL REVIEW AND VENUE.—A person adversely affected by an order issued after a hearing under subsection (b) of this section may file a petition for review, not later than 60 days after the order is issued, in the court of appeals of the United States for the circuit in which the violation occurred or the person resided on the date of the violation. Review shall conform to chapter 7 of title 5. The review shall be heard and decided expeditiously. An order of the Secretary of Labor subject to review under this subsection is not subject to judicial review in a criminal or other civil proceeding.

"(e) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued under subsection (b) of this section, the Secretary of Labor shall bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred.

"(f) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

"(g) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

"(h) DISCLOSURE OF IDENTITY.—

"(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose the name of an employee who has provided information about an alleged violation of this part, or a regulation prescribed or order issued under any of those provisions.

"(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosure shall provide reasonable advance notice to the affected employee if disclosure of that person's identity or identifying information is to occur.

"(i) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

"(1) ESTABLISHMENT OF PROCESS.—The Secretary of Homeland Security shall establish through regulations, after an opportunity for notice and comment, a process by which any person may report to the Secretary of Homeland Security regarding motor carrier vehicle security problems, deficiencies, or vulnerabilities.

"(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary of Homeland Security shall respond promptly to such person and acknowledge receipt of the report.

"(3) STEPS TO ADDRESS PROBLEM.—The Secretary of Homeland Security shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.

"(j) DEFINITION.—In this section, 'employee' means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

"(1) directly affects commercial motor vehicle safety or security in the course of employment by a commercial motor carrier; and

"(2) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.".

SEC. 1537. UNIFIED CARRIER REGISTRATION SYSTEM AGREEMENT.

(a) REENACTMENT OF SSRS.—Section 14504 of title 49, United States Code, as that section was in effect on December 31, 2006, shall be in effect as a law of the United States for the period beginning on January 1, 2007, ending on the earlier of January 1, 2008, or the effective date of the final regulations issued pursuant to subsection (b).

(b) DEADLINE FOR FINAL REGULATIONS.—Not later than October 1, 2007, the Federal Motor Carrier Safety Administration shall issue final regulations to establish the Unified Carrier Registration System, as required by section 13908 of title 49, United States Code, and set fees for the unified carrier registration agreement for calendar year 2007 or subsequent calendar years to be charged to motor carriers, motor private carriers, and freight forwarders under such agreement, as required by 14504a of title 49, United States Code.

(c) REPEAL OF SSRS.—Section 4305(a) of the Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1764) is amended by striking "the first January" and all that follows through "this Act" and inserting "January 1, 2008".

SEC. 1538. SCHOOL BUS TRANSPORTATION SECURITY.

(a) SCHOOL BUS SECURITY RISK ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the appropriate congressional committees a report, including a classified report, as appropriate, containing a comprehensive assessment of the risk of a terrorist attack on the Nation's school bus transportation system in accordance with the requirements of this section.

(b) CONTENTS OF RISK ASSESSMENT.—The assessment shall include—

(1) an assessment of security risks to the Nation's school bus transportation system, including publicly and privately operated systems;

(2) an assessment of actions already taken by operators or others to address identified security risks; and

(3) an assessment of whether additional actions and investments are necessary to improve the security of passengers traveling on school buses and a list of such actions or investments, if appropriate.

(c) CONSULTATION.—In conducting the risk assessment, the Secretary shall consult with administrators and officials of school systems, representatives of the school bus industry, including both publicly and privately operated systems, public safety and law enforcement officials, and nonprofit employee labor organizations representing school bus drivers.

SEC. 1539. TECHNICAL AMENDMENT.

Section 1992(d)(7) of title 18, United States Code, is amended by inserting "intercity bus transportation" after "includes".

SEC. 1540. TRUCK SECURITY ASSESSMENT.

(a) DEFINITION.—For the purposes of this section, the term "truck" means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport property when the vehicle—

(1) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or

(2) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of title 49, United States Code, and transported in a quantity requiring placarding under regulations prescribed by the Secretary under subtitle B, chapter I, subchapter C of title 49, Code of Federal Regulations.

(b) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in coordination with the Secretary of Transportation, shall transmit a report to the appropriate congressional committees on truck security issues that includes—

(1) a security risk assessment of the trucking industry;

(2) an assessment of actions already taken by both public and private entities to address identified security risks;

(3) an assessment of the economic impact that security upgrades of trucks, truck equipment, or truck facilities may have on the trucking industry and its employees, including independent owner-operators;

(4) an assessment of ongoing research by public and private entities and the need for additional research on truck security;

(5) an assessment of industry best practices to enhance security; and

(6) an assessment of the current status of secure truck parking.

(c) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

SEC. 1541. MEMORANDUM OF UNDERSTANDING ANNEX.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary shall execute and develop an annex to the Memorandum of Understanding between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources, and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing motor carrier transportation security matters, including over-the-road bus security matters, and shall cover the processes the Departments will follow to promote communications, efficiency, and nonduplication of effort.

SEC. 1542. DHS INSPECTOR GENERAL REPORT ON TRUCKING SECURITY GRANT PROGRAM.

(a) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall submit a report to the appropriate congressional committees on the Federal trucking industry security grant program, for fiscal years 2004 and 2005 that—

(1) addresses the grant announcement, application, receipt, review, award, monitoring, and closeout processes; and

(2) states the amount obligated or expended under the program for fiscal years 2004 and 2005 for—

(A) infrastructure protection;
(B) training;
(C) equipment;
(D) educational materials;
(E) program administration;
(F) marketing; and
(G) other functions.

(b) SUBSEQUENT REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall submit a report to the appropriate congressional committees that—

(1) analyzes the performance, efficiency, and effectiveness of the Federal trucking industry security grant program, and the need for the program using all years of available data; and

(2) makes recommendations regarding the future of the program, including options to improve the effectiveness and utility of the program and motor carrier security.

Subtitle D—Hazardous Material and Pipeline Security

SEC. 1551. RAILROAD ROUTING OF SECURITY-SENSITIVE MATERIALS.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary, shall publish a final rule based on the Pipeline and Hazardous Materials Safety Administration's Notice of Proposed Rulemaking published on December 21, 2006, entitled "Hazardous Materials: Enhancing Railroad Transportation Safety and Security for Hazardous Materials Shipments". The final rule

shall incorporate the requirements of this section and, as appropriate, public comments received during the comment period of the rulemaking.

(b) SECURITY-SENSITIVE MATERIALS COMMODITY DATA.—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to, no later than 90 days after the end of each calendar year, compile security-sensitive materials commodity data. Such data must be collected by route, line segment, or series of line segments, as aggregated by the railroad carrier. Within the railroad carrier selected route, the commodity data must identify the geographic location of the route and the total number of shipments by the United Nations identification number for the security-sensitive materials.

(c) RAILROAD TRANSPORTATION ROUTE ANALYSIS FOR SECURITY-SENSITIVE MATERIALS.—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to, for each calendar year, provide a written analysis of the safety and security risks for the transportation routes identified in the security-sensitive materials commodity data collected as required by subsection (b). The safety and security risks present shall be analyzed for the route, railroad facilities, railroad storage facilities, and high-consequence targets along or in proximity to the route.

(d) ALTERNATIVE ROUTE ANALYSIS FOR SECURITY-SENSITIVE MATERIALS.—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to—

(1) for each calendar year—

(A) identify practicable alternative routes over which the railroad carrier has authority to operate as compared to the current route for such a shipment analyzed under subsection (c); and

(B) perform a safety and security risk assessment of the alternative route for comparison to the route analysis specified in subsection (c);

(2) ensure that the analysis under paragraph (1) includes—

(A) identification of safety and security risks for an alternative route;

(B) comparison of those risks identified under subparagraph (A) to the primary railroad transportation route, including the risk of a catastrophic release from a shipment traveling along the alternate route compared to the primary route;

(C) any remediation or mitigation measures implemented on the primary or alternative route; and

(D) potential economic effects of using an alternative route; and

(3) consider when determining the practicable alternative routes under paragraph (1)(A) the use of interchange agreements with other railroad carriers.

(e) ALTERNATIVE ROUTE SELECTION FOR SECURITY-SENSITIVE MATERIALS.—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to use the analysis required by subsections (c) and (d) to select the safest and most secure route to be used in transporting security-sensitive materials.

(f) REVIEW.—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to annually review and select the practicable route posing the least overall safety and security risk in accordance with this section. The railroad carrier must retain in writing all route review and selection decision documentation and restrict the distribution, disclosure, and availability of information contained in the route analysis to appropriate persons. This documentation should include, but is not limited to, comparative analyses, charts, graphics, or railroad system maps.

(g) RETROSPECTIVE ANALYSIS.—The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to, not less than once every 3 years, analyze the route selection determinations required under this section. Such an analysis shall include a comprehensive, systemwide review of all operational changes, infrastructure modifications, traffic adjustments, changes in the nature of high-consequence targets located along or in proximity to the route, or other changes affecting the safety and security of the movements of security-sensitive materials that were implemented since the previous analysis was completed.

(h) CONSULTATION.—In carrying out subsection (c), railroad carriers transporting security-sensitive materials in commerce shall seek relevant information from State, local, and tribal officials, as appropriate, regarding security risks to high-consequence targets along or in proximity to a route used by a railroad carrier to transport security-sensitive materials.

(i) DEFINITIONS.—In this section:

(1) The term "route" includes storage facilities and trackage used by railroad cars in transportation in commerce.

(2) The term "high-consequence target" means a property, natural resource, location, area, or other target designated by the Secretary that is a viable terrorist target of national significance, which may include a facility or specific critical infrastructure, the attack of which by railroad could result in—

(A) catastrophic loss of life;

(B) significant damage to national security or defense capabilities; or

(C) national economic harm.

SEC. 1552. RAILROAD SECURITY-SENSITIVE MATERIAL TRACKING.

(a) COMMUNICATIONS.—

(1) IN GENERAL.—In conjunction with the research and development program established under section 1518 and consistent with the results of research relating to wireless and other tracking technologies, the Secretary, in consultation with the Administrator of the Transportation Security Administration, shall develop a program that will encourage the equipping of railroad cars transporting security-sensitive materials, as defined in section 1501, with technology that provides—

(A) car position location and tracking capabilities; and

(B) notification of railroad car depressurization, breach, unsafe temperature, or release of hazardous materials, as appropriate.

(2) COORDINATION.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for railroad car tracking at the Department of Transportation; and

(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material railroad tank car tracking pilot programs.

(b) FUNDING.—From the amounts appropriated pursuant to 114(w) of title 49, United States Code, as amended by section 1503 of this title, there shall be made available to the Secretary to carry out this section—

(1) $3,000,000 for fiscal year 2008;

(2) $3,000,000 for fiscal year 2009; and

(3) $3,000,000 for fiscal year 2010.

SEC. 1553. HAZARDOUS MATERIALS HIGHWAY ROUTING.

(a) ROUTE PLAN GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary, shall—

(1) document existing and proposed routes for the transportation of radioactive and nonradioactive hazardous materials by motor carrier, and develop a framework for using a geographic information system-based approach to characterize routes in the national hazardous materials route registry;

(2) assess and characterize existing and proposed routes for the transportation of radioactive and nonradioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns;

(3) analyze current route-related hazardous materials regulations in the United States, Canada, and Mexico to identify cross-border differences and conflicting regulations;

(4) document the safety and security concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials;

(5) prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security risks when designating highway routes for hazardous materials consistent with the 13 safety-based nonradioactive materials routing criteria and radioactive materials routing criteria in subpart C part 397 of title 49, Code of Federal Regulations;

(6) develop a tool that will enable State officials to examine potential routes for the highway transportation of hazardous materials, assess specific security risks associated with each route, and explore alternative mitigation measures; and

(7) transmit to the appropriate congressional committees a report on the actions taken to fulfill paragraphs (1) through (6) and any recommended changes to the routing requirements for the highway transportation of hazardous materials in part 397 of title 49, Code of Federal Regulations.

(b) ROUTE PLANS.—

(1) ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the safety and national security benefits achieved under existing requirements for route plans,

in written or electronic format, for explosives and radioactive materials. The assessment shall, at a minimum—

(A) compare the percentage of Department of Transportation recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials for which such route plans are required with the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such route plans; and

(B) quantify the security and safety benefits, feasibility, and costs of requiring each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry such a route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403, taking into account the various segments of the motor carrier industry, including tank truck, truckload and less than truckload carriers.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the appropriate congressional committees containing the findings and conclusions of the assessment.

(c) REQUIREMENT.—The Secretary shall require motor carriers that have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry a route plan, in written or electronic format, that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 if the Secretary determines, under the assessment required in subsection (b), that such a requirement would enhance security and safety without imposing unreasonable costs or burdens upon motor carriers.

SEC. 1554. MOTOR CARRIER SECURITY-SENSITIVE MATERIAL TRACKING.

(a) COMMUNICATIONS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, consistent with the findings of the Transportation Security Administration's hazardous materials truck security pilot program, the Secretary, through the Administrator of the Transportation Security Administration and in consultation with the Secretary of Transportation, shall develop a program to facilitate the tracking of motor carrier shipments of security-sensitive materials and to equip vehicles used in such shipments with technology that provides—

(A) frequent or continuous communications;

(B) vehicle position location and tracking capabilities; and

(C) a feature that allows a driver of such vehicles to broadcast an emergency distress signal.

(2) CONSIDERATIONS.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier or security-sensitive materials tracking at the Department of Transportation;

(B) take into consideration the recommendations and findings of the report on the hazardous material safety and security operational field test released by the Federal Motor Carrier Safety Administration on November 11, 2004; and

(C) evaluate—

(i) any new information related to the costs and benefits of deploying, equipping, and utilizing tracking technology, including portable tracking technology, for motor carriers transporting security-sensitive materials not included in the hazardous material safety and security operational field test report released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(ii) the ability of tracking technology to resist tampering and disabling;

(iii) the capability of tracking technology to collect, display, and store information regarding the movement of shipments of security-sensitive materials by commercial motor vehicles;

(iv) the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting security-sensitive materials;

(v) technology that allows the installation by a motor carrier of concealed electronic devices on commercial motor vehicles that can be activated by law enforcement authorities to disable the vehicle or alert emergency response resources to locate and recover security-sensitive materials in the event of loss or theft of such materials;

(vi) whether installation of the technology described in clause (v) should be incorporated into the program under paragraph (1);

(vii) the costs, benefits, and practicality of such technology described in clause (v) in the context of the overall benefit to national security, including commerce in transportation; and

(viii) other systems and information the Secretary determines appropriate.

(b) FUNDING.—From the amounts appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this Act, there shall be made available to the Secretary to carry out this section—

(1) $7,000,000 for fiscal year 2008 of which $3,000,000 may be used for equipment;

(2) $7,000,000 for fiscal year 2009 of which $3,000,000 may be used for equipment; and

(3) $7,000,000 for fiscal year 2010 of which $3,000,000 may be used for equipment.

(c) REPORT.—Not later than 1 year after the issuance of regulations under subsection (a), the Secretary shall issue a report to the appropriate congressional committees on the program developed and evaluation carried out under this section.

(d) LIMITATION.—The Secretary may not mandate the installation or utilization of a technology described under this section without additional congressional authority provided after the date of enactment of this Act.

SEC. 1555. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND STUDY.

(a) IN GENERAL.—The Secretary of Transportation shall consult with the Secretary to limit, to the extent practicable, duplicative reviews of the hazardous materials security plans required under part 172, title 49, Code of Federal Regulations.

(b) TRANSPORTATION COSTS STUDY.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary, shall study to what extent the insurance, security, and safety costs borne by railroad carriers, motor carriers, pipeline carriers, air carriers, and maritime carriers associated with the transportation of hazardous materials are reflected in the rates paid by offerors of such commodities as compared to the costs and rates, respectively, for the transportation of nonhazardous materials.

SEC. 1556. TECHNICAL CORRECTIONS.

(a) CORRECTION.—Section 5103a of title 49, United States Code, is amended—

(1) in subsection (a)(1) by striking "Secretary" and inserting "Secretary of Homeland Security";

(2) in subsection (b) by striking "Secretary" each place it appears and inserting "Secretary of Transportation";

(3) in subsection (d)(1)(B) by striking "Secretary" and inserting "Secretary of Homeland Security"; and

(4) in subsection (e) by striking "Secretary" and inserting "Secretary of Homeland Security" each place it appears.

(b) RELATIONSHIP TO TRANSPORTATION SECURITY CARDS.—

(1) BACKGROUND CHECK.—An individual who has a valid transportation employee identification card issued by the Secretary under section 70105 of title 46, United States Code, shall be deemed to have met the background records check required under section 5103a of title 49, United States Code.

(2) STATE REVIEW.—Nothing in this subsection prevents or preempts a State from conducting a criminal records check of an individual that has applied for a license to operate a motor vehicle transporting in commerce a hazardous material.

SEC. 1557. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, consistent with the Annex to the Memorandum of Understanding executed on August 9, 2006, between the Department of Transportation and the Department, the Secretary, in consultation with the Secretary of Transportation, shall establish a program for reviewing pipeline operator adoption of recommendations of the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections.

(b) REVIEW AND INSPECTION.—Not later than 12 months after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall develop and implement a plan for reviewing the pipeline security plans and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September 5, 2002, circular, where such facilities have not been inspected for security purposes since September 5, 2002, by either the Department or the Department of Transportation.

(c) COMPLIANCE REVIEW METHODOLOGY.—In reviewing pipeline operator compliance under subsections (a) and (b), risk assessment methodologies shall be used to prioritize risks and to target inspection and enforcement actions to the highest risk pipeline assets.

(d) REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall develop and transmit to pipeline operators security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary determines that regulations are appropriate, the Secretary shall consult with the Secretary of Transportation on the extent of risk and appropriate mitigation measures, and the Secretary or the Secretary of Transportation, consistent with the Annex to the Memorandum of Understanding executed on August 9, 2006, shall promulgate such regulations and carry out necessary inspection and enforcement actions. Any regulations shall incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the imposition of civil penalties for noncompliance.

(e) FUNDING.—From the amounts appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1503 of this Act, there shall be made available to the Secretary to carry out this section—

(1) $2,000,000 for fiscal year 2008;

(2) $2,000,000 for fiscal year 2009; and

(3) $2,000,000 for fiscal year 2010.

SEC. 1558. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation and the Administrator of the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Annex to the Memorandum of Understanding executed on August 9, 2006, the National Strategy for Transportation Security, and Homeland Security Presidential Directive–7, shall develop a pipeline security and incident recovery protocols plan. The plan shall include—

(1) for the Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section 1557 when—

(A) under severe security threat levels of alert; or

(B) under specific security threat information relating to such pipeline infrastructure or operations exists; and

(2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for restoring essential services supporting pipelines and

granting access to pipeline operators for pipeline infrastructure repair, replacement, or bypass following an incident.

(b) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The plan shall take into account actions taken or planned by both private and public entities to address identified pipeline security issues and assess the effective integration of such actions.

(c) CONSULTATION.—In developing the plan under subsection (a), the Secretary shall consult with the Secretary of Transportation, interstate and intrastate transmission and distribution pipeline operators, nonprofit employee organizations representing pipeline employees, emergency responders, offerors, State pipeline safety agencies, public safety officials, and other relevant parties.

(d) REPORT.—

(1) CONTENTS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the appropriate congressional committees a report containing the plan required by subsection (a), including an estimate of the private and public sector costs to implement any recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

TITLE XVI—AVIATION

SEC. 1601. AIRPORT CHECKPOINT SCREENING FUND.

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

(1) in subsection (d)(4) by inserting ", other than subsection (i)," before "except to"; and

(2) by adding at the end the following:

"(i) CHECKPOINT SCREENING SECURITY FUND.—

"(1) ESTABLISHMENT.—There is established in the Department of Homeland Security a fund to be known as the 'Checkpoint Screening Security Fund'.

"(2) DEPOSITS.—In fiscal year 2008, after amounts are made available under section 44923(h), the next $250,000,000 derived from fees received under subsection (a)(1) shall be available to be deposited in the Fund.

"(3) FEES.—The Secretary of Homeland Security shall impose the fee authorized by subsection (a)(1) so as to collect at least $250,000,000 in fiscal year 2008 for deposit into the Fund.

"(4) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available until expended by the Administrator of the Transportation Security Administration for the purchase, deployment, installation, research, and development of equipment to improve the ability of security screening personnel at screening checkpoints to detect explosives.".

SEC. 1602. SCREENING OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Section 44901 of title 49, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following:

"(g) AIR CARGO ON PASSENGER AIRCRAFT.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security shall establish a system to screen 100 percent of cargo transported on passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation to ensure the security of all such passenger aircraft carrying cargo.

"(2) MINIMUM STANDARDS.—The system referred to in paragraph (1) shall require, at a minimum, that equipment, technology, procedures, personnel, or other methods approved by the Administrator of the Transportation Security Administration, are used to screen cargo carried on passenger aircraft described in paragraph (1) to provide a level of security commensurate with the level of security for the screening of passenger checked baggage as follows:

"(A) 50 percent of such cargo is so screened not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.

"(B) 100 percent of such cargo is so screened not later than 3 years after such date of enactment.

"(3) REGULATIONS.—

"(A) INTERIM FINAL RULE.—The Secretary of Homeland Security may issue an interim final rule as a temporary regulation to implement this subsection without regard to the provisions of chapter 5 of title 5.

"(B) FINAL RULE.—

"(i) IN GENERAL.—If the Secretary issues an interim final rule under subparagraph (A), the Secretary shall issue, not later than one year after the effective date of the interim final rule, a final rule as a permanent regulation to implement this subsection in accordance with the provisions of chapter 5 of title 5.

"(ii) FAILURE TO ACT.—If the Secretary does not issue a final rule in accordance with clause (i) on or before the last day of the one-year period referred to in clause (i), the Secretary shall submit to the Committee on Homeland Security of the House of Representatives, Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a report explaining why the final rule was not timely issued and providing an estimate of the earliest date on which the final rule will be issued. The Secretary shall submit the first such report within 10 days after such last day and submit a report to the Committees containing updated information every 30 days thereafter until the final rule is issued.

"(iii) SUPERCEDING OF INTERIM FINAL RULE.—The final rule issued in accordance with this subparagraph shall supersede the interim final rule issued under subparagraph (A).

"(4) REPORT.—Not later than 1 year after the date of establishment of the system under paragraph (1), the Secretary

shall submit to the Committees referred to in paragraph (3)(B)(ii) a report that describes the system.

"(5) SCREENING DEFINED.—In this subsection the term 'screening' means a physical examination or non-intrusive methods of assessing whether cargo poses a threat to transportation security. Methods of screening include x-ray systems, explosives detection systems, explosives trace detection, explosives detection canine teams certified by the Transportation Security Administration, or a physical search together with manifest verification. The Administrator may approve additional methods to ensure that the cargo does not pose a threat to transportation security and to assist in meeting the requirements of this subsection. Such additional cargo screening methods shall not include solely performing a review of information about the contents of cargo or verifying the identity of a shipper of the cargo that is not performed in conjunction with other security methods authorized under this subsection, including whether a known shipper is registered in the known shipper database. Such additional cargo screening methods may include a program to certify the security methods used by shippers pursuant to paragraphs (1) and (2) and alternative screening methods pursuant to exemptions referred to in subsection (b) of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007.".

(b) ASSESSMENT OF EXEMPTIONS.—

(1) TSA ASSESSMENT.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate committees of Congress and to the Comptroller General a report containing an assessment of each exemption granted under section 44901(i)(1) of title 49, United States Code, for the screening required by such section for cargo transported on passenger aircraft and an analysis to assess the risk of maintaining such exemption.

(B) CONTENTS.—The report under subparagraph (A) shall include—

(i) the rationale for each exemption;

(ii) what percentage of cargo is not screened in accordance with section 44901(g) of title 49, United States Code;

(iii) the impact of each exemption on aviation security;

(iv) the projected impact on the flow of commerce of eliminating each exemption, respectively, should the Secretary choose to take such action; and

(v) plans and rationale for maintaining, changing, or eliminating each exemption.

(C) FORMAT.—The Secretary may submit the report under subparagraph (A) in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(2) GAO ASSESSMENT.—Not later than 120 days after the date on which the report under paragraph (1) is submitted, the Comptroller General shall review the report and submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and

Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate an assessment of the methodology of determinations made by the Secretary for maintaining, changing, or eliminating an exemption under section 44901(i)(1) of title 49, United States Code.

SEC. 1603. IN-LINE BAGGAGE SCREENING.

(a) EXTENSION OF AUTHORIZATION.—Section 44923(i)(1) of title 49, United States Code, is amended by striking "2007." and inserting "2007, and $450,000,000 for each of fiscal years 2008 through 2011".

(b) SUBMISSION OF COST-SHARING STUDY AND PLAN.—Not later than 60 days after the date of enactment of this Act, the Secretary for Homeland Security shall submit to the appropriate congressional committees the cost sharing study described in section 4019(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3722), together with the Secretary's analysis of the study, a list of provisions of the study the Secretary intends to implement, and a plan and schedule for implementation of such listed provisions.

SEC. 1604. IN-LINE BAGGAGE SYSTEM DEPLOYMENT.

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

(1) in subsection (a) by striking "may make" and inserting "shall make";

(2) in subsection (d)(1) by striking "may" and inserting "shall";

(3) in subsection (h)(1) by striking "2007" and inserting "2028";

(4) in subsection (h) by striking paragraphs (2) and (3) and inserting the following:

"(2) ALLOCATION.—Of the amount made available under paragraph (1) for a fiscal year, not less than $200,000,000 shall be allocated to fulfill letters of intent issued under subsection (d).

"(3) DISCRETIONARY GRANTS.—Of the amount made available under paragraph (1) for a fiscal year, up to $50,000,000 shall be used to make discretionary grants, including other transaction agreements for airport security improvement projects, with priority given to small hub airports and nonhub airports.";

(5) by redesignating subsection (i) as subsection (j); and

(6) by inserting after subsection (h) the following:

"(i) LEVERAGED FUNDING.—For purposes of this section, a grant under subsection (a) to an airport sponsor to service an obligation issued by or on behalf of that sponsor to fund a project described in subsection (a) shall be considered to be a grant for that project.".

(b) PRIORITIZATION OF PROJECTS.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall establish a prioritization schedule for airport security improvement projects described in section 44923 of title 49, United States Code, based on risk and other relevant factors, to be funded under that section. The schedule shall include both hub airports referred to in paragraphs (29), (31), and (42) of section 40102 of such title and nonhub airports (as defined in section 47102(13) of such title).

(2) AIRPORTS THAT HAVE INCURRED ELIGIBLE COSTS.—The schedule shall include airports that have incurred eligible costs associated with development of partial or completed in-line baggage systems before the date of enactment of this Act in reasonable anticipation of receiving a grant under section 44923 of title 49, United States Code, in reimbursement of those costs but that have not received such a grant.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall provide a copy of the prioritization schedule, a corresponding timeline, and a description of the funding allocation under section 44923 of title 49, United States Code, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives.

SEC. 1605. STRATEGIC PLAN TO TEST AND IMPLEMENT ADVANCED PASSENGER PRESCREENING SYSTEM.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a plan that—

(1) describes the system to be utilized by the Department of Homeland Security to assume the performance of comparing passenger information, as defined by the Administrator, to the automatic selectee and no-fly lists, utilizing appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government;

(2) provides a projected timeline for each phase of testing and implementation of the system;

(3) explains how the system will be integrated with the prescreening system for passengers on international flights; and

(4) describes how the system complies with section 552a of title 5, United States Code.

(b) GAO ASSESSMENT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives that—

(1) describes the progress made by the Transportation Security Administration in implementing the secure flight passenger pre-screening program;

(2) describes the effectiveness of the current appeals process for passengers wrongly assigned to the no-fly and terrorist watch lists;

(3) describes the Transportation Security Administration's plan to protect private passenger information and progress made in integrating the system with the pre-screening program for international flights operated by United States Customs and Border Protection;

(4) provides a realistic determination of when the system will be completed; and

(5) includes any other relevant observations or recommendations the Comptroller General deems appropriate.

SEC. 1606. APPEAL AND REDRESS PROCESS FOR PASSENGERS WRONGLY DELAYED OR PROHIBITED FROM BOARDING A FLIGHT.

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

"§ 44926. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight

"(a) IN GENERAL.—The Secretary of Homeland Security shall establish a timely and fair process for individuals who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat under the regimes utilized by the Transportation Security Administration, United States Customs and Border Protection, or any other office or component of the Department of Homeland Security.

"(b) OFFICE OF APPEALS AND REDRESS.—

"(1) ESTABLISHMENT.—The Secretary shall establish in the Department an Office of Appeals and Redress to implement, coordinate, and execute the process established by the Secretary pursuant to subsection (a). The Office shall include representatives from the Transportation Security Administration, United States Customs and Border Protection, and such other offices and components of the Department as the Secretary determines appropriate.

"(2) RECORDS.—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office, under the direction of the Secretary, will be able to maintain a record of air carrier passengers and other individuals who have been misidentified and have corrected erroneous information.

"(3) INFORMATION.—To prevent repeated delays of an misidentified passenger or other individual, the Office shall—

"(A) ensure that the records maintained under this subsection contain information determined by the Secretary to authenticate the identity of such a passenger or individual;

"(B) furnish to the Transportation Security Administration, United States Customs and Border Protection, or any other appropriate office or component of the Department, upon request, such information as may be necessary to allow such office or component to assist air carriers in improving their administration of the advanced passenger prescreening system and reduce the number of false positives; and

"(C) require air carriers and foreign air carriers take action to identify passengers determined, under the process established under subsection (a), to have been wrongly identified.

"(4) HANDLING OF PERSONALLY IDENTIFIABLE INFORMATION.—The Secretary, in conjunction with the Chief Privacy Officer of the Department shall—

"(A) require that Federal employees of the Department handling personally identifiable information of passengers (in this paragraph referred to as 'PII') complete mandatory

privacy and security training prior to being authorized to handle PII;

"(B) ensure that the records maintained under this subsection are secured by encryption, one-way hashing, other data anonymization techniques, or such other equivalent security technical protections as the Secretary determines necessary;

"(C) limit the information collected from misidentified passengers or other individuals to the minimum amount necessary to resolve a redress request;

"(D) require that the data generated under this subsection shall be shared or transferred via a secure data network, that has been audited to ensure that the anti-hacking and other security related software functions properly and is updated as necessary;

"(E) ensure that any employee of the Department receiving the data contained within the records handles the information in accordance with the section 552a of title 5, United States Code, and the Federal Information Security Management Act of 2002 (Public Law 107–296);

"(F) only retain the data for as long as needed to assist the individual traveler in the redress process; and

"(G) conduct and publish a privacy impact assessment of the process described within this subsection and transmit the assessment to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and Committee on Homeland Security and Governmental Affairs of the Senate.

"(5) INITIATION OF REDRESS PROCESS AT AIRPORTS.—The Office shall establish at each airport at which the Department has a significant presence a process to provide information to air carrier passengers to begin the redress process established pursuant to subsection (a).".

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 44925 the following:

"44926. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight.".

SEC. 1607. STRENGTHENING EXPLOSIVES DETECTION AT PASSENGER SCREENING CHECKPOINTS.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall issue the strategic plan the Secretary was required by section 44925(b) of title 49, United States Code, to have issued within 90 days after the date of enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

(b) DEPLOYMENT.—Section 44925(b) of title 49, United States Code, is amended by adding at the end the following:

"(3) IMPLEMENTATION.—The Secretary shall begin implementation of the strategic plan within one year after the date of enactment of this paragraph.".

SEC. 1608. RESEARCH AND DEVELOPMENT OF AVIATION TRANSPORTATION SECURITY TECHNOLOGY.

Section 137(a) of the Aviation and Transportation Security Act (49 U.S.C. 44912 note; 115 Stat. 637) is amended—

(1) by striking "2002 through 2006" and inserting "2006 through 2011";

(2) by striking "aviation" and inserting "transportation"; and

(3) by striking "2002 and 2003" and inserting "2006 through 2011".

SEC. 1609. BLAST-RESISTANT CARGO CONTAINERS.

Section 44901 of title 49, United States Code, as amended by section 1602, is further amended by adding at the end the following:

"(j) BLAST-RESISTANT CARGO CONTAINERS.—

"(1) IN GENERAL.—Before January 1, 2008, the Administrator of the Transportation Security Administration shall—

"(A) evaluate the results of the blast-resistant cargo container pilot program that was initiated before the date of enactment of this subsection; and

"(B) prepare and distribute through the Aviation Security Advisory Committee to the appropriate Committees of Congress and air carriers a report on that evaluation which may contain nonclassified and classified sections.

"(2) ACQUISITION, MAINTENANCE, AND REPLACEMENT.—Upon completion and consistent with the results of the evaluation that paragraph (1)(A) requires, the Administrator shall—

"(A) develop and implement a program, as the Administrator determines appropriate, to acquire, maintain, and replace blast-resistant cargo containers;

"(B) pay for the program; and

"(C) make available blast-resistant cargo containers to air carriers pursuant to paragraph (3).

"(3) DISTRIBUTION TO AIR CARRIERS.—The Administrator shall make available, beginning not later than July 1, 2008, blast-resistant cargo containers to air carriers for use on a risk managed basis as determined by the Administrator.".

SEC. 1610. PROTECTION OF PASSENGER PLANES FROM EXPLOSIVES.

(a) TECHNOLOGY RESEARCH AND PILOT PROJECTS.—

(1) RESEARCH AND DEVELOPMENT.—The Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall expedite research and development programs for technologies that can disrupt or prevent an explosive device from being introduced onto a passenger plane or from damaging a passenger plane while in flight or on the ground. The research shall be used in support of implementation of section 44901 of title 49, United States Code.

(2) PILOT PROJECTS.—The Secretary, in conjunction with the Secretary of Transportation, shall establish a grant program to fund pilot projects—

(A) to deploy technologies described in paragraph (1); and

(B) to test technologies to expedite the recovery, development, and analysis of information from aircraft

accidents to determine the cause of the accident, including deployable flight deck and voice recorders and remote location recording devices.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2008 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.

SEC. 1611. SPECIALIZED TRAINING.

The Administrator of the Transportation Security Administration shall provide advanced training to transportation security officers for the development of specialized security skills, including behavior observation and analysis, explosives detection, and document examination, in order to enhance the effectiveness of layered transportation security measures.

SEC. 1612. CERTAIN TSA PERSONNEL LIMITATIONS NOT TO APPLY.

(a) IN GENERAL.—Notwithstanding any provision of law, any statutory limitation on the number of employees in the Transportation Security Administration, before or after its transfer to the Department of Homeland Security from the Department of Transportation, does not apply after fiscal year 2007.

(b) AVIATION SECURITY.—Notwithstanding any provision of law imposing a limitation on the recruiting or hiring of personnel into the Transportation Security Administration to a maximum number of permanent positions, the Secretary of Homeland Security shall recruit and hire such personnel into the Administration as may be necessary—

(1) to provide appropriate levels of aviation security; and

(2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced to a level of less than 10 minutes.

SEC. 1613. PILOT PROJECT TO TEST DIFFERENT TECHNOLOGIES AT AIRPORT EXIT LANES.

(a) IN GENERAL.—The Administrator of the Transportation Security Administration shall conduct a pilot program at not more than 2 airports to identify technologies to improve security at airport exit lanes.

(b) PROGRAM COMPONENTS.—In conducting the pilot program under this section, the Administrator shall—

(1) utilize different technologies that protect the integrity of the airport exit lanes from unauthorized entry;

(2) work with airport officials to deploy such technologies in multiple configurations at a selected airport or airports at which some of the exits are not colocated with a screening checkpoint; and

(3) ensure the level of security is at or above the level of existing security at the airport or airports where the pilot program is conducted.

(c) REPORTS.—

(1) INITIAL BRIEFING.—Not later than 180 days after the date of enactment of this Act, the Administrator shall conduct a briefing to the congressional committees set forth in paragraph (3) that describes—

(A) the airport or airports selected to participate in the pilot program;

(B) the technologies to be tested;

(C) the potential savings from implementing the technologies at selected airport exits;

(D) the types of configurations expected to be deployed at such airports; and

(E) the expected financial contribution from each airport.

(2) FINAL REPORT.—Not later than 18 months after the technologies are deployed at the airports participating in the pilot program, the Administrator shall submit a final report to the congressional committees set forth in paragraph (3) that describes—

(A) the changes in security procedures and technologies deployed;

(B) the estimated cost savings at the airport or airports that participated in the pilot program; and

(C) the efficacy and staffing benefits of the pilot program and its applicability to other airports in the United States.

(3) CONGRESSIONAL COMMITTEES.—The reports required under this subsection shall be submitted to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

(D) the Committee on Homeland Security of the House of Representatives; and

(E) the Committee on Appropriations of the House of Representatives.

(d) USE OF EXISTING FUNDS.—This section shall be executed using existing funds.

SEC. 1614. SECURITY CREDENTIALS FOR AIRLINE CREWS.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, after consultation with airline, airport, and flight crew representatives, shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Administration's efforts to institute a sterile area access system or method that will enhance security by properly identifying authorized airline flight deck and cabin crew members at screening checkpoints and granting them expedited access through screening checkpoints. The Administrator shall include in the report recommendations on the feasibility of implementing the system for the domestic aviation industry beginning 1 year after the date on which the report is submitted.

(b) BEGINNING IMPLEMENTATION.—The Administrator shall begin implementation of the system or method referred to in subsection (a) not later than 1 year after the date on which the Administrator submits the report under subsection (a).

SEC. 1615. LAW ENFORCEMENT OFFICER BIOMETRIC CREDENTIAL.

(a) IN GENERAL.—Section 44903(h)(6) of title 49, United States Code, is amended to read as follows:

"(6) USE OF BIOMETRIC TECHNOLOGY FOR ARMED LAW ENFORCEMENT TRAVEL.—

"(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security, in consultation with the Attorney General, shall—

"(i) implement this section by publication in the Federal Register; and

"(ii) establish a national registered armed law enforcement program, that shall be federally managed, for law enforcement officers needing to be armed when traveling by commercial aircraft.

"(B) PROGRAM REQUIREMENTS.—The program shall—

"(i) establish a credential or a system that incorporates biometric technology and other applicable technologies;

"(ii) establish a system for law enforcement officers who need to be armed when traveling by commercial aircraft on a regular basis and for those who need to be armed during temporary travel assignments;

"(iii) comply with other uniform credentialing initiatives, including the Homeland Security Presidential Directive 12;

"(iv) apply to all Federal, State, local, tribal, and territorial government law enforcement agencies; and

"(v) establish a process by which the travel credential or system may be used to verify the identity, using biometric technology, of a Federal, State, local, tribal, or territorial law enforcement officer seeking to carry a weapon on board a commercial aircraft, without unnecessarily disclosing to the public that the individual is a law enforcement officer.

"(C) PROCEDURES.—In establishing the program, the Secretary shall develop procedures—

"(i) to ensure that a law enforcement officer of a Federal, State, local, tribal, or territorial government flying armed has a specific reason for flying armed and the reason is within the scope of the duties of such officer;

"(ii) to preserve the anonymity of the armed law enforcement officer;

"(iii) to resolve failures to enroll, false matches, and false nonmatches relating to the use of the law enforcement travel credential or system;

"(iv) to determine the method of issuance of the biometric credential to law enforcement officers needing to be armed when traveling by commercial aircraft;

"(v) to invalidate any law enforcement travel credential or system that is lost, stolen, or no longer authorized for use;

"(vi) to coordinate the program with the Federal Air Marshal Service, including the force multiplier program of the Service; and

"(vii) to implement a phased approach to launching the program, addressing the immediate needs of the

relevant Federal agent population before expanding to other law enforcement populations.".

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after implementing the national registered armed law enforcement program required by section 44903(h)(6) of title 49, United States Code, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives a report. If the Secretary has not implemented the program within 180 days after the date of enactment of this Act, the Secretary shall submit a report to the Committees within 180 days explaining the reasons for the failure to implement the program within the time required by that section and a further report within each successive 90-day period until the program is implemented explaining the reasons for such further delays in implementation until the program is functioning.

(2) CLASSIFIED FORMAT.—The Secretary may submit each report required by this subsection in classified format.

SEC. 1616. REPAIR STATION SECURITY.

(a) CERTIFICATION OF FOREIGN REPAIR STATIONS SUSPENSION.—If the regulations required by section 44924(f) of title 49, United States Code, are not issued within 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration may not certify any foreign repair station under part 145 of title 14, Code of Federal Regulations, after such date unless the station was previously certified, or is in the process of certification by the Administration under that part.

(b) 6-MONTH DEADLINE FOR SECURITY REVIEW AND AUDIT.—Subsections (a) and (d) of section 44924 of title 49, United States Code, is amended—

(1) in each of subsections (a) and (b) by striking "18 months" and inserting "6 months"; and

(2) in subsection (d) by inserting "(other than a station that was previously certified, or is in the process of certification, by the Administration under this part)" before "until".

SEC. 1617. GENERAL AVIATION SECURITY.

Section 44901 of title 49, United States Code, as amended by sections 1602 and 1609, is further amended by adding at the end the following:

"(k) GENERAL AVIATION AIRPORT SECURITY PROGRAM.—

"(1) IN GENERAL.—Not later than one year after the date of enactment of this subsection, the Administrator of the Transportation Security Administration shall—

"(A) develop a standardized threat and vulnerability assessment program for general aviation airports (as defined in section 47134(m)); and

"(B) implement a program to perform such assessments on a risk-managed basis at general aviation airports.

"(2) GRANT PROGRAM.—Not later than 6 months after the date of enactment of this subsection, the Administrator shall initiate and complete a study of the feasibility of a program, based on a risk-managed approach, to provide grants to operators of general aviation airports (as defined in section 47134(m))

for projects to upgrade security at such airports. If the Administrator determines that such a program is feasible, the Administrator shall establish such a program.

"(3) APPLICATION TO GENERAL AVIATION AIRCRAFT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall develop a risk-based system under which—

"(A) general aviation aircraft, as identified by the Administrator, in coordination with the Administrator of the Federal Aviation Administration, are required to submit passenger information and advance notification requirements for United States Customs and Border Protection before entering United States airspace; and

"(B) such information is checked against appropriate databases.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Transportation Security Administration such sums as may be necessary to carry out paragraphs (2) and (3).".

SEC. 1618. EXTENSION OF AUTHORIZATION OF AVIATION SECURITY FUNDING.

Section 48301(a) of title 49, United States Code, is amended by striking "and 2006" and inserting "2007, 2008, 2009, 2010, and 2011".

TITLE XVII—MARITIME CARGO

SEC. 1701. CONTAINER SCANNING AND SEALS.

(a) CONTAINER SCANNING.—Section 232(b) of the SAFE Ports Act (6 U.S.C. 982(b)) is amended to read as follows:

"(b) FULL-SCALE IMPLEMENTATION.—

"(1) IN GENERAL.—A container that was loaded on a vessel in a foreign port shall not enter the United States (either directly or via a foreign port) unless the container was scanned by nonintrusive imaging equipment and radiation detection equipment at a foreign port before it was loaded on a vessel.

"(2) APPLICATION.—Paragraph (1) shall apply with respect to containers loaded on a vessel in a foreign country on or after the earlier of—

"(A) July 1, 2012; or

"(B) such other date as may be established by the Secretary under paragraph (3).

"(3) ESTABLISHMENT OF EARLIER DEADLINE.—The Secretary shall establish a date under (2)(B) pursuant to the lessons learned through the pilot integrated scanning systems established under section 231.

"(4) EXTENSIONS.—The Secretary may extend the date specified in paragraph (2)(A) or (2)(B) for 2 years, and may renew the extension in additional 2-year increments, for containers loaded in a port or ports, if the Secretary certifies to Congress that at least two of the following conditions exist:

"(A) Systems to scan containers in accordance with paragraph (1) are not available for purchase and installation.

"(B) Systems to scan containers in accordance with paragraph (1) do not have a sufficiently low false alarm rate for use in the supply chain.

"(C) Systems to scan containers in accordance with paragraph (1) cannot be purchased, deployed, or operated at ports overseas, including, if applicable, because a port does not have the physical characteristics to install such a system.

"(D) Systems to scan containers in accordance with paragraph (1) cannot be integrated, as necessary, with existing systems.

"(E) Use of systems that are available to scan containers in accordance with paragraph (1) will significantly impact trade capacity and the flow of cargo.

"(F) Systems to scan containers in accordance with paragraph (1) do not adequately provide an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

"(5) EXEMPTION FOR MILITARY CARGO.—Notwithstanding any other provision in the section, supplies bought by the Secretary of Defense and transported in compliance section 2631 of title 10, United States Code, and military cargo of foreign countries are exempt from the requirements of this section.

"(6) REPORT ON EXTENSIONS.—An extension under paragraph (4) for a port or ports shall take effect upon the expiration of the 60-day period beginning on the date the Secretary provides a report to Congress that—

"(A) states what container traffic will be affected by the extension;

"(B) provides supporting evidence to support the Secretary's certification of the basis for the extension; and

"(C) explains what measures the Secretary is taking to ensure that scanning can be implemented as early as possible at the port or ports that are the subject of the report.

"(7) REPORT ON RENEWAL OF EXTENSION.—If an extension under paragraph (4) takes effect, the Secretary shall, after one year, submit a report to Congress on whether the Secretary expects to seek to renew the extension.

"(8) SCANNING TECHNOLOGY STANDARDS.—In implementing paragraph (1), the Secretary shall—

"(A) establish technological and operational standards for systems to scan containers;

"(B) ensure that the standards are consistent with the global nuclear detection architecture developed under the Homeland Security Act of 2002; and

"(C) coordinate with other Federal agencies that administer scanning or detection programs at foreign ports.

"(9) INTERNATIONAL TRADE AND OTHER OBLIGATIONS.—In carrying out this subsection, the Secretary shall consult with appropriate Federal departments and agencies and private sector stakeholders, and ensure that actions under this section do not violate international trade obligations, and are consistent with the World Customs Organization framework, or other international obligations of the United States.".

(b) DEADLINE FOR CONTAINER SECURITY STANDARDS AND PROCEDURES.—Section 204(a)(4) of the SAFE Port Act (6 U.S.C. 944(a)(4)) is amended by—

(1) striking "(1) DEADLINE FOR ENFORCEMENT.—" and inserting the following:

"(1) DEADLINE FOR ENFORCEMENT.—

"(A) ENFORCEMENT OF RULE.—"; and

(2) adding at the end the following:

"(B) INTERIM REQUIREMENT.—If the interim final rule described in paragraph (2) is not issued by April 1, 2008, then—

"(i) effective not later than October 15, 2008, all containers in transit to the United States shall be required to meet the requirements of International Organization for Standardization Publicly Available Specification 17712 standard for sealing containers; and

"(ii) the requirements of this subparagraph shall cease to be effective upon the effective date of the interim final rule issued pursuant to this subsection.".

TITLE XVIII—PREVENTING WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM

SEC. 1801. FINDINGS.

The 9/11 Commission has made the following recommendations:

(1) STRENGTHEN "COUNTER-PROLIFERATION" EFFORTS.—The United States should work with the international community to develop laws and an international legal regime with universal jurisdiction to enable any state in the world to capture, interdict, and prosecute smugglers of nuclear material.

(2) EXPAND THE PROLIFERATION SECURITY INITIATIVE.—In carrying out the Proliferation Security Initiative, the United States should—

(A) use intelligence and planning resources of the North Atlantic Treaty Organization (NATO) alliance;

(B) make participation open to non-NATO countries; and

(C) encourage Russia and the People's Republic of China to participate.

(3) SUPPORT THE COOPERATIVE THREAT REDUCTION PROGRAM.—The United States should expand, improve, increase resources for, and otherwise fully support the Cooperative Threat Reduction program.

SEC. 1802. DEFINITIONS.

In this title:

(1) The terms "prevention of weapons of mass destruction proliferation and terrorism" and "prevention of WMD proliferation and terrorism" include activities under—

(A) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note);

(B) the programs for which appropriations are authorized by section 3101(a)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2729);

(C) programs authorized by section 504 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (the FREEDOM Support Act) (22 U.S.C. 5854) and programs authorized by section 1412 of the Former Soviet Union Demilitarization Act of 1992 (22 U.S.C. 5902); and

(D) a program of any agency of the Federal Government having a purpose similar to that of any of the programs identified in subparagraphs (A) through (C), as designated by the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism and the head of the agency.

(2) The terms "weapons of mass destruction" and "WMD" mean chemical, biological, and nuclear weapons, and chemical, biological, and nuclear materials used in the manufacture of such weapons.

(3) The term "items of proliferation concern" means—

(A) equipment, materials, or technology listed in—

(i) the Trigger List of the Guidelines for Nuclear Transfers of the Nuclear Suppliers Group;

(ii) the Annex of the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology of the Nuclear Suppliers Group; or

(iii) any of the Common Control Lists of the Australia Group; and

(B) any other sensitive items.

Subtitle A—Repeal and Modification of Limitations on Assistance for Prevention of WMD Proliferation and Terrorism

SEC. 1811. REPEAL AND MODIFICATION OF LIMITATIONS ON ASSISTANCE FOR PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.

Consistent with the recommendations of the 9/11 Commission, Congress repeals or modifies the limitations on assistance for prevention of weapons of mass destruction proliferation and terrorism as follows:

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—Subsections (b) and (c) of section 211 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) are repealed.

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)) is repealed.

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is repealed.

(4) AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION—MODIFICATION OF CERTIFICATION REQUIREMENT; CONGRESSIONAL NOTICE REQUIREMENT.—Section 1308 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 22 U.S.C. 5963) is amended—

(A) in subsection (a)—

(i) by striking "the President may" and inserting "the Secretary of Defense may"; and

(ii) by striking "if the President" and inserting "if the Secretary of Defense, with the concurrence of the Secretary of State,";

(B) in subsection (d)(1)—

(i) by striking "The President may not" and inserting "The Secretary of Defense may not"; and

(ii) by striking "until the President" and inserting "until the Secretary of Defense, with the concurrence of the Secretary of State,";

(C) in subsection (d)(2)—

(i) by striking "Not later than 10 days after" and inserting "Not later than 15 days prior to";

(ii) by striking "the President shall" and inserting "the Secretary of Defense shall"; and

(iii) by striking "Congress" and inserting "the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate"; and

(D) in subsection (d) by adding at the end the following:

"(3) In the case of a situation that threatens human life or safety or where a delay would severely undermine the national security of the United States, notification under paragraph (2) shall be made not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity.".

Subtitle B—Proliferation Security Initiative

SEC. 1821. PROLIFERATION SECURITY INITIATIVE IMPROVEMENTS AND AUTHORITIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress, consistent with the 9/11 Commission's recommendations, that the President should strive to expand and strengthen the Proliferation Security Initiative (in this subtitle referred to as "PSI") announced by the President on May 31, 2003, with a particular emphasis on the following:

(1) Issuing a presidential directive to the relevant United States Government agencies and departments that directs such agencies and departments to—

(A) establish clear PSI authorities, responsibilities, and structures;

(B) include in the budget request for each such agency or department for each fiscal year, a request for funds necessary for United States PSI-related activities; and

(C) provide other necessary resources to achieve more efficient and effective performance of United States PSI-related activities.

(2) Increasing PSI cooperation with all countries.

(3) Implementing the recommendations of the Government Accountability Office (GAO) in the September 2006 report titled "Better Controls Needed to Plan and Manage Proliferation Security Initiative Activities" (GAO–06–937C) regarding the following:

(A) The Department of Defense and the Department of State should establish clear PSI roles and responsibilities, policies and procedures, interagency communication mechanisms, documentation requirements, and indicators to measure program results.

(B) The Department of Defense and the Department of State should develop a strategy to work with PSI-participating countries to resolve issues that are impediments to conducting successful PSI interdictions.

(4) Establishing a multilateral mechanism to increase coordination, cooperation, and compliance among PSI-participating countries.

(b) BUDGET SUBMISSION.—

(1) IN GENERAL.—Each fiscal year in which activities are planned to be carried out under the PSI, the President shall include in the budget request for each participating United States Government agency or department for that fiscal year, a description of the funding and the activities for which the funding is requested for each such agency or department.

(2) REPORT.—Not later than the first Monday in February of each year in which the President submits a budget request described in paragraph (1), the Secretary of Defense and the Secretary of State shall submit to Congress a comprehensive joint report setting forth the following:

(A) A 3-year plan, beginning with the fiscal year for the budget request, that specifies the amount of funding and other resources to be provided by the United States for PSI-related activities over the term of the plan, including the purposes for which such funding and resources will be used.

(B) For the report submitted in 2008, a description of the PSI-related activities carried out during the 3 fiscal years preceding the year of the report, and for the report submitted in 2009 and each year thereafter, a description of the PSI-related activities carried out during the fiscal year preceding the year of the report. The description shall include, for each fiscal year covered by the report—

(i) the amounts obligated and expended for such activities and the purposes for which such amounts were obligated and expended;

(ii) a description of the participation of each department or agency of the United States Government in such activities;

(iii) a description of the participation of each foreign country or entity in such activities;

(iv) a description of any assistance provided to a foreign country or entity participating in such activities in order to secure such participation, in response

to such participation, or in order to improve the quality of such participation; and

(v) such other information as the Secretary of Defense and the Secretary of State determine should be included to keep Congress fully informed of the operation and activities of the PSI.

(3) CLASSIFICATION.—The report required by paragraph (2) shall be in an unclassified form but may include a classified annex as necessary.

(c) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the implementation of this section. The report shall include—

(1) the steps taken to implement the recommendations described in paragraph (3) of subsection (a); and

(2) the progress made toward implementing the matters described in paragraphs (1), (2), and (4) of subsection (a).

(d) GAO REPORTS.—The Government Accountability Office shall submit to Congress, for each of fiscal years 2007, 2009, and 2011, a report with its assessment of the progress and effectiveness of the PSI, which shall include an assessment of the measures referred to in subsection (a).

SEC. 1822. AUTHORITY TO PROVIDE ASSISTANCE TO COOPERATIVE COUNTRIES.

(a) IN GENERAL.—The President is authorized to provide assistance under subsection (b) to any country that cooperates with the United States and with other countries allied with the United States to prevent the transport and transshipment of items of proliferation concern in its national territory or airspace or in vessels under its control or registry.

(b) TYPES OF ASSISTANCE.—The assistance authorized under subsection (a) consists of the following:

(1) Assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(2) Assistance under chapters 4 (22 U.S.C. 2346 et seq.) and 5 (22 U.S.C. 2347 et seq.) of part II of the Foreign Assistance Act of 1961.

(3) Drawdown of defense excess defense articles and services under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(c) CONGRESSIONAL NOTIFICATION.—Assistance authorized under this section may not be provided until at least 30 days after the date on which the President has provided notice thereof to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate, in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1(a)), and has certified to such committees that such assistance will be used in accordance with the requirement of subsection (e) of this section.

(d) LIMITATION.—Assistance may be provided to a country under subsection (a) in no more than 3 fiscal years.

(e) USE OF ASSISTANCE.—Assistance provided under this section shall be used to enhance the capability of the recipient country to prevent the transport and transshipment of items of proliferation concern in its national territory or airspace, or in vessels under its control or registry, including through the development of a legal framework in that country to enhance such capability by criminalizing proliferation, enacting strict export controls, and securing sensitive materials within its borders, and to enhance the ability of the recipient country to cooperate in PSI operations.

(f) LIMITATION ON SHIP OR AIRCRAFT TRANSFERS.—

(1) LIMITATION.—Except as provided in paragraph (2), the President may not transfer any excess defense article that is a vessel or an aircraft to a country that has not agreed, in connection with such transfer, that it will support and assist efforts by the United States, consistent with international law, to interdict items of proliferation concern until 30 days after the date on which the President has provided notice of the proposed transfer to the committees described in subsection (c) in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1(a)), in addition to any other requirement of law.

(2) EXCEPTION.—The limitation in paragraph (1) shall not apply to any transfer, not involving significant military equipment, in which the primary use of the aircraft or vessel will be for counternarcotics, counterterrorism, or counterproliferation purposes.

Subtitle C—Assistance to Accelerate Programs to Prevent Weapons of Mass Destruction Proliferation and Terrorism

SEC. 1831. STATEMENT OF POLICY.

It shall be the policy of the United States, consistent with the 9/11 Commission's recommendations, to eliminate any obstacles to timely obligating and executing the full amount of any appropriated funds for threat reduction and nonproliferation programs in order to accelerate and strengthen progress on preventing weapons of mass destruction (WMD) proliferation and terrorism. Such policy shall be implemented with concrete measures, such as those described in this title, including the removal and modification of statutory limits to executing funds, the expansion and strengthening of the Proliferation Security Initiative, the establishment of the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism under subtitle D, and the establishment of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism under subtitle E. As a result, Congress intends that any funds authorized to be appropriated to programs for preventing WMD proliferation and terrorism under this subtitle will be executed in a timely manner.

SEC. 1832. AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE COOPERATIVE THREAT REDUCTION PROGRAM.

(a) FISCAL YEAR 2008.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Department of Defense Cooperative Threat Reduction Program such sums as may be necessary for fiscal year 2008 for the following purposes:

(A) Chemical weapons destruction at Shchuch'ye, Russia.

(B) Biological weapons proliferation prevention.

(C) Acceleration, expansion, and strengthening of Cooperative Threat Reduction Program activities.

(2) LIMITATION.—The sums appropriated pursuant to paragraph (1) may not exceed the amounts authorized to be appropriated by any national defense authorization Act for fiscal year 2008 (whether enacted before or after the date of the enactment of this Act) to the Department of Defense Cooperative Threat Reduction Program for such purposes.

(b) FUTURE YEARS.—It is the sense of Congress that in fiscal year 2008 and future fiscal years, the President should accelerate and expand funding for Cooperative Threat Reduction programs administered by the Department of Defense and such efforts should include, beginning upon enactment of this Act, encouraging additional commitments by the Russian Federation and other partner nations, as recommended by the 9/11 Commission.

SEC. 1833. AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF ENERGY PROGRAMS TO PREVENT WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to Department of Energy National Nuclear Security Administration Defense Nuclear Nonproliferation such sums as may be necessary for fiscal year 2008 to accelerate, expand, and strengthen the following programs to prevent weapons of mass destruction (WMD) proliferation and terrorism:

(1) The Global Threat Reduction Initiative.

(2) The Nonproliferation and International Security program.

(3) The International Materials Protection, Control and Accounting program.

(4) The Nonproliferation and Verification Research and Development program.

(b) LIMITATION.—The sums appropriated pursuant to subsection (a) may not exceed the amounts authorized to be appropriated by any national defense authorization Act for fiscal year 2008 (whether enacted before or after the date of the enactment of this Act) to Department of Energy National Nuclear Security Administration Defense Nuclear Nonproliferation for such purposes.

Subtitle D—Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism

SEC. 1841. OFFICE OF THE UNITED STATES COORDINATOR FOR THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.

(a) ESTABLISHMENT.—There is established within the Executive Office of the President an office to be known as the "Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism" (in this section referred to as the "Office").

(b) OFFICERS.—

(1) UNITED STATES COORDINATOR.—The head of the Office shall be the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the "Coordinator").

(2) DEPUTY UNITED STATES COORDINATOR.—There shall be a Deputy United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the "Deputy Coordinator"), who shall—

(A) assist the Coordinator in carrying out the responsibilities of the Coordinator under this subtitle; and

(B) serve as Acting Coordinator in the absence of the Coordinator and during any vacancy in the office of Coordinator.

(3) APPOINTMENT.—The Coordinator and Deputy Coordinator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be responsible on a full-time basis for the duties and responsibilities described in this section.

(4) LIMITATION.—No person shall serve as Coordinator or Deputy Coordinator while serving in any other position in the Federal Government.

(5) ACCESS BY CONGRESS.—The establishment of the Office of the Coordinator within the Executive Office of the President shall not be construed as affecting access by the Congress or committees of either House to—

(A) information, documents, and studies in the possession of, or conducted by or at the direction of, the Coordinator; or

(B) personnel of the Office of the Coordinator.

(c) DUTIES.—The responsibilities of the Coordinator shall include the following:

(1) Serving as the principal advisor to the President on all matters relating to the prevention of weapons of mass destruction (WMD) proliferation and terrorism.

(2) Formulating a comprehensive and well-coordinated United States strategy and policies for preventing WMD proliferation and terrorism, including—

(A) measurable milestones and targets to which departments and agencies can be held accountable;

(B) identification of gaps, duplication, and other inefficiencies in existing activities, initiatives, and programs and the steps necessary to overcome these obstacles;

(C) plans for preserving the nuclear security investment the United States has made in Russia, the former Soviet Union, and other countries;

(D) prioritized plans to accelerate, strengthen, and expand the scope of existing initiatives and programs, which include identification of vulnerable sites and material and the corresponding actions necessary to eliminate such vulnerabilities;

(E) new and innovative initiatives and programs to address emerging challenges and strengthen United States capabilities, including programs to attract and retain top scientists and engineers and strengthen the capabilities of United States national laboratories;

(F) plans to coordinate United States activities, initiatives, and programs relating to the prevention of WMD proliferation and terrorism, including those of the Department of Energy, the Department of Defense, the Department of State, and the Department of Homeland Security, and including the Proliferation Security Initiative, the G–8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, United Nations Security Council Resolution 1540, and the Global Initiative to Combat Nuclear Terrorism;

(G) plans to strengthen United States commitments to international regimes and significantly improve cooperation with other countries relating to the prevention of WMD proliferation and terrorism, with particular emphasis on work with the international community to develop laws and an international legal regime with universal jurisdiction to enable any state in the world to interdict and prosecute smugglers of WMD material, as recommended by the 9/11 Commission; and

(H) identification of actions necessary to implement the recommendations of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism established under subtitle E of this title.

(3) Leading inter-agency coordination of United States efforts to implement the strategy and policies described in this section.

(4) Conducting oversight and evaluation of accelerated and strengthened implementation of initiatives and programs to prevent WMD proliferation and terrorism by relevant government departments and agencies.

(5) Overseeing the development of a comprehensive and coordinated budget for programs and initiatives to prevent WMD proliferation and terrorism, ensuring that such budget adequately reflects the priority of the challenges and is effectively executed, and carrying out other appropriate budgetary authorities.

(d) STAFF.—The Coordinator may—

(1) appoint, employ, fix compensation, and terminate such personnel as may be necessary to enable the Coordinator to perform his or her duties under this title;

(2) direct, with the concurrence of the Secretary of a department or head of an agency, the temporary reassignment within the Federal Government of personnel employed by such department or agency, in order to implement United States policy with regard to the prevention of WMD proliferation and terrorism;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code; and

(5) use the mails in the same manner as any other department or agency of the executive branch.

(e) CONSULTATION WITH COMMISSION.—The Office and the Coordinator shall regularly consult with and strive to implement the recommendations of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, established under subtitle E of this title.

(f) ANNUAL REPORT ON STRATEGIC PLAN.—For fiscal year 2009 and each fiscal year thereafter, the Coordinator shall submit to Congress, at the same time as the submission of the budget for that fiscal year under title 31, United States Code, a report on the strategy and policies developed pursuant to subsection (c)(2), together with any recommendations of the Coordinator for legislative changes that the Coordinator considers appropriate with respect to such strategy and policies and their implementation or the Office of the Coordinator.

(g) PARTICIPATION IN NATIONAL SECURITY COUNCIL AND HOMELAND SECURITY COUNCIL.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) by redesignating the last subsection (added as "(i)" by section 301 of Public Law 105–292) as subsection (k); and

(2) by adding at the end the following:

"(l) PARTICIPATION OF COORDINATOR FOR THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.—The United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (or, in the Coordinator's absence, the Deputy United States Coordinator) may, in the performance of the Coordinator's duty as principal advisor to the President on all matters relating to the prevention of weapons of mass destruction proliferation and terrorism, and, subject to the direction of the President, attend and participate in meetings of the National Security Council and the Homeland Security Council.".

SEC. 1842. SENSE OF CONGRESS ON UNITED STATES-RUSSIA COOPERATION AND COORDINATION ON THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.

It is the sense of the Congress that, as soon as practical, the President should engage the President of the Russian Federation in a discussion of the purposes and goals for the establishment

of the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the "Office"), the authorities and responsibilities of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the "United States Coordinator"), and the importance of strong cooperation between the United States Coordinator and a senior official of the Russian Federation having authorities and responsibilities for preventing weapons of mass destruction proliferation and terrorism commensurate with those of the United States Coordinator, and with whom the United States Coordinator should coordinate planning and implementation of activities within and outside of the Russian Federation having the purpose of preventing weapons of mass destruction proliferation and terrorism.

Subtitle E—Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism

SEC. 1851. ESTABLISHMENT OF COMMISSION ON THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.

There is established the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this subtitle referred to as the "Commission").

SEC. 1852. PURPOSES OF COMMISSION.

(a) IN GENERAL.—The purposes of the Commission are to—

(1) assess current activities, initiatives, and programs to prevent weapons of mass destruction proliferation and terrorism; and

(2) provide a clear and comprehensive strategy and concrete recommendations for such activities, initiatives, and programs.

(b) IN PARTICULAR.—The Commission shall give particular attention to activities, initiatives, and programs to secure all nuclear weapons-usable material around the world and to significantly accelerate, expand, and strengthen, on an urgent basis, United States and international efforts to prevent, stop, and counter the spread of nuclear weapons capabilities and related equipment, material, and technology to terrorists and states of concern.

SEC. 1853. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 9 members, of whom—

(1) 1 member shall be appointed by the leader of the Senate of the Democratic Party (majority or minority leader, as the case may be), with the concurrence of the leader of the House of Representatives of the Democratic party (majority or minority leader as the case may be), who shall serve as chairman of the Commission;

(2) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic party;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic party; and

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican party.

(b) QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with significant depth of experience in the nonproliferation or arms control fields.

(c) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed within 90 days of the date of the enactment of this Act.

(d) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(e) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1854. RESPONSIBILITIES OF COMMISSION.

(a) IN GENERAL.—The Commission shall address—

(1) the roles, missions, and structure of all relevant government departments, agencies, and other actors, including the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism established under subtitle D of this title;

(2) inter-agency coordination;

(3) United States commitments to international regimes and cooperation with other countries; and

(4) the threat of weapons of mass destruction proliferation and terrorism to the United States and its interests and allies, including the threat posed by black-market networks, and the effectiveness of the responses by the United States and the international community to such threats.

(b) FOLLOW-ON BAKER-CUTLER REPORT.—The Commission shall also reassess, and where necessary update and expand on, the conclusions and recommendations of the report titled "A Report Card on the Department of Energy's Nonproliferation Programs with Russia" of January 2001 (also known as the "Baker-Cutler Report") and implementation of such recommendations.

SEC. 1855. POWERS OF COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such designated subcommittee or designated member may determine advisable.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts to enable the Commission to discharge its duties under this subtitle.

(c) STAFF OF COMMISSION.—

(1) APPOINTMENT AND COMPENSATION.—The chairman of the Commission, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

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

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(3) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(4) CONSULTANT SERVICES.—The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) EMPHASIS ON SECURITY CLEARANCES.—Emphasis shall be made to hire employees and retain contractors and detailees with active security clearances.

(d) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this subtitle. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission

on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 1856. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the report required under section 1857.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 1857. REPORT.

Not later than 180 days after the appointment of the Commission, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

SEC. 1858. TERMINATION.

(a) IN GENERAL.—The Commission, and all the authorities of this subtitle, shall terminate 60 days after the date on which the final report is submitted under section 1857.

(b) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in subsection (a) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its report and disseminating the final report.

SEC. 1859. FUNDING.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for the purposes of the activities of the Commission under this title.

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

TITLE XIX—INTERNATIONAL COOPERATION ON ANTITERRORISM TECHNOLOGIES

SEC. 1901. PROMOTING ANTITERRORISM CAPABILITIES THROUGH INTERNATIONAL COOPERATION.

(a) FINDINGS.—Congress finds the following:

(1) The development and implementation of technology is critical to combating terrorism and other high consequence events and implementing a comprehensive homeland security strategy.

(2) The United States and its allies in the global war on terrorism share a common interest in facilitating research, development, testing, and evaluation of equipment, capabilities, technologies, and services that will aid in detecting, preventing, responding to, recovering from, and mitigating against acts of terrorism.

(3) Certain United States allies in the global war on terrorism, including Israel, the United Kingdom, Canada, Australia, and Singapore have extensive experience with, and technological expertise in, homeland security.

(4) The United States and certain of its allies in the global war on terrorism have a history of successful collaboration in developing mutually beneficial equipment, capabilities, technologies, and services in the areas of defense, agriculture, and telecommunications.

(5) The United States and its allies in the global war on terrorism will mutually benefit from the sharing of technological expertise to combat domestic and international terrorism.

(6) The establishment of an office to facilitate and support cooperative endeavors between and among government agencies, for-profit business entities, academic institutions, and nonprofit entities of the United States and its allies will safeguard lives and property worldwide against acts of terrorism and other high consequence events.

(b) PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION ACT.—

(1) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding after section 316, as added by section 1101 of this Act, the following:

"SEC. 317. PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) DIRECTOR.—The term 'Director' means the Director selected under subsection (b)(2).

"(2) INTERNATIONAL COOPERATIVE ACTIVITY.—The term 'international cooperative activity' includes—

"(A) coordinated research projects, joint research projects, or joint ventures;

"(B) joint studies or technical demonstrations;

"(C) coordinated field exercises, scientific seminars, conferences, symposia, and workshops;

"(D) training of scientists and engineers;

"(E) visits and exchanges of scientists, engineers, or other appropriate personnel;

"(F) exchanges or sharing of scientific and technological information; and

"(G) joint use of laboratory facilities and equipment.

"(b) SCIENCE AND TECHNOLOGY HOMELAND SECURITY INTERNATIONAL COOPERATIVE PROGRAMS OFFICE.—

"(1) ESTABLISHMENT.—The Under Secretary shall establish the Science and Technology Homeland Security International Cooperative Programs Office.

"(2) DIRECTOR.—The Office shall be headed by a Director, who—

"(A) shall be selected, in consultation with the Assistant Secretary for International Affairs, by and shall report to the Under Secretary; and

"(B) may be an officer of the Department serving in another position.

"(3) RESPONSIBILITIES.—

"(A) DEVELOPMENT OF MECHANISMS.—The Director shall be responsible for developing, in coordination with the Department of State and, as appropriate, the Department of Defense, the Department of Energy, and other Federal agencies, understandings and agreements to allow and to support international cooperative activity in support of homeland security.

"(B) PRIORITIES.—The Director shall be responsible for developing, in coordination with the Office of International Affairs and other Federal agencies, strategic priorities for international cooperative activity for the Department in support of homeland security.

"(C) ACTIVITIES.—The Director shall facilitate the planning, development, and implementation of international cooperative activity to address the strategic priorities developed under subparagraph (B) through mechanisms the Under Secretary considers appropriate, including grants, cooperative agreements, or contracts to or with foreign public or private entities, governmental organizations, businesses (including small businesses and socially and economically disadvantaged small businesses (as those terms are defined in sections 3 and 8 of the Small Business Act (15 U.S.C. 632 and 637), respectively)), federally funded research and development centers, and universities.

"(D) IDENTIFICATION OF PARTNERS.—The Director shall facilitate the matching of United States entities engaged in homeland security research with non-United States entities engaged in homeland security research so that they may partner in homeland security research activities.

"(4) COORDINATION.—The Director shall ensure that the activities under this subsection are coordinated with the Office of International Affairs and the Department of State and, as appropriate, the Department of Defense, the Department of Energy, and other relevant Federal agencies or interagency bodies. The Director may enter into joint activities with other Federal agencies.

"(c) MATCHING FUNDING.—

"(1) IN GENERAL.—

"(A) EQUITABILITY.—The Director shall ensure that funding and resources expended in international cooperative activity will be equitably matched by the foreign partner government or other entity through direct funding, funding of complementary activities, or the provision of staff, facilities, material, or equipment.

"(B) GRANT MATCHING AND REPAYMENT.—

"(i) IN GENERAL.—The Secretary may require a recipient of a grant under this section—

"(I) to make a matching contribution of not more than 50 percent of the total cost of the proposed project for which the grant is awarded; and

"(II) to repay to the Secretary the amount of the grant (or a portion thereof), interest on such amount at an appropriate rate, and such charges for administration of the grant as the Secretary determines appropriate.

"(ii) MAXIMUM AMOUNT.—The Secretary may not require that repayment under clause (i)(II) be more than 150 percent of the amount of the grant, adjusted for inflation on the basis of the Consumer Price Index.

"(2) FOREIGN PARTNERS.—Partners may include Israel, the United Kingdom, Canada, Australia, Singapore, and other allies in the global war on terrorism as determined to be appropriate by the Secretary of Homeland Security and the Secretary of State.

"(3) LOANS OF EQUIPMENT.—The Director may make or accept loans of equipment for research and development and comparative testing purposes.

"(d) FOREIGN REIMBURSEMENTS.—If the Science and Technology Homeland Security International Cooperative Programs Office participates in an international cooperative activity with a foreign partner on a cost-sharing basis, any reimbursements or contributions received from that foreign partner to meet its share of the project may be credited to appropriate current appropriations accounts of the Directorate of Science and Technology.

"(e) REPORT TO CONGRESS ON INTERNATIONAL COOPERATIVE ACTIVITIES.—Not later than one year after the date of enactment of this section, and every 5 years thereafter, the Under Secretary, acting through the Director, shall submit to Congress a report containing—

"(1) a brief description of each grant, cooperative agreement, or contract made or entered into under subsection (b)(3)(C), including the participants, goals, and amount and sources of funding; and

"(2) a list of international cooperative activities underway, including the participants, goals, expected duration, and amount and sources of funding, including resources provided to support the activities in lieu of direct funding.

"(f) ANIMAL AND ZOONOTIC DISEASES.—As part of the international cooperative activities authorized in this section, the Under Secretary, in coordination with the Chief Medical Officer, the Department of State, and appropriate officials of the Department of Agriculture, the Department of Defense, and the Department of Health and Human Services, may enter into cooperative activities with foreign countries, including African nations, to strengthen

American preparedness against foreign animal and zoonotic diseases overseas that could harm the Nation's agricultural and public health sectors if they were to reach the United States.

"(g) CONSTRUCTION; AUTHORITIES OF THE SECRETARY OF STATE.—Nothing in this section shall be construed to alter or affect the following provisions of law:

"(1) Title V of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656a et seq.).

"(2) Section 112b(c) of title 1, United States Code.

"(3) Section 1(e)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(e)(2)).

"(4) Sections 2 and 27 of the Arms Export Control Act (22 U.S.C. 2752 and 22 U.S.C. 2767).

"(5) Section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2382(c)).

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 316, as added by section 1101 of this Act, the following:

"Sec. 317. Promoting antiterrorism through international cooperation program.".

SEC. 1902. TRANSPARENCY OF FUNDS.

For each Federal award (as that term is defined in section 2 of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note)) under this title or an amendment made by this title, the Director of the Office of Management and Budget shall ensure full and timely compliance with the requirements of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note).

TITLE XX—9/11 COMMISSION INTERNATIONAL IMPLEMENTATION

SEC. 2001. SHORT TITLE.

This title may be cited as the "9/11 Commission International Implementation Act of 2007".

SEC. 2002. DEFINITION.

In this title, except as otherwise provided, the term "appropriate congressional committees"—

(1) means—

(A) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(2) includes, for purposes of subtitle D, the Committees on Armed Services of the House of Representatives and of the Senate.

Subtitle A—Quality Educational Opportunities in Predominantly Muslim Countries.

SEC. 2011. FINDINGS; POLICY.

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

(1) The report of the National Commission on Terrorist Attacks Upon the United States stated that "[e]ducation that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism".

(2) The report of the National Commission on Terrorist Attacks Upon the United States concluded that ensuring educational opportunity is essential to the efforts of the United States to defeat global terrorism and recommended that the United States Government "should offer to join with other nations in generously supporting [spending funds] . . . directly for building and operating primary and secondary schools in those Muslim states that commit to sensibly investing their own money in public education".

(3) While Congress endorsed such a program in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), such a program has not been established.

(b) POLICY.—It is the policy of the United States—

(1) to work toward the goal of dramatically increasing the availability of modern basic education through public schools in predominantly Muslim countries, which will reduce the influence of radical madrassas and other institutions that promote religious extremism;

(2) to join with other countries in generously supporting the International Muslim Youth Opportunity Fund authorized under section 7114 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by section 2012 of this Act, with the goal of building and supporting public primary and secondary schools in predominantly Muslim countries that commit to sensibly investing the resources of such countries in modern public education;

(3) to offer additional incentives to increase the availability of modern basic education in predominantly Muslim countries; and

(4) to work to prevent financing of educational institutions that support radical Islamic fundamentalism.

SEC. 2012. INTERNATIONAL MUSLIM YOUTH OPPORTUNITY FUND.

Section 7114 of the Intelligence Reform and Terrorism Prevention Act of 2004 (22 U.S.C. 2228) is amended to read as follows:

"SEC. 7114. INTERNATIONAL MUSLIM YOUTH OPPORTUNITY FUND.

"(a) PURPOSE.—The purpose of this section is to strengthen the public educational systems in predominantly Muslim countries by—

"(1) authorizing the establishment of an International Muslim Youth Educational Fund through which the United States dedicates resources, either through a separate fund or

through an international organization, to assist those countries that commit to education reform; and

"(2) providing resources for the Fund and to the President to help strengthen the public educational systems in those countries.

"(b) ESTABLISHMENT OF FUND.—

"(1) AUTHORITY.—The President is authorized to establish an International Muslim Youth Opportunity Fund and to carry out programs consistent with paragraph (4) under existing authorities, including the Mutual Educational and Cultural Exchange Act of 1961 (commonly referred to as the 'Fulbright-Hays Act').

"(2) LOCATION.—The Fund may be established—

"(A) as a separate fund in the Treasury; or

"(B) through an international organization or international financial institution, such as the United Nations Educational, Science and Cultural Organization, the United Nations Development Program, or the International Bank for Reconstruction and Development.

"(3) TRANSFERS AND RECEIPTS.—The head of any department, agency, or instrumentality of the United States Government may transfer any amount to the Fund, and the Fund may receive funds from private enterprises, foreign countries, or other entities.

"(4) ACTIVITIES OF THE FUND.—The Fund shall support programs described in this paragraph to improve the education environment in predominantly Muslim countries.

"(A) ASSISTANCE TO ENHANCE MODERN EDUCATIONAL PROGRAMS.—

"(i) The establishment in predominantly Muslim countries of a program of reform to create a modern education curriculum in the public educational systems in such countries.

"(ii) The establishment or modernization of educational materials to advance a modern educational curriculum in such systems.

"(iii) Teaching English to adults and children.

"(iv) The enhancement in predominantly Muslim countries of community, family, and student participation in the formulation and implementation of education strategies and programs in such countries.

"(B) ASSISTANCE FOR TRAINING AND EXCHANGE PROGRAMS FOR TEACHERS, ADMINISTRATORS, AND STUDENTS.—

"(i) The establishment of training programs for teachers and educational administrators to enhance skills, including the establishment of regional centers to train individuals who can transfer such skills upon return to their countries.

"(ii) The establishment of exchange programs for teachers and administrators in predominantly Muslim countries and with other countries to stimulate additional ideas and reform throughout the world, including teacher training exchange programs focused on primary school teachers in such countries.

"(iii) The establishment of exchange programs for primary and secondary students in predominantly Muslim countries and with other countries to foster

understanding and tolerance and to stimulate long-standing relationships.

"(C) ASSISTANCE TARGETING PRIMARY AND SECONDARY STUDENTS.—

"(i) The establishment in predominantly Muslim countries of after-school programs, civic education programs, and education programs focusing on life skills, such as inter-personal skills and social relations and skills for healthy living, such as nutrition and physical fitness.

"(ii) The establishment in predominantly Muslim countries of programs to improve the proficiency of primary and secondary students in information technology skills.

"(D) ASSISTANCE FOR DEVELOPMENT OF YOUTH PROFESSIONALS.—

"(i) The establishment of programs in predominantly Muslim countries to improve vocational training in trades to help strengthen participation of Muslims and Arabs in the economic development of their countries.

"(ii) The establishment of programs in predominantly Muslim countries that target older Muslim youths not in school in such areas as entrepreneurial skills, accounting, micro-finance activities, work training, financial literacy, and information technology.

"(E) OTHER TYPES OF ASSISTANCE.—

"(i) The translation of foreign books, newspapers, reference guides, and other reading materials into local languages.

"(ii) The construction and equipping of modern community and university libraries.

"(5) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated to the President to carry out this section such sums as may be necessary for fiscal years 2008, 2009, and 2010.

"(B) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

"(C) ADDITIONAL FUNDS.—Amounts authorized to be appropriated under subsection (a) shall be in addition to amounts otherwise available for such purposes.

"(6) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this section and annually thereafter until January 30, 2010, the President shall submit to the appropriate congressional committees a report on United States efforts to assist in the improvement of educational opportunities for predominantly Muslim children and youths, including the progress made toward establishing the International Muslim Youth Opportunity Fund.

"(7) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.".

SEC. 2013. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than June 1 of each year until December 31, 2009, the Secretary of State shall submit to the appropriate congressional committees a report on the efforts of predominantly Muslim countries to increase the availability of modern basic education and to close educational institutions that promote religious extremism and terrorism.

(b) CONTENTS.—Each report shall include—

(1) a list of predominantly Muslim countries that are making serious and sustained efforts to improve the availability of modern basic education and to close educational institutions that promote religious extremism and terrorism;

(2) a list of such countries that are making efforts to improve the availability of modern basic education and to close educational institutions that promote religious extremism and terrorism, but such efforts are not serious and sustained;

(3) a list of such countries that are not making efforts to improve the availability of modern basic education and to close educational institutions that promote religious extremism and terrorism; and

(4) an assessment for each country specified in each of paragraphs (1), (2), and (3) of the role of United States assistance with respect to the efforts made or not made to improve the availability of modern basic education and close educational institutions that promote religious extremism and terrorism.

SEC. 2014. EXTENSION OF PROGRAM TO PROVIDE GRANTS TO AMERICAN-SPONSORED SCHOOLS IN PREDOMINANTLY MUSLIM COUNTRIES TO PROVIDE SCHOLARSHIPS.

(a) FINDINGS.—Congress finds the following:

(1) Section 7113 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 22 U.S.C. 2452 note) authorized the establishment of a pilot program to provide grants to American-sponsored schools in predominantly Muslim countries so that such schools could provide scholarships to young people from lower-income and middle-income families in such countries to attend such schools, where they could improve their English and be exposed to a modern education.

(2) Since the date of the enactment of that section, the Middle East Partnership Initiative has pursued implementation of that program.

(b) EXTENSION OF PROGRAM.—

(1) IN GENERAL.—Section 7113 of the Intelligence Reform and Terrorism Prevention Act of 2004 is amended—

(A) in the section heading by striking "**PILOT**"; and

(B) in subsection (c)—

(i) in the subsection heading, by striking "PILOT"; and

(ii) by striking "pilot";

(C) in subsection (d), by striking "pilot" each place it appears;

(D) in subsection (f) by striking "pilot";

(E) in subsection (g), in the first sentence—

(i) by inserting "and April 15, 2008," after "April 15, 2006,"; and

(ii) by striking "pilot"; and

(F) in subsection (h)—

(i) by striking "2005 and 2006" and inserting "2007 and 2008"; and

(ii) by striking "pilot".

(2) CONFORMING AMENDMENT.—Section 1(b) of such Act is amended, in the table of contents, by striking the item relating to section 7113 and inserting after section 7112 the following new item:

"7113. Program to provide grants to American-sponsored schools in predominantly Muslim countries to provide scholarships.".

Subtitle B—Democracy and Development in the Broader Middle East Region

SEC. 2021. MIDDLE EAST FOUNDATION.

(a) PURPOSES.—The purposes of this section are to support, through the provision of grants, technical assistance, training, and other programs, in the countries of the broader Middle East region, the expansion of—

(1) civil society;

(2) opportunities for political participation for all citizens;

(3) protections for internationally recognized human rights, including the rights of women;

(4) educational system reforms;

(5) independent media;

(6) policies that promote economic opportunities for citizens;

(7) the rule of law; and

(8) democratic processes of government.

(b) MIDDLE EAST FOUNDATION.—

(1) DESIGNATION.—The Secretary of State is authorized to designate an appropriate private, nonprofit organization that is organized or incorporated under the laws of the United States or of a State as the Middle East Foundation (referred to in this section as the "Foundation").

(2) FUNDING.—

(A) AUTHORITY.—The Secretary of State is authorized to provide funding to the Foundation through the Middle East Partnership Initiative of the Department of State. Notwithstanding any other provision of law, the Foundation shall use amounts provided under this paragraph to carry out the purposes specified in subsection (a), including through making grants, using such funds as an endowment, and providing other assistance to entities to carry out programs for such purposes.

(B) FUNDING FROM OTHER SOURCES.—In determining the amount of funding to provide to the Foundation, the Secretary of State shall take into consideration the amount of funds that the Foundation has received from sources other than the United States Government.

(3) NOTIFICATION TO CONGRESSIONAL COMMITTEES.—The Secretary of State shall notify the appropriate congressional committees of the designation of an appropriate organization as the Foundation.

(c) GRANTS FOR PROJECTS.—

(1) FOUNDATION TO MAKE GRANTS.—The Secretary of State shall enter into an agreement with the Foundation that requires

the Foundation to use the funds provided under subsection (b)(2) to make grants to persons or entities (other than governments or government entities) located in the broader Middle East region or working with local partners based in the broader Middle East region to carry out projects that support the purposes specified in subsection (a).

(2) CENTER FOR PUBLIC POLICY.—Under the agreement described in paragraph (1), the Foundation may make a grant to an institution of higher education located in the broader Middle East region to create a center for public policy for the purpose of permitting scholars and professionals from the countries of the broader Middle East region and from other countries, including the United States, to carry out research, training programs, and other activities to inform public policy-making in the broader Middle East region and to promote broad economic, social, and political reform for the people of the broader Middle East region.

(3) APPLICATIONS FOR GRANTS.—An entity seeking a grant from the Foundation under this section shall submit an application to the head of the Foundation at such time, in such manner, and containing such information as the head of the Foundation may reasonably require.

(d) PRIVATE CHARACTER OF THE FOUNDATION.—Nothing in this section shall be construed to—

(1) make the Foundation an agency or establishment of the United States Government, or to make the officers or employees of the Foundation officers or employees of the United States for purposes of title 5, United States Code; or

(2) impose any restriction on the Foundation's acceptance of funds from private and public sources in support of its activities consistent with the purposes specified in subsection (a).

(e) LIMITATION ON PAYMENTS TO FOUNDATION PERSONNEL.—No part of the funds provided to the Foundation under this section shall inure to the benefit of any officer or employee of the Foundation, except as salary or reasonable compensation for services.

(f) RETENTION OF INTEREST.—The Foundation may hold funds provided under this section in interest-bearing accounts prior to the disbursement of such funds to carry out the purposes specified in subsection (a), and may retain for such purposes any interest earned without returning such interest to the Treasury of the United States. The Foundation may retain and use such funds as an endowment to carry out the purposes specified in subsection (a).

(g) FINANCIAL ACCOUNTABILITY.—

(1) INDEPENDENT PRIVATE AUDITS OF THE FOUNDATION.—The accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of the independent audit shall be included in the annual report required by subsection (h).

(2) GAO AUDITS.—The financial transactions undertaken pursuant to this section by the Foundation may be audited by the Government Accountability Office in accordance with

such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States.

(3) AUDITS OF GRANT RECIPIENTS.—

(A) IN GENERAL.—A recipient of a grant from the Foundation shall agree to permit an audit of the books and records of such recipient related to the use of the grant funds.

(B) RECORDKEEPING.—Such recipient shall maintain appropriate books and records to facilitate an audit referred to in subparagraph (A), including—

(i) separate accounts with respect to the grant funds;

(ii) records that fully disclose the use of the grant funds;

(iii) records describing the total cost of any project carried out using grant funds; and

(iv) the amount and nature of any funds received from other sources that were combined with the grant funds to carry out a project.

(h) ANNUAL REPORTS.—Not later than January 31, 2008, and annually thereafter, the Foundation shall submit to the appropriate congressional committees and make available to the public a report that includes, for the fiscal year prior to the fiscal year in which the report is submitted, a comprehensive and detailed description of—

(1) the operations and activities of the Foundation that were carried out using funds provided under this section;

(2) grants made by the Foundation to other entities with funds provided under this section;

(3) other activities of the Foundation to further the purposes specified in subsection (a); and

(4) the financial condition of the Foundation.

(i) BROADER MIDDLE EAST REGION DEFINED.—In this section, the term "broader Middle East region" means Afghanistan, Algeria, Bahrain, Egypt, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, West Bank and Gaza, and Yemen.

(j) REPEAL.—Section 534(k) of Public Law 109–102 is repealed.

Subtitle C—Reaffirming United States Moral Leadership

SEC. 2031. ADVANCING UNITED STATES INTERESTS THROUGH PUBLIC DIPLOMACY.

(a) FINDING.—Congress finds that the report of the National Commission on Terrorist Attacks Upon the United States stated that "Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations; and

(2) public diplomacy should reaffirm the paramount commitment of the United States to democratic principles, including preserving the civil liberties of all the people of the United States, including Muslim-Americans.

(c) SPECIAL AUTHORITY FOR SURGE CAPACITY.—The United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is amended by adding at the end the following new section:

"SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.

"(a) EMERGENCY AUTHORITY.—

"(1) IN GENERAL.—Whenever the President determines it to be important to the national interests of the United States and so certifies to the appropriate congressional committees, the President, on such terms and conditions as the President may determine, is authorized to direct any department, agency, or other entity of the United States to furnish the Broadcasting Board of Governors with such assistance outside the United States as may be necessary to provide international broadcasting activities of the United States with a surge capacity to support United States foreign policy objectives during a crisis abroad.

"(2) SUPERSEDES EXISTING LAW.—The authority of paragraph (1) shall supersede any other provision of law.

"(3) SURGE CAPACITY DEFINED.—In this subsection, the term 'surge capacity' means the financial and technical resources necessary to carry out broadcasting activities in a geographical area during a crisis abroad.

"(4) DURATION.—The President is authorized to exercise the authority provided in subsection (a)(1) for a period of up to six months, which may be renewed for one additional six month period.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary for the President to carry out this section, except that no such amount may be appropriated which, when added to amounts previously appropriated for such purpose but not yet obligated, would cause such amounts to exceed $25,000,000.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

"(3) DESIGNATION OF APPROPRIATIONS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection may be referred to as the 'United States International Broadcasting Surge Capacity Fund'.

"(c) REPORT.—The annual report submitted to the President and Congress by the Broadcasting Board of Governors under section 305(a)(9) shall provide a detailed description of any activities carried out under this section.".

SEC. 2032. OVERSIGHT OF INTERNATIONAL BROADCASTING.

(a) TRANSCRIPTION OF PERSIAN AND ARABIC LANGUAGE BROADCASTS.—Not later than 90 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall initiate a pilot project to transcribe into the English language news and

information programming broadcast by Radio Farda, Radio Sawa, the Persian Service of the Voice of America, and Alhurra.

(b) RANDOM SAMPLING; PUBLIC AVAILABILITY.—The transcription required under subsection (a) shall consist of a random sampling of such programming. The transcripts shall be available to Congress and the public on the Internet site of the Board.

(c) REPORT.—Not later than May 1, 2008, the Chairman of the Broadcasting Board of Governors shall submit to the Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate a report on the feasibility and utility of continuing the pilot project required under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the "International Broadcasting Operations" account of the Broadcasting Board of Governors $2,000,000 for fiscal year 2008 to carry out the pilot project required under subsection (a).

SEC. 2033. EXPANSION OF UNITED STATES SCHOLARSHIP, EXCHANGE, AND LIBRARY PROGRAMS IN PREDOMINANTLY MUSLIM COUNTRIES.

(a) REPORT; CERTIFICATION.—Not later than 30 days after the date of the enactment of this Act and every 180 days thereafter until December 31, 2009, the Secretary of State shall submit to the appropriate congressional committees a report on the recommendations of the National Commission on Terrorist Attacks Upon the United States and the policy goals described in section 7112 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) for expanding United States scholarship, exchange, and library programs in predominantly Muslim countries. Such report shall include—

(1) a certification by the Secretary of State that such recommendations have been implemented; or

(2) if the Secretary of State is unable to make the certification described in paragraph (1), a description of—

(A) the steps taken to implement such recommendations and achieve such policy goals;

(B) when the Secretary of State expects such recommendations to be implemented and such policy goals to be achieved; and

(C) any allocation of resources or other actions by Congress the Secretary of State considers necessary to implement such recommendations and achieve such policy goals.

(b) TERMINATION OF DUTY TO REPORT.—The duty to submit a report under subsection (a) shall terminate when the Secretary of State submits a certification pursuant to paragraph (1) of such subsection.

SEC. 2034. UNITED STATES POLICY TOWARD DETAINEES.

(a) FINDINGS.—Congress finds the following:

(1) The National Commission on Terrorist Attacks Upon the United States (commonly referred to as the "9/11 Commission") declared that the United States "should work with friends to develop mutually agreed-on principles for the detention and humane treatment of captured international terrorists who are not being held under a particular country's criminal laws" and recommended that the United States engage its allies

"to develop a common coalition approach toward the detention and humane treatment of captured terrorists".

(2) A number of investigations remain ongoing by countries that are close United States allies in the war on terrorism regarding the conduct of officials, employees, and agents of the United States and of other countries related to conduct regarding detainees.

(3) The Secretary of State has launched an initiative to try to address the differences between the United States and many of its allies regarding the treatment of detainees.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary, acting through the Legal Adviser of the Department of State, should continue to build on the Secretary's efforts to engage United States allies to develop a common coalition approach, in compliance with Common Article 3 of the Geneva Conventions and other applicable legal principles, toward the detention and humane treatment of individuals detained during Operation Iraqi Freedom, Operation Enduring Freedom, or in connection with United States counterterrorist operations.

(c) REPORTING TO CONGRESS.—

(1) BRIEFINGS.—The Secretary of State shall keep the appropriate congressional committees fully and currently informed of the progress of any discussions between the United States and its allies regarding the development of the common coalition approach described in subsection (b).

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Attorney General and the Secretary of Defense, shall submit to the appropriate congressional committees a report on any progress towards developing the common coalition approach described in subsection (b).

(d) DEFINITION.—In this section, the term "appropriate congressional committees" means—

(1) with respect to the House of Representatives, the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence; and

(2) with respect to the Senate, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on the Judiciary, and the Select Committee on Intelligence.

Subtitle D—Strategy for the United States Relationship With Afghanistan, Pakistan, and Saudi Arabia

SEC. 2041. AFGHANISTAN.

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

(1) A democratic, stable, and prosperous Afghanistan is vital to the national security of the United States and to combating international terrorism.

(2) Following the ouster of the Taliban regime in 2001, the Government of Afghanistan, with assistance from the United States and the international community, has achieved some notable successes, including—

(A) adopting a constitution;

(B) holding presidential, parliamentary, and provincial council elections;

(C) improving the protection of human rights, including women's rights; and

(D) expanding educational opportunities.

(3) The following factors pose a serious and immediate threat to the stability of Afghanistan:

(A) Taliban and anti-government forces, al Qaeda, and criminal networks.

(B) Drug trafficking and corruption.

(C) Weak institutions of administration, security, and justice, including pervasive lack of the rule of law.

(D) Poverty, unemployment, and lack of provision of basic services.

(4) The United States and the international community must significantly increase political, economic, and military support to Afghanistan to ensure its long-term stability and prosperity, and to deny violent extremist groups such as al Qaeda sanctuary in Afghanistan.

(b) STATEMENTS OF POLICY.—The following shall be the policies of the United States:

(1) The United States shall vigorously support the people and Government of Afghanistan as they continue to commit to the path toward a government representing and protecting the rights of all Afghans, and shall maintain its long-term commitment to the people of Afghanistan by increased assistance and the continued deployment of United States troops in Afghanistan as long as the Government of Afghanistan supports such United States involvement.

(2) In order to reduce the ability of the Taliban and al Qaeda to finance their operations through the opium trade, the President shall engage aggressively with the Government of Afghanistan, countries in the region or otherwise influenced by the trade and transit of narcotics, as well as North Atlantic Treaty Organization (NATO) partners of the United States, and in consultation with Congress, to assess the success of the current Afghan counter-narcotics strategy and to explore additional options for addressing the narcotics crisis in Afghanistan, including possible changes in rules of engagement for NATO and Coalition forces for participation in actions against narcotics trafficking and kingpins, and the provision of comprehensive assistance to farmers who rely on opium for their livelihood, including through the promotion of alternative crops and livelihoods.

(3) The United States shall continue to work with and provide assistance to the Government of Afghanistan to strengthen local and national government institutions and the rule of law, including the training of judges and prosecutors, and to train and equip the Afghan National Security Forces.

(4) The United States shall continue to call on NATO members participating in operations in Afghanistan to meet their commitments to provide forces and equipment, and to lift restrictions on how such forces can be deployed.

(5) The United States shall continue to foster greater understanding and cooperation between the Governments of Afghanistan and Pakistan by taking the following actions:

(A) Facilitating greater communication, including through official mechanisms such as the Tripartite Commission and the Joint Intelligence Operations Center, and by promoting other forms of exchange between the parliaments and civil society of the two countries.

(B) Urging the Government of Afghanistan to enter into a political dialogue with Pakistan with respect to all issues relating to the border between the two countries, with the aim of establishing a mutually-recognized and monitored border, open to human and economic exchange, and with both countries fully responsible for border security.

(c) STATEMENT OF CONGRESS.—Congress strongly urges that the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) be reauthorized and updated to take into account new developments in Afghanistan and in the region so as to demonstrate the continued support by the United States for the people and Government of Afghanistan.

(d) EMERGENCY INCREASE IN EFFECTIVE POLICE TRAINING AND POLICING OPERATIONS.—

(1) CONGRESSIONAL FINDING.—Congress finds that police training programs in Afghanistan have achieved far less return on substantial investment to date and require a substantive review and justification of the means and purposes of such assistance, consequent to any provision of additional resources.

(2) ASSISTANCE AUTHORIZED.—The President shall make increased efforts, on an urgent basis, to—

(A) dramatically improve the capability and effectiveness of United States and international police trainers, mentors, and police personnel for police training programs in Afghanistan, as well as develop a pretraining screening program;

(B) increase the numbers of such trainers, mentors, and personnel only if such increase is determined to improve the performance and capabilities of the Afghanistan civil security forces; and

(C) assist the Government of Afghanistan, in conjunction with the Afghanistan civil security forces and their leadership, in addressing the corruption crisis that is threatening to undermine Afghanistan's future.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, and every 6 months thereafter until September 30, 2010, the President shall transmit to the appropriate congressional committees a report on United States efforts to fulfill the requirements of this subsection. The report required by this paragraph may be transmitted concurrently with any similar report required by the Afghanistan Freedom Support Act of 2002.

SEC. 2042. PAKISTAN.

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

(1) A democratic, stable, and prosperous Pakistan that is a full and reliable partner in the struggle against the Taliban, al Qaeda, and other terrorist groups, and is a responsible steward of its nuclear weapons and technology, is vital to the national security of the United States.

(2) Since September 11, 2001, the Government of Pakistan has been a critical ally and an important partner in removing the Taliban regime in Afghanistan and combating al Qaeda.

(3) Pakistan has made great sacrifices in the shared struggle against al Qaeda-affiliated terrorist groups, engaging in military operations that have led to the deaths of hundreds of Pakistani security personnel and enduring acts of terrorism that have killed hundreds of Pakistani civilians.

(4) Publicly-stated goals of the Government of Pakistan and the national interests of the United States are in close agreement in many areas, including—

(A) curbing the proliferation of nuclear weapons technology;

(B) combating poverty and corruption;

(C) enabling effective government institutions, including public education;

(D) promoting democracy and the rule of law, particularly at the national level;

(E) addressing the continued presence of Taliban and other violent extremist forces throughout the country;

(F) maintaining the authority of the Government of Pakistan in all parts of its national territory;

(G) securing the borders of Pakistan to prevent the movement of militants and terrorists into other countries and territories; and

(H) effectively dealing with violent extremism.

(5) The opportunity exists for shared effort in helping to achieve correlative goals with the Government of Pakistan, particularly—

(A) increased United States assistance to Pakistan, as appropriate, to achieve progress in meeting the goals of subparagraphs (A) through (C) of paragraph (4);

(B) increased commitment on the part of the Government of Pakistan to achieve the goals of paragraph (4)(D), particularly given continued concerns, based on the conduct of previous elections, regarding whether parliamentary elections scheduled for 2007 will be free, fair, and inclusive of all political parties and carried out in full accordance with internationally-recognized democratic norms; and

(C) increased commitment on the part of the Government of Pakistan to take actions described in paragraph (4)(E), particularly given—

(i) the continued operation of the Taliban's Quetta shura, as noted by then-North Atlantic Treaty Organization Supreme Allied Commander General James Jones in testimony before the Senate Foreign Relations Committee on September 21, 2006; and

(ii) the continued operation of al Qaeda affiliates Lashkar-e Taiba and Jaish-e Muhammad, sometimes under different names, as demonstrated by the lack of meaningful action taken against Hafiz Muhammad Saeed, Maulana Masood Azhar, and other known leaders and members of such terrorist organizations; and

(D) increased commitment on the part of the Government of the United States in regard to working with all elements of Pakistan society in helping to achieve the

correlative goals described in subparagraphs (A) through (H) of paragraph (4).

(b) STATEMENTS OF POLICY.—The following shall be the policy of the United States:

(1) To maintain and deepen its friendship and long-term strategic relationship with Pakistan.

(2) To work with the Government of Pakistan to combat international terrorism, especially in the frontier provinces of Pakistan, and to end the use of Pakistan as a safe haven for terrorist groups, including those associated with al Qaeda or the Taliban.

(3) To support robust funding for programs of the United States Agency for International Development and the Department of State that assist the Government of Pakistan in working toward the goals described in subsection (a)(4), as the Government of Pakistan demonstrates a clear commitment to building a moderate, democratic state.

(4) To work with the international community to secure additional financial and political support to effectively implement the policies set forth in this subsection.

(5) To facilitate a just resolution of the dispute over the territory of Kashmir, to the extent that such facilitation is invited and welcomed by the Governments of Pakistan and India and by the people of Kashmir.

(6) To facilitate greater communication and cooperation between the Governments of Afghanistan and Pakistan for the improvement of bilateral relations and cooperation in combating terrorism in both countries.

(7) To work with the Government of Pakistan to dismantle existing proliferation networks and prevent the proliferation of nuclear technology.

(c) STRATEGY RELATING TO PAKISTAN.—

(1) REQUIREMENT FOR REPORT ON STRATEGY.—Not later than 90 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report that describes the long-term strategy of the United States to engage with the Government of Pakistan to achieve the goals described in subparagraphs (A) through (H) of subsection (a)(4) and to carry out the policies described in subsection (b).

(2) FORM.—The report required by paragraph (1) shall be transmitted in unclassified form, but may include a classified annex, if necessary.

(d) LIMITATION ON UNITED STATES SECURITY ASSISTANCE TO PAKISTAN.—

(1) LIMITATION.—For fiscal year 2008, United States assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) or section 23 of the Arms Export Control Act (22 U.S.C. 2763) may not be provided to, and a license for any item controlled under the Arms Export Control Act (22 U.S.C. 2751 et seq.) may not be approved for, Pakistan until the President transmits to the appropriate congressional committees a report that contains a determination of the President that the Government of Pakistan—

(A) is committed to eliminating from Pakistani territory any organization such as the Taliban, al Qaeda, or

any successor, engaged in military, insurgent, or terrorist activities in Afghanistan;

(B) is undertaking a comprehensive military, legal, economic, and political campaign to achieving the goal described in subparagraph (A); and

(C) is currently making demonstrated, significant, and sustained progress toward eliminating support or safe haven for terrorists.

(2) MEMORANDUM OF JUSTIFICATION.—The President shall include in the report required by paragraph (1) a memorandum of justification setting forth the basis for the President's determination under paragraph (1).

(3) FORM.—The report required by paragraph (1) and the memorandum of justification required by paragraph (2) shall be transmitted in unclassified form, but may include a classified annex, if necessary.

(e) NUCLEAR PROLIFERATION.—

(1) CONGRESSIONAL FINDING.—Congress finds that the maintenance by any country of a procurement or supply network for the illicit proliferation of nuclear and missile technologies would be inconsistent with that country being considered an ally of the United States.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the national security interest of the United States will best be served if the United States develops and implements a long-term strategy to improve the United States relationship with Pakistan and works with the Government of Pakistan to stop nuclear proliferation.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the President such sums as may be necessary to provide assistance described in subsection (d)(1) for Pakistan for fiscal year 2008 in accordance with the requirements of subsection (d)(1).

(2) OTHER FUNDS.—Amounts authorized to be appropriated under this subsection are in addition to amounts otherwise available for such purposes.

(3) DECLARATION OF POLICY.—Congress declares that the amount of funds appropriated pursuant to the authorization of appropriations under paragraph (1) and for subsequent fiscal years shall be determined by the extent to which the Government of Pakistan displays demonstrable progress in—

(A) preventing al Qaeda and other terrorist organizations from operating in the territory of Pakistan, including eliminating terrorist training camps or facilities, arresting members and leaders of terrorist organizations, and countering recruitment efforts;

(B) preventing the Taliban from using the territory of Pakistan as a sanctuary from which to launch attacks within Afghanistan, including by arresting Taliban leaders, stopping cross-border incursions, and countering recruitment efforts; and

(C) implementing democratic reforms, including allowing free, fair, and inclusive elections at all levels of government in accordance with internationally-recognized democratic norms, and respecting the independence of the press and judiciary.

(4) BIANNUAL REPORTS TO CONGRESS.—

(A) IN GENERAL.—The Secretary of State shall submit to the appropriate congressional committees a biannual report describing in detail the extent to which the Government of Pakistan has displayed demonstrable progress in meeting the goals described in subparagraphs (A) through (C) of paragraph (3).

(B) SCHEDULE FOR SUBMISSION.—The report required by subparagraph (A) shall be submitted not later than April 15 and October 15 of each year until October 15, 2009.

(C) FORM.—The report required by subparagraph (A) shall be submitted in unclassified form, but may include a classified annex, if necessary.

(g) EXTENSION OF WAIVERS.—

(1) AMENDMENTS.—The Act entitled "An Act to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes", approved October 27, 2001 (Public Law 107–57; 115 Stat. 403), is amended—

(A) in section 1(b)—

(i) in the heading, to read as follows:

"(b) FISCAL YEARS 2007 AND 2008—"; and

(ii) in paragraph (1), by striking "any provision" and all that follows through "that prohibits" and inserting "any provision of an Act making appropriations for foreign operations, export financing, and related programs appropriations for fiscal year 2007 or 2008 (or any other appropriations Act) that prohibits";

(B) in section 3(2), by striking "Such provision" and all that follows through "as are" and inserting "Such provision of an Act making appropriations for foreign operations, export financing, and related programs appropriations for fiscal years 2002 through 2008 (or any other appropriations Act) as are"; and

(C) in section 6, by striking "the provisions" and all that follows and inserting "the provisions of this Act shall terminate on October 1, 2008.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2006.

(3) SENSE OF CONGRESS.—It is the sense of Congress that determinations to provide extensions of waivers of foreign assistance prohibitions with respect to Pakistan pursuant to Public Law 107–57 for fiscal years after the fiscal years specified in the amendments made by paragraph (1) to Public Law 107–57 should be informed by demonstrable progress in achieving the goals described in subparagraphs (A) through (C) of subsection (f)(3).

SEC. 2043. SAUDI ARABIA.

(a) CONGRESSIONAL FINDINGS.—Congress finds that:

(1) The National Commission on Terrorist Attacks Upon the United States concluded that the Kingdom of Saudi Arabia has "been a problematic ally in combating Islamic extremism. At the level of high policy, Saudi Arabia's leaders cooperated with American diplomatic initiatives aimed at the Taliban or

Pakistan before 9/11. At the same time, Saudi Arabia's society was a place where al Qaeda raised money directly from individuals and through charities. It was the society that produced 15 of the 19 hijackers.".

(2) Saudi Arabia has an uneven record in the fight against terrorism, especially with respect to terrorist financing, support for radical madrassas, a lack of political outlets for its citizens, and restrictions on religious pluralism, that poses a threat to the security of the United States, the international community, and Saudi Arabia itself.

(3) The National Commission on Terrorist Attacks Upon the United States concluded that the "problems in the U.S.-Saudi relationship must be confronted, openly". It recommended that the two countries build a relationship that includes a "shared commitment to political and economic reform . . . and a shared interest in greater tolerance and cultural respect, translating into a commitment to fight the violent extremists who foment hatred".

(4) The United States has a national security interest in working with the Government of Saudi Arabia to combat international terrorists that operate within that country or that operate outside Saudi Arabia with the support of citizens of Saudi Arabia.

(5) The United States and Saudi Arabia established a Strategic Dialogue in 2005, which provides a framework for the two countries to discuss a range of bilateral issues at high levels, including counterterrorism policy and political and economic reforms.

(6) It is in the national security interest of the United States to support the Government of Saudi Arabia in undertaking a number of political and economic reforms, including increasing anti-terrorism operations conducted by law enforcement agencies, providing more political and religious rights to its citizens, increasing the rights of women, engaging in comprehensive educational reform, enhancing monitoring of charitable organizations, and promulgating and enforcing domestic laws and regulation on terrorist financing.

(b) STATEMENT OF POLICY.—It is the policy of the United States—

(1) to engage with the Government of Saudi Arabia to openly confront the issue of terrorism, as well as other problematic issues such as the lack of political freedoms;

(2) to enhance counterterrorism cooperation with the Government of Saudi Arabia; and

(3) to support the efforts of the Government of Saudi Arabia to make political, economic, and social reforms, including greater religious freedom, throughout the country.

(c) PROGRESS IN COUNTERTERRORISM AND OTHER COOPERATION.—

(1) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report that—

(A) describes the long-term strategy of the United States—

(i) to engage with the Government of Saudi Arabia to facilitate political, economic, and social reforms, including greater religious freedom, that will enhance

the ability of the Government of Saudi Arabia to combat international terrorism; and

(ii) to work with the Government of Saudi Arabia to combat terrorism, including through effective measures to prevent and prohibit the financing of terrorists by Saudi institutions and citizens; and

(B) provides an assessment of the progress made by Saudi Arabia since 2001 on the matters described in subparagraph (A), including—

(i) whether Saudi Arabia has become a party to the International Convention for the Suppression of the Financing of Terrorism; and

(ii) the activities and authority of the Saudi Nongovernmental National Commission for Relief and Charity Work Abroad.

(2) FORM.—The report required by paragraph (1) shall be transmitted in unclassified form, but may include a classified annex, if necessary.

TITLE XXI—ADVANCING DEMOCRATIC VALUES

SEC. 2101. SHORT TITLE.

This title may be cited as the "Advance Democratic Values, Address Nondemocratic Countries, and Enhance Democracy Act of 2007" or the "ADVANCE Democracy Act of 2007".

SEC. 2102. FINDINGS.

Congress finds the following:

(1) The United States Declaration of Independence, the United States Constitution, and the United Nations Universal Declaration of Human Rights declare that all human beings are created equal and possess certain rights and freedoms, including the fundamental right to participate in the political life and government of their respective countries.

(2) The development of democracy constitutes a long-term challenge that goes through unique phases and paces in individual countries as such countries develop democratic institutions such as a thriving civil society, a free media, and an independent judiciary, and must be led from within such countries, including by nongovernmental and governmental reformers.

(3) Individuals, nongovernmental organizations, and movements that support democratic principles, practices, and values are under increasing pressure from some governments of nondemocratic countries (as well as, in some cases, from governments of democratic transition countries), including by using administrative and regulatory mechanisms to undermine the activities of such individuals, organizations, and movements.

(4) Democratic countries have a number of instruments available for supporting democratic reformers who are committed to promoting effective, nonviolent change in nondemocratic countries and who are committed to keeping their countries on the path to democracy.

(5) United States efforts to promote democracy and protect human rights can be strengthened to improve assistance for

such reformers, including through an enhanced role for United States diplomats when properly trained and given the right incentives.

(6) The promotion of democracy requires a broad-based effort with cooperation between all democratic countries, including through the Community of Democracies.

SEC. 2103. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to promote freedom and democracy in foreign countries as a fundamental component of United States foreign policy, along with other key foreign policy goals;

(2) to affirm fundamental freedoms and internationally recognized human rights in foreign countries, as reflected in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and to condemn offenses against those freedoms and rights as a fundamental component of United States foreign policy, along with other key foreign policy goals;

(3) to protect and promote such fundamental freedoms and rights, including the freedoms of association, of expression, of the press, and of religion, and the right to own private property;

(4) to commit to the long-term challenge of promoting universal democracy by promoting democratic institutions, including institutions that support the rule of law (such as an independent judiciary), an independent and professional media, strong legislatures, a thriving civil society, transparent and professional independent governmental auditing agencies, civilian control of the military, and institutions that promote the rights of minorities and women;

(5) to use instruments of United States influence to support, promote, and strengthen democratic principles, practices, and values, including the right to free, fair, and open elections, secret balloting, and universal suffrage, including by—

(A) providing appropriate support to individuals, nongovernmental organizations, and movements located in nondemocratic countries that aspire to live in freedom and establish full democracy in such countries; and

(B) providing political, economic, and other support to foreign countries and individuals, nongovernmental organizations, and movements that are willingly undertaking a transition to democracy; and

(6) to strengthen cooperation with other democratic countries in order to better promote and defend shared values and ideals.

SEC. 2104. DEFINITIONS.

In this title:

(1) ANNUAL REPORT ON ADVANCING FREEDOM AND DEMOCRACY.—The term "Annual Report on Advancing Freedom and Democracy" refers to the annual report submitted to Congress by the Department of State pursuant to section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note), in which the Department reports on actions taken by the United States Government to encourage respect for human rights and democracy.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(3) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of State for Democracy, Human Rights, and Labor.

(4) COMMUNITY OF DEMOCRACIES AND COMMUNITY.—The terms "Community of Democracies" and "Community" mean the association of democratic countries committed to the global promotion of democratic principles, practices, and values, which held its First Ministerial Conference in Warsaw, Poland, in June 2000.

(5) DEPARTMENT.—The term "Department" means the Department of State.

(6) NONDEMOCRATIC COUNTRY OR DEMOCRATIC TRANSITION COUNTRY.—The term "nondemocratic country" or "democratic transition country" shall include any country which is not governed by a fully functioning democratic form of government, as determined by the Secretary, taking into account the general consensus regarding the status of civil and political rights in a country by major nongovernmental organizations that conduct assessments of such conditions in countries and whether the country exhibits the following characteristics:

(A) All citizens of such country have the right to, and are not restricted in practice from, fully and freely participating in the political life of such country.

(B) The national legislative body of such country and, if directly elected, the head of government of such country, are chosen by free, fair, open, and periodic elections, by universal and equal suffrage, and by secret ballot.

(C) More than one political party in such country has candidates who seek elected office at the national level and such parties are not restricted in their political activities or their process for selecting such candidates, except for reasonable administrative requirements commonly applied in countries categorized as fully democratic.

(D) All citizens in such country have a right to, and are not restricted in practice from, fully exercising such fundamental freedoms as the freedom of expression, conscience, and peaceful assembly and association, and such country has a free, independent, and pluralistic media.

(E) The current government of such country did not come to power in a manner contrary to the rule of law.

(F) Such country possesses an independent judiciary and the government of such country generally respects the rule of law.

(G) Such country does not violate other core principles enshrined in the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, United Nations Commission on Human Rights Resolution 1499/57 (entitled "Promotion of the Right to Democracy"), and the United Nations General Assembly Resolution 55/96 (entitled "Promoting and consolidating democracy").

(H) As applicable, whether the country has scored favorably on the political, civil liberties, corruption, and

rule of law indicators used to determine eligibility for financial assistance disbursed from the Millennium Challenge Account.

(7) SECRETARY.—The term "Secretary" means the Secretary of State.

Subtitle A—Activities to Enhance the Promotion of Democracy

SEC. 2111. DEMOCRACY PROMOTION AT THE DEPARTMENT OF STATE.

(a) DEMOCRACY LIAISON OFFICERS.—

(1) IN GENERAL.—The Secretary of State shall establish and staff Democracy Liaison Officer positions. Democracy Liaison Officers shall serve under the supervision of the Assistant Secretary. Democracy Liaison Officers may be assigned to the following posts:

(A) United States missions to, or liaisons with, regional and multilateral organizations, including the United States missions to the European Union, African Union, Organization of American States, and any other appropriate regional organization, the Organization for Security and Cooperation in Europe, the United Nations and its relevant specialized agencies, and the North Atlantic Treaty Organization.

(B) Regional public diplomacy centers of the Department of State.

(C) United States combatant commands.

(D) Other posts as designated by the Secretary.

(2) RESPONSIBILITIES.—Each Democracy Liaison Officer should—

(A) provide expertise on effective approaches to promote and build democracy;

(B) assist in formulating and implementing strategies for transitions to democracy; and

(C) carry out such other responsibilities as the Secretary or the Assistant Secretary may assign.

(3) NEW POSITIONS.—To the fullest extent practicable, taking into consideration amounts appropriated to carry out this subsection and personnel available for assignment to the positions described in paragraph (1), the Democracy Liaison Officer positions established under subsection (a) shall be new positions that are in addition to existing positions with responsibility for other human rights and democracy related issues and programs, including positions with responsibility for labor issues.

(4) RELATIONSHIP TO OTHER AUTHORITIES.—Nothing in this subsection may be construed as altering any authority or responsibility of a chief of mission or other employee of a diplomatic mission of the United States provided under any other provision of law, including any authority or responsibility for the development or implementation of strategies to promote democracy.

(b) OFFICE RELATED TO DEMOCRATIC MOVEMENTS AND TRANSITIONS.—

(1) ESTABLISHMENT.—There shall be identified within the Bureau of Democracy, Human Rights, and Labor of the Department at least one office that shall be responsible for working

with democratic movements and facilitating the transition to full democracy of nondemocratic countries and democratic transition countries.

(2) RESPONSIBILITIES.—The Assistant Secretary shall, including by acting through the office or offices identified pursuant to paragraph (1)—

(A) provide support for Democratic Liaison Officers established under subsection (a);

(B) develop relations with, consult with, and provide assistance to nongovernmental organizations, individuals, and movements that are committed to the peaceful promotion of democracy and fundamental rights and freedoms, including fostering relationships with the United States Government and the governments of other democratic countries; and

(C) assist officers and employees of regional bureaus of the Department to develop strategies and programs to promote peaceful change in nondemocratic countries and democratic transition countries.

(3) LIAISON.—Within the Bureau of Democracy, Human Rights, and Labor, the Assistant Secretary shall identify officers or employees who have expertise in and shall be responsible for working with nongovernmental organizations, individuals, and movements that develop relations with, consult with, and provide assistance to nongovernmental organizations, individuals, and movements in foreign countries that are committed to the peaceful promotion of democracy and fundamental rights and freedoms.

(c) ACTIONS BY CHIEFS OF MISSION.—Each chief of mission in each nondemocratic country or democratic transition country should—

(1) develop, as part of annual program planning, a strategy to promote democratic principles, practices, and values in each such foreign country and to provide support, as appropriate, to nongovernmental organizations, individuals, and movements in each such country that are committed to democratic principles, practices, and values, such as by—

(A) consulting and coordinating with and providing support to such nongovernmental organizations, individuals, and movements regarding the promotion of democracy;

(B) issuing public condemnations of violations of internationally recognized human rights, including violations of religious freedom, and visiting local landmarks and other local sites associated with nonviolent protest in support of democracy and freedom from oppression; and

(C) holding periodic meetings with such nongovernmental organizations, individuals, and movements to discuss democracy and political, social, and economic freedoms;

(2) hold ongoing discussions with the leaders of each such nondemocratic country or democratic transition country regarding progress toward a democratic system of governance and the development of political, social, and economic freedoms and respect for human rights, including freedom of religion or belief, in such country; and

(3) conduct meetings with civil society, interviews with media that can directly reach citizens of each such country, and discussions with students and young people of each such country regarding progress toward a democratic system of governance and the development of political, social, and economic freedoms in each such country.

(d) RECRUITMENT.—The Secretary should seek to increase the proportion of members of the Foreign Service who serve in the Bureau of Democracy, Human Rights, and Labor.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

SEC. 2112. DEMOCRACY FELLOWSHIP PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—The Secretary shall establish a Democracy Fellowship Program to enable officers of the Department to gain an additional perspective on democracy promotion in foreign countries by working on democracy issues in appropriate congressional offices or congressional committees with oversight over the subject matter of this title, including the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and international or nongovernmental organizations involved in democracy promotion.

(b) SELECTION AND PLACEMENT.—The Assistant Secretary shall play a central role in the selection of Democracy Fellows and facilitate their placement in appropriate congressional offices, congressional committees, international organizations, and nongovernmental organizations.

SEC. 2113. INVESTIGATIONS OF VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW.

(a) IN GENERAL.—The President, with the assistance of the Secretary, the Under Secretary of State for Democracy and Global Affairs, and the Ambassador-at-Large for War Crimes Issues, shall collect information regarding incidents that may constitute crimes against humanity, genocide, slavery, or other violations of international humanitarian law.

(b) ACCOUNTABILITY.—The President shall consider what actions can be taken to ensure that any government of a country or the leaders or senior officials of such government who are responsible for crimes against humanity, genocide, slavery, or other violations of international humanitarian law identified under subsection (a) are brought to account for such crimes in an appropriately constituted tribunal.

Subtitle B—Strategies and Reports on Human Rights and the Promotion of Democracy

SEC. 2121. STRATEGIES, PRIORITIES, AND ANNUAL REPORT.

(a) EXPANSION OF COUNTRY-SPECIFIC STRATEGIES TO PROMOTE DEMOCRACY.—

(1) COMMENDATION.—Congress commends the Secretary for the ongoing work by the Department to develop country-specific strategies for promoting democracy.

(2) EXPANSION.—The Secretary shall expand the development of such strategies to all nondemocratic countries and democratic transition countries.

(3) BRIEFINGS.—The Secretary shall keep the appropriate congressional committees fully and currently informed as such strategies are developed.

(b) REPORT TITLE.—Section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note) is amended, in the first sentence, by inserting "entitled the Annual Report on Advancing Freedom and Democracy" before the period at the end.

(c) ENHANCED REPORT.—The Annual Report on Advancing Freedom and Democracy shall include, as appropriate—

(1) United States priorities for the promotion of democracy and the protection of human rights for each nondemocratic country and democratic transition country, developed in consultation with relevant parties in such countries; and

(2) specific actions and activities of chiefs of missions and other United States officials to promote democracy and protect human rights in each such country.

(d) SCHEDULE OF SUBMISSION.—Section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note) is amended, in the second sentence, by striking "30 days" and inserting "90 days".

SEC. 2122. TRANSLATION OF HUMAN RIGHTS REPORTS.

(a) IN GENERAL.—The Secretary shall continue to expand the timely translation of the applicable parts of the Country Reports on Human Rights Practices required under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)), the Annual Report on International Religious Freedom required under section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)), the Trafficking in Persons Report required under section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)), and any separate report on democracy and human rights policy submitted in accordance with section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note) into the principal languages of as many countries as possible, with particular emphasis on nondemocratic countries, democratic transition countries, and countries in which extrajudicial killings, torture, or other serious violations of human rights have occurred.

(b) REPORT.—

(1) REQUIREMENT.—Not later than April 1, 2008, and annually thereafter through 2010, the Secretary shall submit to the appropriate congressional committees a report describing any translations of the reports specified in subsection (a) for the preceding year, including which of such reports have been translated into which principal languages and the countries in which such translations have been distributed by posting on a relevant website or elsewhere.

(2) FORM.—The report required under paragraph (1) may be included in any separate report on democracy and human

rights policy submitted in accordance with section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003.

Subtitle C—Advisory Committee on Democracy Promotion and the Internet Website of the Department of State

SEC. 2131. ADVISORY COMMITTEE ON DEMOCRACY PROMOTION.

Congress commends the Secretary for creating an Advisory Committee on Democracy Promotion, and it is the sense of Congress that the Committee should play a significant role in the Department's transformational diplomacy by advising the Secretary regarding United States efforts to promote democracy and democratic transition in connection with the formulation and implementation of United States foreign policy and foreign assistance, including reviewing and making recommendations on—

(1) how to improve the capacity of the Department to promote democracy and human rights; and

(2) how to improve foreign assistance programs related to the promotion of democracy.

SEC. 2132. SENSE OF CONGRESS REGARDING THE INTERNET WEBSITE OF THE DEPARTMENT OF STATE.

It is the sense of Congress that in order to facilitate access by individuals, nongovernmental organizations, and movements in foreign countries to documents, streaming video and audio, and other media regarding democratic principles, practices, and values, and the promotion and strengthening of democracy, the Secretary should take additional steps to enhance the Internet site for global democracy and human rights of the Department, which should include, where practicable, the following:

(1) Narratives and histories, published by the United States Government, of significant democratic movements in foreign countries, particularly regarding successful nonviolent campaigns to promote democracy in non-democratic countries and democratic transition countries.

(2) Narratives, published by the United States Government, relating to the importance of the establishment of and respect for internationally recognized human rights, democratic principles, practices, and values, and other fundamental freedoms.

(3) Major human rights reports by the United States Government, including translations of such materials, as appropriate.

(4) Any other documents, references, or links to appropriate external Internet websites (such as websites of international or nongovernmental organizations), including references or links to training materials, narratives, and histories regarding successful democratic movements.

Subtitle D—Training in Democracy and Human Rights; Incentives

SEC. 2141. TRAINING IN DEMOCRACY PROMOTION AND THE PROTECTION OF HUMAN RIGHTS.

(a) IN GENERAL.—The Secretary shall continue to enhance training for members of the Foreign Service and civil service responsible for the promotion of democracy and the protection of human rights. Such training shall include appropriate instruction and training materials regarding:

(1) International documents and United States policy regarding the promotion of democracy and respect for human rights.

(2) United States policy regarding the promotion and strengthening of democracy around the world, with particular emphasis on the transition to democracy in nondemocratic countries and democratic transition countries.

(3) For any member, chief of mission, or deputy chief of mission who is to be assigned to a nondemocratic country or democratic transition country, ways to promote democracy in such country and to assist individuals, nongovernmental organizations, and movements in such country that support democratic principles, practices, and values.

(4) The protection of internationally recognized human rights (including the protection of religious freedom) and standards related to such rights, provisions of United States law related to such rights, diplomatic tools to promote respect for such rights, and the protection of individuals who have fled their countries due to violations of such rights.

(b) CONSULTATION.—The Secretary, acting through the Director of the National Foreign Affairs Training Center of the Foreign Service Institute of the Department, shall consult, as appropriate, with nongovernmental organizations involved in the protection and promotion of such rights and the United States Commission on International Religious Freedom with respect to the training required by this subsection.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a description of the current and planned training provided to Foreign Service officers in human rights and democracy promotion, including such training provided to chiefs of mission serving or preparing to serve in nondemocratic countries or democratic transition countries.

SEC. 2142. SENSE OF CONGRESS REGARDING ADVANCE DEMOCRACY AWARD.

It is the sense of Congress that—

(1) the Secretary should further strengthen the capacity of the Department to carry out results-based democracy promotion efforts through the establishment of an annual award to be known as the "Outstanding Achievements in Advancing Democracy Award", or the "ADVANCE Democracy Award", that would be awarded to officers or employees of the Department; and

(2) the Secretary should establish procedures for selecting recipients of such award, including any financial terms associated with such award.

SEC. 2143. PERSONNEL POLICIES AT THE DEPARTMENT OF STATE.

In addition to the awards and other incentives already implemented, the Secretary should increase incentives for members of the Foreign Service and other employees of the Department who take assignments relating to the promotion of democracy and the protection of human rights, including the following:

(1) Providing performance pay under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) to such members and employees who carry out their assignment in an outstanding manner.

(2) Considering such an assignment as a basis for promotion into the Senior Foreign Service.

(3) Providing Foreign Service Awards under section 614 of the Foreign Service Act of 1980 (22 U.S.C. 4013) to such members and employees who provide distinguished or meritorious service in the promotion of democracy or the protection of human rights.

Subtitle E—Cooperation With Democratic Countries

SEC. 2151. COOPERATION WITH DEMOCRATIC COUNTRIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should cooperate with other democratic countries to—

(1) promote and protect democratic principles, practices, and values;

(2) promote and protect shared political, social, and economic freedoms, including the freedoms of association, of expression, of the press, of religion, and to own private property;

(3) promote and protect respect for the rule of law;

(4) develop, adopt, and pursue strategies to advance common interests in international organizations and multilateral institutions to which members of cooperating democratic countries belong; and

(5) provide political, economic, and other necessary support to countries that are undergoing a transition to democracy.

(b) COMMUNITY OF DEMOCRACIES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the Community of Democracies should develop a more formal mechanism for carrying out work between ministerial meetings, such as through the creation of a permanent secretariat with appropriate staff to carry out such work, and should establish a headquarters; and

(B) nondemocratic countries should not participate in any association or group of democratic countries aimed at working together to promote democracy.

(2) DETAIL OF PERSONNEL.—The Secretary is authorized to detail on a nonreimbursable basis any employee of the Department to any permanent secretariat of the Community of Democracies or to the government of any country that is

a member of the Convening Group of the Community of Democracies.

(c) ESTABLISHMENT OF AN OFFICE FOR MULTILATERAL DEMOCRACY PROMOTION.—The Secretary should establish an office of multilateral democracy promotion with the mission to further develop and strengthen the institutional structure of the Community of Democracies, develop interministerial projects, enhance the United Nations Democracy Caucus, manage policy development of the United Nations Democracy Fund, and enhance coordination with other regional and multilateral bodies with jurisdiction over democracy issues.

(d) INTERNATIONAL CENTER FOR DEMOCRATIC TRANSITION.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the International Center for Democratic Transition, an initiative of the Government of Hungary, serves to promote practical projects and the sharing of best practices in the area of democracy promotion and should be supported by, in particular, the United States, other European countries with experiences in democratic transitions, and private individuals.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of fiscal years 2008, 2009, and 2010 to the Secretary for a grant to the International Center for Democratic Transition. Amounts appropriated under this paragraph are authorized to remain available until expended.

Subtitle F—Funding for Promotion of Democracy

SEC. 2161. THE UNITED NATIONS DEMOCRACY FUND.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should work with other countries to enhance the goals and work of the United Nations Democracy Fund, an essential tool to promote democracy, and in particular support civil society in foreign countries in their efforts to help consolidate democracy and bring about transformational change.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $14,000,000 for each of fiscal years 2008 and 2009 to the Secretary for a United States contribution to the United Nations Democracy Fund.

SEC. 2162. UNITED STATES DEMOCRACY ASSISTANCE PROGRAMS.

(a) SENSE OF CONGRESS REGARDING USE OF INSTRUMENTS OF DEMOCRACY PROMOTION.—It is the sense of Congress that—

(1) United States support for democracy is strengthened by using a variety of different instrumentalities, such as the National Endowment for Democracy, the United States Agency for International Development, and the Department; and

(2) the purpose of the Department's Human Rights and Democracy Fund should be to support innovative programming, media, and materials designed to uphold democratic principles, practices, and values, support and strengthen democratic institutions, promote human rights and the rule of law, and build civil societies in countries around the world.

(b) SENSE OF CONGRESS REGARDING MECHANISMS FOR DELIVERING ASSISTANCE.—

(1) FINDINGS.—Congress finds the following:

(A) Democracy assistance has many different forms, including assistance to promote the rule of law, build the capacity of civil society, political parties, and legislatures, improve the independence of the media and the judiciary, enhance independent auditing functions, and advance security sector reform.

(B) There is a need for greater clarity on the coordination and delivery mechanisms for United States democracy assistance.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary and the Administrator of the United States Agency for International Development should develop guidelines, in consultation with the appropriate congressional committees, building on the existing framework for grants, cooperative agreements, contracts, and other acquisition mechanisms to guide United States missions in foreign countries in coordinating United States democracy assistance and selecting the appropriate combination of such mechanisms for such assistance.

TITLE XXII—INTEROPERABLE EMERGENCY COMMUNICATIONS

SEC. 2201. INTEROPERABLE EMERGENCY COMMUNICATIONS.

(a) IN GENERAL.—Section 3006 of Public Law 109–171 (47 U.S.C. 309 note) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

"(1) may take such administrative action as is necessary to establish and implement—

"(A) a grant program to assist public safety agencies in the planning and coordination associated with, the acquisition of, deployment of, or training for the use of interoperable communications equipment, software and systems that—

"(i) utilize reallocated public safety spectrum for radio communication;

"(ii) enable interoperability with communications systems that can utilize reallocated public safety spectrum for radio communication; or

"(iii) otherwise improve or advance the interoperability of public safety communications systems that utilize other public safety spectrum bands; and

"(B) are used to establish and implement a strategic technology reserve to pre-position or secure interoperable communications in advance for immediate deployment in an emergency or major disaster;

"(2) shall make payments of not to exceed $1,000,000,000, in the aggregate, through fiscal year 2010 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to carry out the grant program established under paragraph (1), of which at least $75,000,000, in the aggregate, shall be used for purposes described in paragraph (1)(B); and

"(3) shall permit any funds allocated for use under paragraph (1)(B) to be used for purposes identified under paragraph (1)(A), if the public safety agency demonstrates that it has already implemented such a strategic technology reserve or demonstrates higher priority public safety communications needs.";

(2) by redesignating subsections (b), (c), and (d) as subsections (h), (i), and (j), respectively, and inserting after subsection (a) the following:

"(b) ELIGIBILITY.—To be eligible for assistance under the grant program established under subparagraph (a)(1)(A), an applicant shall submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require, including a detailed explanation of how assistance received under the program would be used to improve communications interoperability and ensure interoperability with other public safety agencies in an emergency or a major disaster.

"(c) CRITERIA FOR STRATEGIC TECHNOLOGY RESERVES.—

"(1) IN GENERAL.—In evaluating permitted uses under subparagraph (a)(1)(B), the Assistant Secretary shall consider the continuing technological evolution of communications technologies and devices, with its implicit risk of obsolescence, and shall ensure, to the maximum extent feasible, that a substantial part of the reserve involves prenegotiated contracts and other arrangements for rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems), rather than the warehousing or storage of equipment and supplies currently available at the time the reserve is established.

"(2) REQUIREMENTS AND CHARACTERISTICS.—Funds provided to meet uses described in paragraph (1) shall be used in support of reserves that—

"(A) are capable of re-establishing communications when existing critical infrastructure is damaged or destroyed in an emergency or a major disaster;

"(B) include appropriate current, widely-used equipment, such as Land Mobile Radio Systems, cellular telephones and satellite-enabled equipment (and related communications service), Cells-On-Wheels, Cells-On-Light-Trucks, or other self-contained mobile cell sites that can be towed, backup batteries, generators, fuel, and computers;

"(C) include equipment on hand for the Governor of each State, key emergency response officials, and appropriate State or local personnel;

"(D) include contracts (including prenegotiated contracts) for rapid delivery of the most current technology available from commercial sources; and

"(E) include arrangements for training to ensure that personnel are familiar with the operation of the equipment and devices to be delivered pursuant to such contracts.

"(3) ADDITIONAL CHARACTERISTICS.—Portions of the reserve may be virtual and may include items donated on an in-kind contribution basis.

"(4) ALLOCATION OF FUNDS.—In evaluating permitted uses under subparagraph (a)(1)(B), the Assistant Secretary shall take into account barriers to immediate deployment, including

time and distance, that may slow the rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems) in the event of an emergency in any State.

"(d) VOLUNTARY CONSENSUS STANDARDS.—In carrying out this section, the Assistant Secretary, in cooperation with the Secretary of Homeland Security, shall identify and, if necessary, encourage the development and implementation of, voluntary consensus standards for interoperable communications systems to the greatest extent practicable, but shall not require any such standard.

"(e) INSPECTOR GENERAL REPORT AND AUDITS.—

"(1) REPORT.—Beginning with the first fiscal year beginning after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department of Commerce shall conduct an annual assessment of the management of the grant program implemented under subsection (a)(1) and transmit a report containing the findings of that assessment and any recommendations related thereto to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

"(2) AUDITS.—Beginning with the first fiscal year beginning after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department of Commerce shall conduct financial audits of entities receiving grants from the program implemented under subsection (a)(1), and shall ensure that, over the course of 4 years, such audits cover recipients in a representative sample of not fewer than 25 States or territories. The results of any such audits shall be made publicly available via web site, subject to redaction as the Inspector General determines necessary to protect classified and other sensitive information.

"(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or interpreted to preclude the use of funds under this section by any public safety agency for interim- or long-term Internet Protocol-based interoperable solutions."; and

(3) by striking paragraph (3) of subsection (j), as so redesignated.

(b) FCC VULNERABILITY ASSESSMENT AND REPORT ON EMERGENCY COMMUNICATIONS BACK-UP SYSTEM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall conduct a vulnerability assessment of the Nation's critical communications and information systems infrastructure and shall evaluate the technical feasibility of creating a back-up emergency communications system that complements existing communications resources and takes into account next generation and advanced communications technologies. The overriding objective for the evaluation shall be providing a framework for the development of a resilient interoperable communications system for emergency responders in an emergency. The Commission shall consult with the National Communications System and shall evaluate all reasonable options, including satellites, wireless, and terrestrial-based communications systems and other alternative transport mechanisms that can be used in tandem with existing technologies.

(2) FACTORS TO BE EVALUATED.—The evaluation under paragraph (1) shall include—

(A) a survey of all Federal agencies that use terrestrial or satellite technology for communications security and an evaluation of the feasibility of using existing systems for the purpose of creating such an emergency back-up public safety communications system;

(B) the feasibility of using private satellite, wireless, or terrestrial networks for emergency communications;

(C) the technical options, cost, and deployment methods of software, equipment, handsets or desktop communications devices for public safety entities in major urban areas, and nationwide; and

(D) the feasibility and cost of necessary changes to the network operations center of terrestrial-based or satellite systems to enable the centers to serve as emergency back-up communications systems.

(3) REPORT.—

(A) IN GENERAL.—Upon the completion of the evaluation under subsection (a), the Commission shall submit a report to Congress that details the findings of the evaluation, including a full inventory of existing public and private resources most efficiently capable of providing emergency communications.

(B) CLASSIFIED INDEX.—The report on critical infrastructure under this subsection may contain a classified annex.

(C) RETENTION OF CLASSIFICATION.—The classification of information required to be provided to Congress or any other department or agency under this section by the Federal Communications Commission, including the assignment of a level of classification of such information, shall be binding on Congress and any other department or agency.

(c) JOINT ADVISORY COMMITTEE ON COMMUNICATIONS CAPABILITIES OF EMERGENCY MEDICAL AND PUBLIC HEALTH CARE FACILITIES.—

(1) ESTABLISHMENT.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Federal Communications Commission, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, shall establish a joint advisory committee to examine the communications capabilities and needs of emergency medical and public health care facilities. The joint advisory committee shall be composed of individuals with expertise in communications technologies and emergency medical and public health care, including representatives of Federal, State and local governments, industry and non-profit health organizations, and academia and educational institutions.

(2) DUTIES.—The joint advisory committee shall—

(A) assess specific communications capabilities and needs of emergency medical and public health care facilities, including the improvement of basic voice, data, and broadband capabilities;

(B) assess options to accommodate growth of basic and emerging communications services used by emergency medical and public health care facilities;

(C) assess options to improve integration of communications systems used by emergency medical and public health care facilities with existing or future emergency communications networks; and

(D) report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce, within 6 months after the date of enactment of this Act.

(d) AUTHORIZATION OF EMERGENCY MEDICAL AND PUBLIC HEALTH COMMUNICATIONS PILOT PROJECTS.—

(1) IN GENERAL.—The Assistant Secretary of Commerce for Communications and Information may establish not more than 10 geographically dispersed project grants to emergency medical and public health care facilities to improve the capabilities of emergency communications systems in emergency medical care facilities.

(2) MAXIMUM AMOUNT.—The Assistant Secretary may not provide more than $2,000,000 in Federal assistance under the pilot program to any applicant.

(3) COST SHARING.—The Assistant Secretary may not provide more than 20 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(4) MAXIMUM PERIOD OF GRANTS.—The Assistant Secretary may not fund any applicant under the pilot program for more than 3 years.

(5) DEPLOYMENT AND DISTRIBUTION.—The Assistant Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

(6) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Assistant Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

SEC. 2202. CLARIFICATION OF CONGRESSIONAL INTENT.

The Federal departments and agencies (including independent agencies) identified under the provisions of this title and title III of this Act and title VI of Public Law 109–295 shall carry out their respective duties and responsibilities in a manner that does not impede the implementation of requirements specified under this title and title III of this Act and title VI of Public Law 109–295. Notwithstanding the obligations under section 1806 of Public Law 109–295, the provisions of this title and title III of this Act and title VI of Public Law 109–295 shall not preclude or obstruct any such department or agency from exercising its other authorities related to emergency communications matters.

SEC. 2203. CROSS BORDER INTEROPERABILITY REPORTS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Federal Communications Commission, in consultation with the Department of Homeland Security's Office of Emergency Communications, the Office of Management of Budget, and the Department of State shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on—

(1) the status of the mechanism established by the President under section 7303(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(c)) for coordinating cross border interoperability issues between—

(A) the United States and Canada; and

(B) the United States and Mexico;

(2) the status of treaty negotiations with Canada and Mexico regarding the coordination of the re-banding of 800 megahertz radios, as required under the final rule of the Federal Communication Commission in the "Private Land Mobile Services; 800 MHz Public Safety Interface Proceeding" (WT Docket No. 02–55; ET Docket No. 00–258; ET Docket No. 95–18, RM–9498; RM–10024; FCC 04–168) including the status of any outstanding issues in the negotiations between—

(A) the United States and Canada; and

(B) the United States and Mexico;

(3) communications between the Commission and the Department of State over possible amendments to the bilateral legal agreements and protocols that govern the coordination process for license applications seeking to use channels and frequencies above Line A;

(4) the annual rejection rate for the last 5 years by the United States of applications for new channels and frequencies by Canadian private and public entities; and

(5) any additional procedures and mechanisms that can be taken by the Commission to decrease the rejection rate for applications by United States private and public entities seeking licenses to use channels and frequencies above Line A.

(b) UPDATED REPORTS TO BE FILED ON THE STATUS OF TREATY OF NEGOTIATIONS.—The Federal Communications Commission, in conjunction with the Department of Homeland Security, the Office of Management of Budget, and the Department of State shall continually provide updated reports to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the status of treaty negotiations under subsection (a)(2) until the appropriate United States treaty has been revised with each of—

(1) Canada; and

(2) Mexico.

(c) INTERNATIONAL NEGOTIATIONS TO REMEDY SITUATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Department of State shall report to Congress on—

(1) the current process for considering applications by Canada for frequencies and channels by United States communities above Line A;

(2) the status of current negotiations to reform and revise such process;

(3) the estimated date of conclusion for such negotiations;

(4) whether the current process allows for automatic denials or dismissals of initial applications by the Government of Canada, and whether such denials or dismissals are currently occurring; and

(5) communications between the Department of State and the Federal Communications Commission pursuant to subsection (a)(3).

SEC. 2204. EXTENSION OF SHORT QUORUM.

Notwithstanding section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)), 2 members of the Consumer Product Safety Commission, if they are not affiliated with the same political party, shall constitute a quorum for the 6-month period beginning on the date of enactment of this Act.

SEC. 2205. REQUIRING REPORTS TO BE SUBMITTED TO CERTAIN COMMITTEES.

In addition to the committees specifically enumerated to receive reports under this title, any report transmitted under the provisions of this title shall also be transmitted to the appropriate congressional committees (as defined in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2))).

TITLE XXIII—EMERGENCY COMMUNICATIONS MODERNIZATION

SEC. 2301. SHORT TITLE.

This title may be cited as the "Improving Emergency Communications Act of 2007".

SEC. 2302. FUNDING FOR PROGRAM.

Section 3011 of the Digital Television Transition and Public Safety Act of 2005 (Public Law 109–171; 47 U.S.C. 309 note) is amended—

(1) by striking "The" and inserting:

"(a) IN GENERAL.—The"; and

(2) by adding at the end the following:

"(b) CREDIT.—The Assistant Secretary may borrow from the Treasury, upon enactment of the 911 Modernization Act, such sums as necessary, but not to exceed $43,500,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.".

SEC. 2303. NTIA COORDINATION OF E-911 IMPLEMENTATION.

Section 158(b)(4) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(b)(4)) is amended by adding at the end thereof the following: "Within 180 days after the date of enactment of the 911 Modernization Act, the Assistant Secretary and the Administrator shall jointly issue regulations updating the criteria to allow a portion of the funds to be used to give priority to grants that are requested by public safety answering points that were not capable of receiving 911 calls as of the date of enactment of that Act, for the incremental cost of upgrading from Phase I to Phase II compliance. Such grants shall be subject to all other requirements of this section.".

TITLE XXIV—MISCELLANEOUS PROVISIONS

SEC. 2401. QUADRENNIAL HOMELAND SECURITY REVIEW.

(a) REVIEW REQUIRED.—Title VII of the Homeland Security Act of 2002 is amended by adding at the end the following:

"SEC. 707. QUADRENNIAL HOMELAND SECURITY REVIEW.

"(a) REQUIREMENT.—

"(1) QUADRENNIAL REVIEWS REQUIRED.—In fiscal year 2009, and every 4 years thereafter, the Secretary shall conduct a review of the homeland security of the Nation (in this section referred to as a 'quadrennial homeland security review').

"(2) SCOPE OF REVIEWS.—Each quadrennial homeland security review shall be a comprehensive examination of the homeland security strategy of the Nation, including recommendations regarding the long-term strategy and priorities of the Nation for homeland security and guidance on the programs, assets, capabilities, budget, policies, and authorities of the Department.

"(3) CONSULTATION.—The Secretary shall conduct each quadrennial homeland security review under this subsection in consultation with—

"(A) the heads of other Federal agencies, including the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of the Treasury, the Secretary of Agriculture, and the Director of National Intelligence;

"(B) key officials of the Department; and

"(C) other relevant governmental and nongovernmental entities, including State, local, and tribal government officials, members of Congress, private sector representatives, academics, and other policy experts.

"(4) RELATIONSHIP WITH FUTURE YEARS HOMELAND SECURITY PROGRAM.—The Secretary shall ensure that each review conducted under this section is coordinated with the Future Years Homeland Security Program required under section 874.

"(b) CONTENTS OF REVIEW.—In each quadrennial homeland security review, the Secretary shall—

"(1) delineate and update, as appropriate, the national homeland security strategy, consistent with appropriate national and Department strategies, strategic plans, and Homeland Security Presidential Directives, including the National Strategy for Homeland Security, the National Response Plan, and the Department Security Strategic Plan;

"(2) outline and prioritize the full range of the critical homeland security mission areas of the Nation;

"(3) describe the interagency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland security program and policies of the Nation associated with the national homeland security strategy, required to execute successfully the full range of missions called for in the national homeland security strategy described in paragraph (1) and the homeland security mission areas outlined under paragraph (2);

"(4) identify the budget plan required to provide sufficient resources to successfully execute the full range of missions called for in the national homeland security strategy described in paragraph (1) and the homeland security mission areas outlined under paragraph (2);

"(5) include an assessment of the organizational alignment of the Department with the national homeland security strategy referred to in paragraph (1) and the homeland security mission areas outlined under paragraph (2); and

"(6) review and assess the effectiveness of the mechanisms of the Department for executing the process of turning the requirements developed in the quadrennial homeland security review into an acquisition strategy and expenditure plan within the Department.

"(c) REPORTING.—

"(1) IN GENERAL.—Not later than December 31 of the year in which a quadrennial homeland security review is conducted, the Secretary shall submit to Congress a report regarding that quadrennial homeland security review.

"(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include—

"(A) the results of the quadrennial homeland security review;

"(B) a description of the threats to the assumed or defined national homeland security interests of the Nation that were examined for the purposes of that review;

"(C) the national homeland security strategy, including a prioritized list of the critical homeland security missions of the Nation;

"(D) a description of the interagency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland security program and policies of the Nation associated with the national homeland security strategy, required to execute successfully the full range of missions called for in the applicable national homeland security strategy referred to in subsection (b)(1) and the homeland security mission areas outlined under subsection (b)(2);

"(E) an assessment of the organizational alignment of the Department with the applicable national homeland security strategy referred to in subsection (b)(1) and the homeland security mission areas outlined under subsection (b)(2), including the Department's organizational structure, management systems, budget and accounting systems, human resources systems, procurement systems, and physical and technical infrastructure;

"(F) a discussion of the status of cooperation among Federal agencies in the effort to promote national homeland security;

"(G) a discussion of the status of cooperation between the Federal Government and State, local, and tribal governments in preventing terrorist attacks and preparing for emergency response to threats to national homeland security;

"(H) an explanation of any underlying assumptions used in conducting the review; and

"(I) any other matter the Secretary considers appropriate.

"(3) PUBLIC AVAILABILITY.—The Secretary shall, consistent with the protection of national security and other sensitive matters, make each report submitted under paragraph (1) publicly available on the Internet website of the Department.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

(b) PREPARATION FOR QUADRENNIAL HOMELAND SECURITY REVIEW.—

(1) IN GENERAL.—During fiscal years 2007 and 2008, the Secretary of Homeland Security shall make preparations to conduct the first quadrennial homeland security review under section 707 of the Homeland Security Act of 2002, as added by subsection (a), in fiscal year 2009, including—

(A) determining the tasks to be performed;

(B) estimating the human, financial, and other resources required to perform each task;

(C) establishing the schedule for the execution of all project tasks;

(D) ensuring that these resources will be available as needed; and

(E) all other preparations considered necessary by the Secretary.

(2) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit to Congress and make publicly available on the Internet website of the Department of Homeland Security a detailed resource plan specifying the estimated budget and number of staff members that will be required for preparation of the first quadrennial homeland security review.

(c) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by inserting after the item relating to section 706 the following new item:

"Sec. 707. Quadrennial Homeland Security Review.".

SEC. 2402. SENSE OF THE CONGRESS REGARDING THE PREVENTION OF RADICALIZATION LEADING TO IDEOLOGICALLY-BASED VIOLENCE.

(a) FINDINGS.—Congress finds the following:

(1) The United States is engaged in a struggle against a transnational terrorist movement of radical extremists that plans, prepares for, and engages in acts of ideologically-based violence worldwide.

(2) The threat of radicalization that leads to ideologically-based violence transcends borders and has been identified as a potential threat within the United States.

(3) Radicalization has been identified as a precursor to terrorism caused by ideologically-based groups.

(4) Countering the threat of violent extremists domestically, as well as internationally, is a critical element of the plan of the United States for success in the fight against terrorism.

(5) United States law enforcement agencies have identified radicalization that leads to ideologically-based violence as an emerging threat and have in recent years identified cases of extremists operating inside the United States, known as "home-grown" extremists, with the intent to provide support for, or directly commit, terrorist attacks.

(6) Alienation of Muslim populations in the Western world has been identified as a factor in the spread of radicalization that could lead to ideologically-based violence.

(7) Many other factors have been identified as contributing to the spread of radicalization and resulting acts of ideologically-based violence. Among these is the appeal of left-wing and right-wing hate groups, and other hate groups, including

groups operating in prisons. Other such factors must be examined and countered as well in order to protect the homeland from violent extremists of every kind.

(8) Radicalization leading to ideologically-based violence cannot be prevented solely through law enforcement and intelligence measures.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Homeland Security, in consultation with other relevant Federal agencies, should make a priority of countering domestic radicalization that leads to ideologically-based violence by—

(1) using intelligence analysts and other experts to better understand the process of radicalization from sympathizer to activist to terrorist;

(2) recruiting employees with diverse worldviews, skills, languages, and cultural backgrounds, and expertise;

(3) consulting with experts to ensure that the lexicon used within public statements is precise and appropriate and does not aid extremists by offending religious, ethnic, and minority communities;

(4) addressing prisoner radicalization and post-sentence reintegration, in concert with the Attorney General and State and local corrections officials;

(5) pursuing broader avenues of dialogue with minority communities, including the American Muslim community, to foster mutual respect, understanding, and trust; and

(6) working directly with State, local, and community leaders to—

(A) educate such leaders about the threat of radicalization that leads to ideologically-based violence and the necessity of taking preventative action at the local level; and

(B) facilitate the sharing of best practices from other countries and communities to encourage outreach to minority communities, including the American Muslim community, and develop partnerships among and between all religious faiths and ethnic groups.

SEC. 2403. REQUIRING REPORTS TO BE SUBMITTED TO CERTAIN COMMITTEES.

The Committee on Commerce, Science, and Transportation of the Senate shall receive the reports required by the following provisions of law in the same manner and to the same extent that the reports are to be received by the Committee on Homeland Security and Governmental Affairs of the Senate:

(1) Section 1016(j)(1) of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 485(j)(1)).

(2) Section 511(d) of this Act.

(3) Subsection (a)(3)(D) of section 2022 of the Homeland Security Act of 2002, as added by section 101 of this Act.

(4) Section 7215(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 123(d)).

(5) Section 7209(b)(1)(C) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note).

(6) Section 804(c) of this Act.

(7) Section 901(b) of this Act.

(8) Section 1002(a) of this Act.

(9) Title III of this Act.

SEC. 2404. DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT REQUIRED.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall—

(1) establish a demonstration project to conduct demonstrations of security management systems that—

(A) shall use a management system standards approach; and

(B) may be integrated into quality, safety, environmental and other internationally adopted management systems; and

(2) enter into one or more agreements with a private sector entity to conduct such demonstrations of security management systems.

(b) SECURITY MANAGEMENT SYSTEM DEFINED.—In this section, the term 'security management system' means a set of guidelines that address the security assessment needs of critical infrastructure and key resources that are consistent with a set of generally accepted management standards ratified and adopted by a standards making body.

SEC. 2405. UNDER SECRETARY FOR MANAGEMENT OF DEPARTMENT OF HOMELAND SECURITY.

(a) RESPONSIBILITIES.—Section 701(a) of the Homeland Security Act of 2002 (6 U.S.C. 341) is amended—

(1) by inserting "The Under Secretary for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of homeland security operations and programs." before "The Secretary";

(2) by striking paragraph (7) and inserting the following:

"(7) Strategic management planning and annual performance planning and identification and tracking of performance measures relating to the responsibilities of the Department."; and

(3) by striking paragraph (9), and inserting the following:

"(9) The management integration and transformation process, as well as the transition process, to ensure an efficient and orderly consolidation of functions and personnel in the Department and transition, including—

"(A) the development of a management integration strategy for the Department, and

"(B) before December 1 of any year in which a Presidential election is held, the development of a transition and succession plan, to be made available to the incoming Secretary and Under Secretary for Management, to guide the transition of management functions to a new Administration.".

(b) APPOINTMENT AND EVALUATION.—Section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341), as amended by subsection (a), is further amended by adding at the end the following:

"(c) APPOINTMENT AND EVALUATION.—The Under Secretary for Management shall—

"(1) be appointed by the President, by and with the advice and consent of the Senate, from among persons who have—

"(A) extensive executive level leadership and management experience in the public or private sector;

"(B) strong leadership skills;

"(C) a demonstrated ability to manage large and complex organizations; and

"(D) a proven record in achieving positive operational results;

"(2) enter into an annual performance agreement with the Secretary that shall set forth measurable individual and organizational goals; and

"(3) be subject to an annual performance evaluation by the Secretary, who shall determine as part of each such evaluation whether the Under Secretary for Management has made satisfactory progress toward achieving the goals set out in the performance agreement required under paragraph (2).".

(c) DEADLINE FOR APPOINTMENT; INCUMBENT.—

(1) DEADLINE FOR APPOINTMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall name an individual who meets the qualifications of section 701 of the Homeland Security Act (6 U.S.C. 341), as amended by subsections (a) and (b), to serve as the Under Secretary of Homeland Security for Management. The Secretary may submit the name of the individual who serves in the position of Under Secretary of Homeland Security for Management on the date of enactment of this Act together with a statement that informs the Congress that the individual meets the qualifications of such section as so amended.

(2) INCUMBENT.—The incumbent serving as Under Secretary of Homeland Security for Management on November 4, 2008, is authorized to continue serving in that position until a successor is confirmed, to ensure continuity in the management functions of the Department.

(d) SENSE OF CONGRESS WITH RESPECT TO SERVICE OF INCUMBENTS.—It is the sense of the Congress that the person serving as Under Secretary of Homeland Security for Management on the date on which a Presidential election is held should be encouraged by the newly-elected President to remain in office in a new Administration until such time as a successor is confirmed by Congress.

(e) EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting after the item relating to the Deputy Secretary of Homeland Security the following:

"Under Secretary of Homeland Security for Management.".

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.