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109TH CONGRESS
1ST SESSION

H. R. 1817

AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. TABLE OF CONTENTS.**

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

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TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. DEPARTMENT OF HOMELAND SECURITY.

There is authorized to be appropriated to the Secretary of Homeland Security for the necessary expenses of the Department of Homeland Security for fiscal year 2006, $34,152,143,000.

SEC. 102. CUSTOMS AND BORDER PROTECTION; BORDER PATROL AGENTS.

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

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

SEC. 103. DEPARTMENTAL MANAGEMENT AND OPERATIONS.

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

(1) $44,895,000 is authorized for the Department of Homeland Security Regions Initiative;

(2) $4,459,000 is authorized for Operation Integration Staff; and

(3) $56,278,000 is authorized for Office of Security initiatives.

SEC. 104. CRITICAL INFRASTRUCTURE GRANTS.

Of the amount authorized under section 101, there is authorized to be appropriated for fiscal year 2006 for grants and other assistance to improve critical infrastructure protection, $465,000,000.

SEC. 105. RESEARCH AND DEVELOPMENT.

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

(1) $76,573,000 to support chemical countermeasure development activities of the Directorate of Science and Technology;

(2) $195,014,000 to support a nuclear detection office and related activities;

(3) $19,000,000 for cybersecurity-related research and development activities;

(4) $10,000,000 for research and development of technologies capable of countering threats posed by man-portable air defense systems, including location-based technologies and noncommercial aircraft-based technologies; and

(5) $10,600,000 for the activities of such directorate conducted pursuant to subtitle G of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 441 et seq.).

SEC. 106. BORDER AND TRANSPORTATION SECURITY.

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

(1) $826,913,000 for expenses related to Screening Coordination and Operations of the Directorate of Border and Transportation Security;

(2) $100,000,000 for weapons of mass destruction detection technology of such directorate; and

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

SEC. 107. STATE AND LOCAL TERRORISM PREPAREDNESS.

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

(1) $40,500,000 for the activities of the Office for Interoperability and Compatibility within the Directorate of Science and Technology pursuant to section 7303 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C 194); and

(2) $2,000,000,000 for grants to State and local governments for terrorism preparedness awarded by the Office of State and Local Government Coordination and Preparedness.

SEC. 108. IMMIGRATION RESOURCES.

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

(1) For the Immigration and Customs Enforcement Legal Program, $159,514,000, including for the hiring of an additional 300 attorneys above the number of such positions for which funds were allotted for fiscal year 2005, and related training and support costs.

(2) Sufficient sums for the hiring of an additional 300 adjudicators above the number of such positions for which funds were allotted for fiscal year 2005 to carry out the functions stated in section 451(b) of the Homeland Security Act of 2002 (6 U.S.C. 271(b)), and related training and support costs. The fees provided for in section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) shall be adjusted in order to provide sufficient sums for the hiring of the additional adjudicators and for the related training and support costs provided for in this paragraph.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING OF STATE AND LOCAL PERSONNEL PERFORMING IMMIGRATION FUNCTIONS.

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

(b) USE OF FUNDS.—From amounts made available under subsection (a), the Secretary of Homeland Security may reimburse a State or political subdivision for the expenses described in subsection (d).

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

(1) has entered into a written agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) under which certain officers or employees of the State or subdivision may be authorized to perform certain functions of an immigration officer; and

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

(d) EXPENSES.—The expenses described in this subsection are actual and necessary expenses incurred by the State or political subdivision in order to permit the training described in subsection (c)(2) to take place, including expenses such as the following:

(1) Costs of travel and transportation to locations where training is provided, including mileage and related allowances for the use of a privately owned automobile.

(2) Subsistence consisting of lodging, meals, and other necessary expenses for the personal sustenance and comfort of a person required to travel

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

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

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

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

Subtitle A—Terrorism Prevention

SEC. 201. CONSOLIDATED BACKGROUND CHECK PROCESS.

(a) REQUIREMENT.—The Secretary of Homeland Security, in consultation with the Attorney General, shall establish a single process for conducting the security screening and background checks on individuals participating in any of the programs identified under subsection (b).

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

(1) The Transportation Worker Identification Credential.

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

tation Security Administration as part of the Department of Transportation Hazardous Materials Endorsement credentialing program.

(3) The Free and Secure Trade program.

(4) The NEXUS and SENTRI border crossing programs.

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

(c) FEATURES OF PROCESS.—The process established under subsection (a) shall include the following:

(1) A single submission of security screening information, including personal data and biometric information as appropriate, necessary to meet the security requirements of all applicable departmental programs.

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

(3) Acceptance by the Department of a security clearance or other credential issued by a Federal agency, to the extent that the security clearance process of the agency satisfies requirements that are at least as stringent as those of the applicable departmental programs under subsection (b).

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

(d) DEADLINES.—The Secretary of Homeland Security shall—

(1) submit a description of the process developed under subsection (a) to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) by not later than 6 months after the date of the enactment of this Act; and

(2) begin implementing such process by not later than 12 months after the date of the enactment of this Act.

(e) INCLUSION OF OTHER PROGRAMS.—The Secretary of Homeland Security shall review other existing or developing Department of Homeland Security programs that include security screening or background checks for participating individuals, and report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) any recommendations for inclusion of such additional programs in the consolidated screening process established under this section.

(f) RELATIONSHIP TO OTHER LAWS.—(1) Nothing in this section affects any statutory or regulatory requirement relating to the operation or standards of the programs described in subsection (b).

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

Subtitle B—Homeland Security Information Sharing and Analysis Enhancement

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Homeland Security Information Sharing and Analysis Enhancement Act of 2005''.

SEC. 212. PROVISION OF TERRORISM-RELATED INFORMATION TO PRIVATE SECTOR OFFICIALS.

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

''(20) To require, in consultation with the Assistant Secretary for Infrastructure Protection, the creation and routine dissemination of analytic reports and products designed to provide timely and accurate information that has specific relevance to

each of the Nation's private critical infrastructure sectors (as identified in the national infrastructure protection plan issued under paragraph (5)), to private sector officials in each such sector who are responsible for protecting institutions within that sector from potential acts of terrorism and for mitigating the potential consequences of any such act.''.

SEC. 213. ANALYTIC EXPERTISE ON THE THREATS FROM BIOLOGICAL AGENTS AND NUCLEAR WEAPONS.

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:

''(21) To ensure sufficient analytic expertise within the Office of Information Analysis to create, on an ongoing basis, products based on the analysis of homeland security information, as defined in section 892(f)(1), with specific reference to the threat of terrorism involving the use of nuclear weapons and biological agents to inflict mass casualties or other catastrophic consequences on the population or territory of the United States.''.

SEC. 214. ALTERNATIVE ANALYSIS OF HOMELAND SECURITY INFORMATION.

(a) REQUIREMENT.—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. ALTERNATIVE ANALYSIS OF HOMELAND SECURITY INFORMATION.

''The Secretary shall establish within the Department a process and assign an individual or entity the responsibility to ensure that, as appropriate, elements of the Department conduct alternative analysis (commonly referred to as 'red-team analysis') of homeland security information, as that term is defined in section 892(f)(1), that relates to potential acts of terrorism involving the use of nuclear weapons or biological agents to inflict mass casualties or other catastrophic consequences on the population or territory of the United States.''.

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

''Sec. 203. Alternative analysis of homeland security information.''.

SEC. 215. ASSIGNMENT OF INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION FUNCTIONS.

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

"(4) ASSIGNMENT OF SPECIFIC FUNCTIONS.—The Under Secretary for Information Analysis and Infrastructure Protection—

"(A) shall assign to the Assistant Secretary for Information Analysis the responsibility for performing the functions described in paragraphs (1), (4), (7) through (14), (16), and (18) of subsection (d);

"(B) shall assign to the Assistant Secretary for Infrastructure Protection the responsibility for performing the functions described in paragraphs (2), (5), and (6) of subsection (d);

"(C) shall assign to the Assistant Secretary for Cybersecurity the primary authority within the Department over the National Cyber Security Division and the National Communications System, and, in coordination with other relevant Federal agencies, the cybersecurity-related aspects of paragraphs (2), (3), (5), (6), (15), and (17) of subsection (d);

"(D) shall ensure that the Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection both

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

"(E) may assign to each such Assistant Secretary such other duties relating to such responsibilities as the Under Secretary may provide.".

SEC. 216. COORDINATION OF HOMELAND SECURITY THREAT ANALYSIS PROVIDED TO NON-FEDERAL OFFICIALS.

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

"SEC. 104. COORDINATION OF HOMELAND SECURITY THREAT ANALYSIS PROVIDED TO NON-FEDERAL OFFICIALS.

"(a) PRIMARY AUTHORITY.—Except as provided in subsection (b), the Secretary shall be responsible for coordinating all homeland security threat analysis to be provided to State and local government and tribal officials and the private sector.

"(b) COORDINATION REQUIRED.—No Federal official may disseminate any homeland security threat analysis to State, local, tribal, or private sector officials without the coordination of the Secretary or the Secretary's designee except—

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

"(2) when such homeland security threat analysis is issued to State, local, or tribal law enforcement officials for the purpose of assisting them in any aspect of the administration of criminal justice.

"(c) DEFINITION.—(1) As used in this section, the term 'homeland security threat analysis' means any informational product that is the result of evaluating information, regardless of its source, in order to—

"(A) identify and assess the nature and scope of terrorist threats to the homeland;

"(B) detect and identify threats of terrorism against the United States; and

"(C) understand such threats in light of actual and potential vulnerabilities of the territory of the United States.

"(2) As defined in paragraph (1), the term 'homeland security threat analysis' does not include—

"(A) any information that has not been processed, evaluated, or analyzed;

"(B) any information that is evaluated to create any finished analytic product;

"(C) facts or summaries of facts;

"(D) reports of interviews; or

"(E) reports or other documents that merely aggregate or summarize information derived from multiple sources on the same or related topics.".

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

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

SEC. 217. 9/11 MEMORIAL HOMELAND SECURITY 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. 204. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish a fellowship program in accordance with this section for the purpose of bringing State, local, tribal, and private sector officials to participate in the work of the Homeland Security Operations Center in order to become familiar with—

"(A) the mission and capabilities of that Center; and

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

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

"(b) ELIGIBILITY.—In order to be eligible for selection as a fellow under the program, an individual must—

"(1) have homeland security-related responsibilities; and

"(2) possess an appropriate national security clearance.

"(c) LIMITATIONS.—The Secretary—

"(1) may conduct up to 4 iterations of the program each year, each of which shall be 90 days in duration; and

"(2) shall ensure that the number of fellows selected for each iteration does not impede the activities of the Center.

"(d) CONDITION.—As a condition of selecting an individual as a fellow under the program, the Secretary shall

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

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

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

"Sec. 204. 9/11 Memorial Homeland Security Fellows Program.".

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

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

18 "(22) To ensure that—

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

"(B) such information is—

"(i) integrated and analyzed comprehensively; and

"(ii) disseminated in a timely manner, including to appropriately cleared Federal, State, local, tribal, and private sector officials; and

"(C) such information is used to determine what requests the Department should submit for collection of additional information relating to that threat.".

SEC. 219. ACCESS OF ASSISTANT SECRETARY FOR INFORMATION ANALYSIS TO TERRORISM INFORMATION.

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:

"(23) To ensure that the Assistant Secretary for Information Analysis—

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

"(B) to the extent technologically feasible has direct access to all databases of any component of the Department that may contain such information.".

SEC. 220. ADMINISTRATION OF THE HOMELAND SECURITY INFORMATION NETWORK.

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:

"(24) To administer the homeland security information network, including—

"(A) exercising primary responsibility for establishing a secure nationwide real-time homeland security information sharing network for Federal, State, and local government agencies and authorities, tribal officials, the private sector, and other governmental and private entities involved in receiving, analyzing, and distributing information related to threats to homeland security;

"(B) ensuring that the information sharing systems, developed in connection with the network established under subparagraph (A), are utilized and are compatible with, to the greatest extent practicable, Federal, State, and local

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

"(C) ensuring, to the greatest extent possible, that the homeland security information network and information systems are integrated and interoperable with existing private sector technologies.".

SEC. 221. IAIP PERSONNEL RECRUITMENT.

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

"§ 9702. Recruitment bonuses

"(a) IN GENERAL.—Notwithstanding any provision of chapter 57, the Secretary of Homeland Security, acting through the Under Secretary for Information Analysis and Infrastructure Protection, may pay a bonus to an individual in order to recruit such individual for a position that is primarily responsible for discharging the analytic responsibilities specified in section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) and that—

"(1) is within the Directorate for Information Analysis and Infrastructure Protection; and

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

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

"(b) BONUS AMOUNT, FORM, ETC.—

"(1) IN GENERAL.—The amount of a bonus under this section shall be determined under regulations issued by the Secretary of Homeland Security, with the concurrence of the Director of National Intelligence, but may not exceed 50 percent of the annual rate of basic pay of the position involved. The Director of National Intelligence shall concur in such regulations only if the amount of the bonus is not disproportionate to recruitment bonuses offered to intelligence analysts in other intelligence community agencies.

"(2) FORM OF PAYMENT.—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

"(3) COMPUTATION RULE.—For purposes of paragraph (1), the annual rate of basic pay of a position does not include any comparability payment under section 5304 or any similar authority.

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

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

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

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

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

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

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

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

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

"§ 9703. Reemployed annuitants

''(a) IN GENERAL.—If an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in a position within the Directorate for Information Analysis and Infrastructure Protection of the Department of Homeland Security, the annuitant's annuity shall continue. An annuitant so reemployed shall not be considered an employee for the purposes of chapter 83 or 84.

''(b) TERMINATION.—The exclusion pursuant to this section of the Directorate for Information Analysis and Infrastructure Protection from the reemployed annuitant provisions of chapters 83 and 84 shall terminate 3 years after the date of the enactment of this section, unless extended by the Secretary of Homeland Security. Any such extension shall be for a period of 1 year and shall be renewable.

''(c) ANNUITANT DEFINED.—For purposes of this section, the term 'annuitant' has the meaning given such term under section 8331 or 8401, whichever is appropriate.

"§ 9704. Regulations

''The Secretary of Homeland Security, in consultation with the Director of the Office of Personnel Management, may prescribe any regulations necessary to carry out section 9702 or 9703.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 97 of title 5, United States Code, is amended by adding after the item relating to section 9701 the following:

"9702. Recruitment bonuses.
"9703. Reemployed annuitants.
"9704. Regulations.".

SEC. 222. HOMELAND SECURITY INFORMATION REQUIREMENTS.

(a) HOMELAND SECURITY INFORMATION REQUIREMENTS.—The Joint Intelligence Community Council shall advise the Director of National Intelligence with respect to homeland security intelligence requirements.

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

(c) PARTICIPATION IN NATIONAL INTELLIGENCE COLLECTION REQUIREMENTS AND MANAGEMENT PROCESSES.—The Secretary shall be a member of any Director of National Intelligence-established interagency collection and requirements management board that develops and reviews national intelligence collection requirements in response to Presidential intelligence guidelines.

SEC. 223. HOMELAND SECURITY ADVISORY SYSTEM.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 is further amended—

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

(2) by adding at the end the following:

''SEC. 205. HOMELAND SECURITY ADVISORY SYSTEM.

''(a) REQUIREMENT.—The Under Secretary for Information Analysis and Infrastructure Protection shall implement a Homeland Security Advisory System in accordance with this section to provide public advisories and alerts regarding threats to homeland security, including national, regional, local, and economic sector advisories and alerts, as appropriate.

''(b) REQUIRED ELEMENTS.—The Under Secretary, under the System—

''(1) shall include, in each advisory and alert regarding a threat, information on appropriate protective measures and countermeasures that may be taken in response to the threat;

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

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

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

"(c) CONSULTATION.—In carrying out this section, the Under Secretary shall consult with the Homeland Security Center of Excellence for Behavioral and Social Research on Terrorism and Counter-Terrorism and with such other academic research centers with expertise in risk communications as the Under Secretary considers appropriate.".

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

"Sec. 205. Homeland Security Advisory System.".

SEC. 224. USE OF OPEN-SOURCE INFORMATION.

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:

"(25) To ensure that, whenever possible—

"(A) the Assistant Secretary for Information Analysis utilizes open-source information and produces reports and analytic products based on such information that do not require a national security classification under applicable law; and

"(B) such unclassified open-source reports are produced, to the extent consistent with the protection of intelligence sources and methods from unauthorized disclosure, contemporaneously with reports or analytic products concerning the same or similar information that the Assistant Secretary for Information Analysis produces in a classified format.".

SEC. 225. FULL AND EFFICIENT USE OF OPEN-SOURCE INFORMATION.

(a) REQUIREMENT.—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. 206. FULL AND EFFICIENT USE OF OPEN-SOURCE INFORMATION.

"The Under Secretary shall ensure that, in meeting their analytic responsibilities under section 201(d) and in formulating requirements for collection of additional information, the Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection make full and efficient use of open-source information wherever possible.".

(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 205 the following:

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

SEC. 226. COORDINATION WITH THE INTELLIGENCE COMMUNITY.

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

''(h) COORDINATION WITH THE INTELLIGENCE COMMUNITY.—The Under Secretary shall ensure that, as to the responsibilities specified in subsection (d), the Assistant Secretary for Information Analysis serves as the official responsible for coordinating, as appropriate, with elements of the intelligence community.''.

SEC. 227. CONSISTENCY WITH APPLICABLE FEDERAL LAWS.

Unless otherwise expressly stated in this subtitle, the Secretary of Homeland Security shall ensure that all activities carried out under this subtitle are consistent with any applicable Federal laws relating to information policy of Federal agencies.

TITLE III—DOMESTIC PREPAREDNESS AND PROTECTION

Subtitle A—Preparedness and Protection

SEC. 301. NATIONAL TERRORISM EXERCISE PROGRAM.

(a) IN GENERAL.—Section 430(c) of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended by striking ''and'' after the semicolon at the end of paragraph

(8), by striking the period at the end of paragraph (9) and inserting "; and", and by adding at the end the following:

"(10) designing, developing, performing, and evaluating exercises at the national, State, territorial, regional, local, and tribal levels of government that incorporate government officials, emergency response providers, public safety agencies, the private sector, international governments and organizations, and other appropriate entities to test the Nation's capability to prevent, prepare for, respond to, and recover from threatened or actual acts of terrorism.".

(b) NATIONAL TERRORISM EXERCISE PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Title VIII of the Homeland Security Act of 2002 (Public Law 107–296) is amended by adding at the end the following new subtitle:

"Subtitle J—Terrorism Preparedness Exercises

"SEC. 899a. NATIONAL TERRORISM EXERCISE PROGRAM.

"(a) IN GENERAL.—The Secretary, through the Office for Domestic Preparedness, shall establish a National Terrorism Exercise Program for the purpose of testing and evaluating the Nation's capabilities to prevent, pre-

pare for, respond to, and recover from threatened or actual acts of terrorism that—

"(1) enhances coordination for terrorism preparedness between all levels of government, emergency response providers, international governments and organizations, and the private sector;

"(2) is—

"(A) multidisciplinary in nature, including, as appropriate, information analysis and cybersecurity components;

"(B) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

"(C) carried out with the minimum degree of notice to involved parties regarding the timing and details of such exercises, consistent with safety considerations;

"(D) evaluated against performance measures and followed by corrective action to solve identified deficiencies; and

"(E) assessed to learn best practices, which shall be shared with appropriate Federal, State, territorial, regional, local, and tribal personnel, authorities, and training institutions for emergency response providers; and

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

"(A) conform to the requirements of paragraph (2); and

"(B) are consistent with any applicable State homeland security strategy or plan.

"(b) NATIONAL LEVEL EXERCISES.—The Secretary, through the National Terrorism Exercise Program, shall perform on a periodic basis national terrorism preparedness exercises for the purposes of—

"(1) involving top officials from Federal, State, territorial, local, tribal, and international governments, as the Secretary considers appropriate;

"(2) testing and evaluating, in coordination with the Attorney General, the Nation's capability to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction; and

"(3) testing and evaluating the Nation's readiness to respond to and recover from catastrophic acts of terrorism, especially those involving weapons of mass destruction.

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

(a) and (b), the Secretary shall consult with a geographic (including urban and rural) and substantive cross section of governmental and nongovernmental first responder disciplines, including as appropriate—

"(1) Federal, State, and local first responder training institutions;

"(2) representatives of emergency response providers; and

"(3) State and local officials with an expertise in terrorism preparedness.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title VIII the following:

"Subtitle J—Terrorism Preparedness Exercises

"Sec. 899a. National terrorism exercise program.".

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

(1) involving top officials from Federal, State, territorial, local, tribal, and international governments as the Secretary considers appropriate; and

(2) testing and evaluating, in coordination with the Attorney General, the Nation's capability to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction.

SEC. 302. TECHNOLOGY DEVELOPMENT AND TRANSFER.

(a) ESTABLISHMENT OF TECHNOLOGY CLEARINGHOUSE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall complete the establishment of the Technology Clearinghouse under section 313 of the Homeland Security Act of 2002.

(b) TRANSFER PROGRAM.—Section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) is amended—

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

''(6) The establishment of a homeland security technology transfer program to facilitate the identification, modification, and commercialization of technology and equipment for use by Federal, State, and local governmental agencies, emergency response providers, and the private sector to prevent, prepare for, or respond to acts of terrorism.'';

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (b) the following new subsections:

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

"(1) identifying available technologies that have been, or are in the process of being, developed, tested, evaluated, or demonstrated by the Department, other Federal agencies, the private sector, or foreign governments and international organizations, and reviewing whether such technologies may be useful in assisting Federal, State, and local governmental agencies, emergency response providers, or the private sector to prevent, prepare for, or respond to acts of terrorism; and

"(2) communicating to Federal, State, and local governmental agencies, emergency response providers, or the private sector the availability of such technologies for antiterrorism use, as well as the technology's specifications, satisfaction of appropriate standards, and the appropriate grants available from the Department to purchase such technologies;

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

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

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

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

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

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

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

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

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

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

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

"(A) representatives from the Department of Defense or retired military officers;

"(B) nongovernmental organizations or private companies that are engaged in the research, development, testing, or evaluation of related technologies or that have demonstrated prior experience and success in searching for and identifying technologies for Federal agencies;

"(C) Federal, State, and local emergency response providers; and

"(D) to the extent the Secretary considers appropriate, other organizations, other interested Federal, State, and local agencies, and other interested persons.".

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Science and Technology shall transmit to the appropriate congressional committees a description of the progress the Department has made in implementing the provisions of section 313 of the Homeland Security Act of 2002, as amended by this Act, including a description of the process used to review unsolicited proposals received as described in subsection (b)(3) of such section.

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

SEC. 303. REVIEW OF ANTITERRORISM ACQUISITIONS.

(a) STUDY.—The Secretary of Homeland Security shall conduct a study of all Department of Homeland Security procurements, including ongoing procurements and anticipated procurements, to—

(1) identify those that involve any product, equipment, service (including support services), device, or technology (including information technology) that is being designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause; and

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

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

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

(2) listing each such product, equipment, service (including support services), device, and technology in order of priority for deployment in accordance with current terrorism risk assessment information; and

(3) setting forth specific actions taken, or to be taken, to encourage or require persons or entities that sell or otherwise provide such products, equipment, services (including support services), devices, and technologies to apply for the litigation and risk management protections of subtitle G of title VIII of the Homeland Security Act of 2002, and to ensure prioritization of the Department's review of such products, equipment, services, devices, and technologies under such Act in accordance with the prioritization set forth in paragraph (2) of this subsection.

SEC. 304. CENTER OF EXCELLENCE FOR BORDER SECURITY.

The Secretary of Homeland Security shall establish a university-based Center of Excellence for Border Security following the merit-review processes and procedures and other limitations that have been established for selecting and supporting University Programs Centers of Excellence. The Center shall prioritize its activities on the basis

of risk to address the most significant threats, vulnerabilities, and consequences posed by the Nation's borders and border control systems. The activities should include the conduct of research, the examination of existing and emerging border security technology and systems, and the provision of education, technical, and analytical assistance for the Department of Homeland Security to effectively secure the Nation's borders.

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

(a) DESIGNATION OF NEW FOREIGN SEAPORTS.—The Secretary of Homeland Security may designate a foreign seaport as a participating seaport in the Container Security Initiative program on or after the date of the enactment of this Act if the Secretary—

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

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

Department of State and other appropriate Federal agencies to—

(A) establish security criteria to identify the potential compromise by terrorists or terrorist weapons of maritime cargo containers bound for the United States based on advance information; and

(B) screen or inspect such maritime cargo containers for potential compromise by terrorists or terrorist weapons prior to shipment to the United States.

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

(1) DEPLOYMENT.—The Secretary may—

(A) loan or otherwise provide nonintrusive inspection equipment for maritime cargo containers, on a nonreimbursable basis, at a seaport designated under subsection(a); and

(B) provide training for personnel at a seaport designated under subsection (a) to operate the nonintrusive inspection equipment.

(2) ADDITIONAL REQUIREMENTS.—

(A) CAPABILITY REQUIREMENTS AND OPERATING PROCEDURES.—The Secretary shall establish technical capability requirements and

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

(B) AGREEMENT REQUIRED.—The Secretary shall require each CSI port to agree to operate such equipment in accordance with requirements and procedures established under subparagraph (A) as a condition for receiving the equipment and training under paragraph (1).

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

(1) DEPLOYMENT.—The Secretary shall deploy United States Customs and Border Protection personnel to each seaport designated under subsection (a) with respect to which the Secretary determines that the deployment is necessary to successfully implement the requirements of CSI at the port.

(2) REEVALUATION.—The Secretary shall periodically review relevant risk assessment information with respect to each seaport at which personnel are deployed under paragraph (1) to assess whether or

not continued deployment of such personnel, in whole or in part, is necessary to success fully implement the requirements of CSI at the port.

(d) INSPECTION AND SCREENING AT UNITED STATES PORTS OF ENTRY.—Cargo containers arriving at a United States port of entry from a CSI port shall undergo the same level of inspection and screening for potential compromise by terrorists or terrorist weapons as cargo containers arriving at a United States port of entry from a foreign seaport that is not participating in CSI unless the containers were initially inspected at the CSI port at the request of personnel deployed under subsection (c) and such personnel verify and electronically record that the inspection indicates that the containers have not been compromised by terrorists or terrorist weapons.

SEC. 306. SECURITY OF MARITIME CARGO CONTAINERS.

(a) STANDARDS AND REGULATIONS.—

(1) STANDARDS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish standards and procedures for securing maritime cargo containers relating to obligation to seal, recording of seal changes, modal changes, seal placement, ocean carrier seal verification, and addressing seal anomalies. These standards shall include the standards for

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

(2) REGULATIONS.—No later than 90 days after completion of the requirements in subsection (a), the Secretary of Homeland Security shall issue regulations for the security of maritime cargo containers consistent with the standards developed in subsection (a).

(b) INTERNATIONAL AGREEMENTS.—The Secretary, in consultation with the Department of State, Department of Commerce, Department of Treasury, Office of the United States Trade Representative, and other appropriate Federal agencies, shall seek to enter into agreements with foreign countries and international organizations to establish standards for the security of maritime cargo containers moving within the intermodal transportation system that, to the maximum extent practicable, meet the requirements of subsection (a).

(c) CONTAINER TARGETING STRATEGY.—The Secretary shall develop a strategy to improve the ability of the Department of Homeland Security to use advance cargo information to identify anomalies in such information to determine whether such cargo poses a security risk. The strategy shall include a method of contacting shippers

to verify or explain any anomalies discovered in such information.

(d) CONTAINER SECURITY DEMONSTRATION PROGRAM.—

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

(2) REQUIREMENT.—The demonstration program shall also evaluate ways to strengthen the capability of Department of Homeland Security personnel to analyze cargo inspection data and ways to improve the transmission of inspection data between appropriate entities within the Department of Homeland Security.

(e) COORDINATION AND CONSOLIDATION OF CONTAINER SECURITY PROGRAMS.—The Secretary shall coordinate all programs that enhance the security of maritime cargo, and, to the extent practicable, consolidate Operation Safe Commerce, the Smart Box Initiative, and similar programs that evaluate security enhancements for maritime cargo containers, to achieve enhanced coordination and efficiency. The Secretary shall report to the ap-

propriate congressional committees (as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) before consolidating any program mentioned in this subsection.

SEC. 307. SECURITY PLAN FOR GENERAL AVIATION AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

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

SEC. 308. INTEROPERABLE COMMUNICATIONS ASSISTANCE.

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

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

(2) Many jurisdictions across the country still experience difficulties communicating that may contribute to confusion, delays, or added risks when responding to an emergency.

(3) During fiscal year 2004, the Office for Domestic Preparedness awarded over $834,000,000 for

2,912 projects through Department of Homeland Security grant programs for the purposes of improving communications interoperability.

(4) Interoperable communications systems are most effective when designed to comprehensively address, on a regional basis, the communications of all types of public safety agencies, first responder disciplines, and State and local government facilities.

(5) Achieving communications interoperability is complex due to the extensive training, system modifications, and agreements among the different jurisdictions that are necessary to implement effective communications systems.

(6) The Congress authorized the Department of Homeland Security to create an Office for Interoperability and Compatibility in the Intelligence Reform and Terrorism Prevention Act of 2004 to, among other things, establish a comprehensive national approach, coordinate federal activities, accelerate the adoption of standards, and encourage research and development to achieve interoperable communications for first responders.

(7) The Office for Interoperability and Compatibility includes the SAFECOM Program that serves as the umbrella program within the Federal govern-

ment to improve public safety communications interoperability, and has developed the RAPIDCOM program, the Statewide Communications Interoperability Planning Methodology, and a Statement of Requirements to provide technical, planning, and purchasing assistance for Federal departments and agencies, State and local governments, and first responders.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Department of Homeland Security should implement as expeditiously as possible the initiatives assigned to the Office for Interoperability and Compatibility under section 7303 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194), including specifically the following:

(1) Establishing a comprehensive national approach to achieving public safety interoperable communications.

(2) Issuing letters of intent to commit future funds for jurisdictions through existing homeland security grant programs to applicants as appropriate to encourage long-term investments that may significantly improve communications interoperability.

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

tablishment of consistent, secure, and effective interoperable communications capabilities.

(4) Completing the report to the Congress on the Department's plans for accelerating the development of national voluntary consensus standards for public safety interoperable communications, a schedule of milestones for such development, and achievements of such development, by no later than 30 days after the date of enactment of this Act.

SEC. 309. REPORT TO CONGRESS ON IMPLEMENTATION OF RECOMMENDATIONS REGARDING PROTECTION OF AGRICULTURE.

The Secretary of Homeland Security shall report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) by no later than 120 days after the date of the enactment of this Act regarding how the Department of Homeland Security will implement the applicable recommendations from the Government Accountability Office report entitled ''Homeland Security: Much is Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain'' (GAO–05–214).

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

(a) PASSENGER SEATING REQUIREMENTS.—Passengers on commercial flights arriving at and departing from Ronald Reagan Washington National Airport shall remain seated for 15 minutes after takeoff from and before touchdown at that airport.

(b) VIOLATIONS.—If a passenger violates the requirements of subsection (a), the captain of the aircraft shall determine if the passenger's actions present a security threat to other passengers or the aircraft. Only if the captain determines that the passenger's actions present such a threat shall a flight be diverted to a destination other than Ronald Reagan Washington National Airport.

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

SEC. 310A. FEDERAL FLIGHT DECK OFFICERS.

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

"(3) LOCATION OF TRAINING.—

"(A) STUDY.—The Secretary shall conduct a study of the feasibility of conducting Federal flight deck officer initial training at facilities located throughout the United States, including

an analysis of any associated programmatic impacts to the Federal flight deck officer program.

"(B) REPORT.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall transmit to Congress a report on the results of the study.

"(4) DATES OF TRAINING.—The Secretary shall ensure that a pilot who is eligible to receive Federal flight deck officer training is offered, to the maximum extent practicable, a choice of training dates and is provided at least 30 days advance notice of the dates.

"(5) TRAVEL TO TRAINING FACILITIES.—The Secretary shall establish a program to improve travel access to Federal flight deck officer training facilities through the use of charter flights or improved scheduled air carrier service.

"(6) REQUALIFICATION AND RECURRENT TRAINING.—

"(A) STANDARDS.—The Secretary shall establish qualification standards for facilities where Federal flight deck officers can receive requalification and recurrent training.

"(B) LOCATIONS.—The Secretary shall provide for requalification and recurrent training at geographically diverse facilities, including Federal, State, and local law enforcement and government facilities, and private training facilities that meet the qualification standards established under subparagraph (A).

"(7) COSTS OF TRAINING.—

"(A) IN GENERAL.—The Secretary shall provide Federal flight deck officer training, requalification training, and recurrent training to eligible pilots at no cost to the pilots or the air carriers that employ the pilots.

"(B) TRANSPORTATION AND EXPENSES.—The Secretary may provide travel expenses to a pilot receiving Federal flight deck officer training, requalification training, or recurrent training.

"(8) COMMUNICATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall establish a secure means for personnel of the Transportation Security Administration to communicate with Federal flight deck officers, and for Federal flight deck officers to communicate with each other, in support of the mission of

such officers. Such means of communication may include a secure Internet website.

"(9) ISSUANCE OF BADGES.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue badges to Federal flight deck officers.".

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

"(4) REVOCATION.—

"(A) ORDERS.—The Assistant Secretary of Homeland Security (Transportation Security Administration) may issue, for good cause, an order revoking the deputization of a Federal flight deck officer under this section. The order shall include the specific reasons for the revocation.

"(B) HEARINGS.—An individual who is adversely affected by an order of the Assistant Secretary under subparagraph (A) is entitled to a hearing on the record. When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact

or interpretations of laws and regulations of the Assistant Secretary.

"(C) APPEALS.—An appeal from a decision of an administrative law judge as a result of a hearing under subparagraph (B) shall be made to the Secretary or the Secretary's designee.

"(D) JUDICIAL REVIEW OF A FINAL ORDER.—The determination and order of the Secretary revoking the deputization of a Federal flight deck officer under this section shall be final and conclusive unless the individual against whom such an order is issued files an application for judicial review under subchapter II of chapter 5 of title 5 (popularly known as the Administrative Procedure Act) within 60 days of entry of such order in the appropriate United States court of appeals.".

(c) FEDERAL FLIGHT DECK OFFICER FIREARM CARRIAGE PILOT PROGRAM.—Section 44921(f) of title 49, United States Code, is amended by adding at the end the following:

"(4) PILOT PROGRAM.—

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

graph, the Secretary shall implement a pilot program to allow pilots participating in the Federal flight deck officer program to transport their firearms on their persons. The Secretary may prescribe any training, equipment, or procedures that the Secretary determines necessary to ensure safety and maximize weapon retention.

"(B) REVIEW.—Not later than 1 year after the date of initiation of the pilot program, the Secretary shall conduct a review of the safety record of the pilot program and transmit a report on the results of the review to Congress.

"(C) OPTION.—If the Secretary as part of the review under subparagraph (B) determines that the safety level obtained under the pilot program is comparable to the safety level determined under existing methods of pilots carrying firearms on aircraft, the Secretary shall allow all pilots participating in the Federal flight deck officer program the option of carrying their firearm on their person subject to such requirements as the Secretary determines appropriate.".

(d) FEDERAL FLIGHT DECK OFFICERS ON INTERNATIONAL FLIGHTS.—

(1) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The President is encouraged to pursue aggressively agreements with foreign governments to allow maximum deployment of Federal flight deck officers on international flights.

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

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

(1) in subsection (a) by striking ''Under Secretary of Transportation for Security'' and inserting ''Secretary of Homeland Security'';

(2) by striking ''Under Secretary'' each place it appears and inserting ''Secretary''; and

(3) by striking ''Under Secretary's'' each place it appears and inserting ''Secretary's''.

Subtitle B—Department of Homeland Security Cybersecurity Enhancement

SEC. 311. SHORT TITLE.

This subtitle may be cited as the ''Department of Homeland Security Cybersecurity Enhancement Act of 2005''.

SEC. 312. ASSISTANT SECRETARY FOR CYBERSECURITY.

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

(1) by redesignating paragraph (3) as paragraph (4); and

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

''(3) ASSISTANT SECRETARY FOR CYBERSECURITY.—There shall be in the Department an Assistant Secretary for Cybersecurity, who shall be appointed by the President.''; and

(3) in paragraph (4), as redesignated by subparagraph (A) of this paragraph—

(A) by striking ''Analysis and the'' and inserting ''Analysis, the''; and

(B) by striking ''Protection shall'' and inserting ''Protection, and the Assistant Secretary for Cybersecurity shall''.

SEC. 313. CYBERSECURITY TRAINING PROGRAMS AND EQUIPMENT.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Assistant Secretary for Cybersecurity, may establish, in conjunction with the National Science Foundation, a program to award grants to institutions of higher education (and consortia thereof) for—

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

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

(3) the purchase of equipment to provide training in cybersecurity for either professional development programs or degree programs.

(b) ROLES.—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary, acting through the Assistant Secretary for Cybersecurity and in consultation with the Director of the National Science Foundation, shall establish the goals for the program established under this section and the criteria for awarding grants under the program.

(2) NATIONAL SCIENCE FOUNDATION.—The Director of the National Science Foundation shall operate the program established under this section

consistent with the goals and criteria established under paragraph (1), including soliciting applicants, reviewing applications, and making and administering grant awards. The Director may consult with the Assistant Secretary for Cybersecurity in selecting awardees.

(3) FUNDING.—The Secretary shall transfer to the National Science Foundation the funds necessary to carry out this section.

(c) GRANT AWARDS.—

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

(2) FOCUS.—In making grant awards under this section, the Director shall, to the extent practicable, ensure geographic diversity and the participation of women and underrepresented minorities.

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

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

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

(e) DEFINITIONS.—In this section, the term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

SEC. 314. CYBERSECURITY RESEARCH AND DEVELOPMENT.

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

''SEC. 314. CYBERSECURITY RESEARCH AND DEVELOPMENT.

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

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

''(1) advance the development and accelerate the deployment of more secure versions of fundamental Internet protocols and architectures, includ-

ing for the domain name system and routing protocols;

"(2) improve and create technologies for detecting attacks or intrusions, including monitoring technologies;

"(3) improve and create mitigation and recovery methodologies, including techniques for containment of attacks and development of resilient networks and systems that degrade gracefully; and

"(4) develop and support infrastructure and tools to support cybersecurity research and development efforts, including modeling, testbeds, and data sets for assessment of new cybersecurity technologies.

"(c) COORDINATION.—In carrying out this section, the Under Secretary for Science and Technology shall coordinate activities with—

"(1) the Assistant Secretary for Cybersecurity; and

"(2) other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, the Information Assurance Directorate of the National Security Agency, and the National Institute of Standards and Tech-

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

"(d) NATURE OF RESEARCH.—Activities under this section shall be carried out in accordance with section 306(a) of this Act.".

Subtitle C—Security of Public Transportation Systems

SEC. 321. SECURITY BEST PRACTICES.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall issue a report containing best practices for the security of public transportation systems related to the threats from terrorism. Such report shall be developed in consultation with providers of public transportation, industry associations, public transportation employee representatives, first responders, and appropriate Federal, State, and local officials. The Secretary of Transportation shall disseminate the report to providers of public transportation, industry associations, public transportation employee representatives, and appropriate Federal, State, and local officials, the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives, and any other appropriate entities.

SEC. 322. PUBLIC AWARENESS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation, after consultation with the Secretary of Homeland Security, shall develop a national plan to increase awareness of measures that the general public, public transportation passengers, and public transportation employees can take to increase public transportation security related to the threat of terrorism. Such plan shall also provide outreach to providers and employees of public transportation systems on available transportation security technologies, ongoing research and development efforts, employee training, and available Federal funding sources to improve public transportation security. Not later than 9 months after the date of the enactment of this Act, the Secretary of Transportation shall disseminate the plan to providers of public transportation, industry associations, public transportation employee representatives, appropriate Federal, State, and local officials, and other appropriate entities.

Subtitle D—Critical Infrastructure Prioritization

SEC. 331. CRITICAL INFRASTRUCTURE.

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

prioritization of the Nation's critical infrastructure according to all of the following criteria:

(1) The threat of terrorist attack, based on threat information received and analyzed by the Office of Information Analysis of the Department regarding the intentions and capabilities of terrorist groups and other potential threats to the Nation's critical infrastructure.

(2) The likelihood that an attack would cause the destruction or significant disruption of such infrastructure.

(3) The likelihood that an attack would result in substantial numbers of deaths and serious bodily injuries, a substantial adverse impact on the national economy, or a substantial adverse impact on national security.

(b) COORDINATION AND COOPERATION.—

(1) COORDINATION.—The Secretary shall coordinate the prioritization under this section with other relevant Federal agencies.

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

SEC. 332. SECURITY REVIEW.

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

(1) review existing Federal, State, local, tribal, and private sector plans for securing the critical infrastructure included in the prioritization developed under section 331;

(2) recommend changes to existing plans for securing such infrastructure, as the Secretary determines necessary; and

(3) coordinate and contribute to protective efforts of other Federal, State, local, and tribal agencies and the private sector, as appropriate.

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

(1) protective measures to secure such infrastructure, including milestones and timeframes for implementation; and

(2) to the extent practicable, performance metrics to evaluate the benefits to both national security and the Nation's economy from the implementation of such protective measures.

(c) COORDINATION.—The Secretary shall coordinate the security review and recommendations required by subsection (a) with other relevant Federal agencies.

SEC. 333. IMPLEMENTATION REPORT.

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

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

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

(b) UPDATE.—Not later than 1 year after the submission of the report under subsection (a), the Secretary shall provide an update of such report to the congressional committees described in subsection (a).

SEC. 334. PROTECTION OF INFORMATION.

(a) PROTECTION OF INFORMATION.—The information set forth in subsection (b) that is generated, compiled, or disseminated by the Department of Homeland Security in carrying out this subtitle—

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

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

(A) be made available pursuant to any State or local law requiring disclosure of information or records;

(B) otherwise be disclosed or distributed to any person by such State or local government or government agency without the written consent of the Secretary; or

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

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

(1) The Secretary's prioritization of critical infrastructure pursuant to section 331, including any information upon which such prioritization was based;

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

(3) The Secretary's recommendations for changes to existing plans for securing such infrastructure pursuant to section 332(a)(2).

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

(5) The report and update prepared by the Secretary pursuant to section 333, including any information upon which such report and update are based.

TITLE IV—U.S. CUSTOMS AND BORDER PROTECTION AND U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

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

Section 334 of the Customs and Border Security Act of 2002 (19 U.S.C. 2082 note) is amended to read as follows:

"SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.

"(a) ESTABLISHMENT AND IMPLEMENTATION; CUSTOMS AND BORDER PROTECTION.—

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

port of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—

"(A) for expenses incurred in both commercial and noncommercial operations of U.S. Customs and Border Protection of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations; and

"(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.

"(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the oper-

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

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

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

"(A) for expenses incurred in both commercial and noncommercial operations of U.S. Immigration and Customs Enforcement of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations; and

"(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.

"(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the amount of time spent on the operation by personnel of U.S. Immigration and Customs Enforcement, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.

"(c) REPORTS.—

"(1) DEVELOPMENT OF THE COST ACCOUNTING SYSTEMS.—Beginning on the date of the enactment of the Department of Homeland Security Authorization Act for Fiscal Year 2006 and ending on the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the

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

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

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

SEC. 402. REPORT RELATING TO ONE FACE AT THE BORDER INITIATIVE.

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

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

(2) providing a breakdown of the number of personnel of U.S. Customs and Border Protection that were personnel of the United States Customs Service prior to the establishment of the Department of Homeland Security, that were personnel of the Immigration and Naturalization Service prior to the establishment of the Department of Homeland Security, and that were hired after the establishment of the Department of Homeland Security;

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

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

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

SEC. 403. CUSTOMS SERVICES.

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

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

"(1) IN GENERAL.—

"(A) SCHEDULED FLIGHTS.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2))."; and

(2) by adding at the end the following:

"(B) CHARTER FLIGHTS.—If a charter air carrier (as defined in section 40102(13) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are

not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the charter air carrier.''.

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

It is the sense of Congress that U.S. Customs and Border Protection of the Department of Homeland Security should interpret, implement, and enforce the provisions of section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), and section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703), relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of such articles from eligible beneficiary countries.

SEC. 405. IMPROVING SENTRI, FAST, AND NEXUS PRE-ENROLLMENT PROGRAMS.

(a) CREATION OF REMOTE ENROLLMENT CENTERS.—

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

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

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

(B) The Secure Electronic Network for Travelers Rapid Inspection, or ''SENTRI'', program authorized under section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)).

(C) The ''NEXUS'' program authorized under section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)).

(b) CUSTOMER SERVICE PHONE NUMBER.—The Secretary shall create a customer service telephone number for the programs described in subsection (a)(2).

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

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

TITLE V—MISCELLANEOUS

SEC. 501. BORDER SECURITY AND ENFORCEMENT COORDINATION AND OPERATIONS.

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

(1) As part of the creation of the Department of Homeland Security, section 442 of the Homeland Security Act of 2002 (Public Law 107–273) established a Bureau of Border Security and transferred into it all of the functions, programs, personnel, assets, and liabilities pertaining to the following programs: the Border Patrol; alien detention and removal; immigration-related intelligence, investigations, and enforcement activities; and immigration inspections at ports of entry.

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

(3) Utilizing its reorganization authority provided in the Homeland Security Act of 2002, the President submitted a reorganization plan for the Department on January 30, 2003.

(4) This plan merged the customs and immigration border inspection and patrol functions, along with agricultural inspections functions, into a new entity called United States Customs and Border Protection.

(5) The plan also combined the customs and immigration enforcement agents, as well as the Office of Detention and Removal Operations, the Office of Federal Protective Service, the Office of Federal Air Marshal Service, and the Office of Intelligence, into another new entity called United States Immigration and Customs Enforcement.

(6) The President's January 30, 2003, reorganization plan did not explain the reasons for separating immigration inspection and border patrol functions from other immigration-related enforcement functions, or to combine immigration-related enforcement functions with customs and other functions, contrary to the design of the Bureau of Border Security as prescribed by the Congress in section 442 of the Homeland Security Act of 2002.

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

(b) REPORT.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall review and evaluate the current organizational structure of the Department of Homeland Security established by the President's January 30, 2003, reorganization plan and submit a report of findings and recommendations to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).

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

(A) a description of the rationale for, and any benefits of, the current organizational division of United States Immigration and Customs Enforcement and United States Customs and

1 Border Protection, with respect to the Depart-
2 ment's immigration and customs missions;
3 (B) a description of the organization, mis-
4 sions, operations, and policies of United States
5 Customs and Border Protection and United
6 States Immigration and Customs Enforcement,
7 and areas of unnecessary overlap or operational
8 gaps among and between these missions;
9 (C) a description of the rationale for, and
10 any benefits of, the current organizational com-
11 bination of immigration-related enforcement
12 functions with customs and other functions;
13 (D) an analysis of alternative organiza-
14 tional structures that could provide a more ef-
15 fective way to deliver maximum efficiencies and
16 mission success;
17 (E) a description of the current role of the
18 Directorate of Border and Transportation Secu-
19 rity with respect to providing adequate direction
20 and oversight of the two agencies, and whether
21 this management structure is still necessary;
22 (F) an analysis of whether the Federal Air
23 Marshals and the Federal Protective Service are
24 properly located within the Department within

United States Immigration and Customs Enforcement;

(G) the proper placement and functions of a specialized investigative and patrol unit operating at the southwest border on the Tohono O'odham Nation, known as the Shadow Wolves;

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

(I) recommendations for correcting the operational and administrative problems that have been caused by the division of United States Custom and Border Protection and United States Immigration and Customs Enforcement and by the combination of immigration-related enforcement functions with customs and other functions in both entities, including any appropriate reorganization plans.

SEC. 502. GAO REPORT TO CONGRESS.

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

(1) an assessment of the effectiveness of the organizational and management structure of the Department of Homeland Security in meeting the Department's missions as set forth in section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)); and

(2) recommendations to facilitate and improve the organization and management of the Department to best meet those missions.

(b) CYBERSECURITY ASSESSMENT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit a report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) that sets forth an assessment of the effectiveness of the efforts of the Assistant Secretary for Cybersecurity to fulfill the statutory responsibilities of that office.

SEC. 503. PLAN TO REDUCE WAIT TIMES.

Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall develop a plan—

(1) to improve the operational efficiency of security screening checkpoints at commercial service airports so that average peak waiting periods at such checkpoints do not exceed 20 minutes; and

(2) to ensure that there are no significant disparities in immigration and customs passenger processing times among airports that serve as international gateways.

SEC. 504. DENIAL OF TRANSPORTATION SECURITY CARD.

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

(1) in paragraph (3) by inserting before the period ''before an administrative law judge''; and

(2) by adding at the end the following:

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

''(A) that felony occurred more than 7 years prior to the date of the Secretary's determination; and

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

SEC. 505. TRANSFER OF EXISTING CUSTOMS PATROL OFFICERS UNIT AND ESTABLISHMENT OF NEW CPO UNITS IN THE BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT.

(a) TRANSFER OF EXISTING UNIT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall transfer to the Bureau of Immigration and Customs Enforcement all functions (including the personnel, assets, and obligations held by or available in connection with such functions) of the Customs Patrol Officers unit of the Bureau of Customs and Border Protection operating on the Tohono O'odham Indian reservation (commonly known as the 'Shadow Wolves' unit).

(b) ESTABLISHMENT OF NEW UNITS.—The Secretary is authorized to establish within the Bureau of Immigration and Customs Enforcement additional units of Customs Patrol Officers in accordance with this section.

(c) DUTIES.—The Customs Patrol Officer unit transferred pursuant to subsection (a) and the additional units established pursuant to subsection (b) shall be responsible for the prevention of the smuggling of narcotics, weapons of mass destruction, and other contraband, and the illegal trafficking of persons, on Indian lands.

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

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

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

SEC. 506. DATA COLLECTION ON USE OF IMMIGRATION CONSULTANTS.

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

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

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

SEC. 507. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

The Homeland Security Act of 2002 is amended—

(1) in section 801—

(A) in the section heading, by striking "**STATE AND LOCAL**" and inserting "**STATE, LOCAL, AND TRIBAL**";

(B) in subsection (a), by striking "State and Local" and inserting "State, Local, and Tribal"; and

(C) in subsection (b), by striking "State and local" each place it appears and inserting "State, local, and tribal"; and

(2) in section 1(b) in the table of contents by striking the item relating to section 801 and inserting the following:

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

SEC. 508. STUDY OF MODIFICATION OF AREA OF JURISDICTION OF OFFICE OF NATIONAL CAPITAL REGION COORDINATION.

(a) STUDY.—The Secretary of Homeland Security, acting through the Director of the Office of National Capital Region Coordination, shall conduct a study of the feasibility and desirability of modifying the definition of "National Capital Region" applicable under section 882 of the Homeland Security Act of 2002 to update the geographic area under the jurisdiction of the Office of National Capital Region Coordination.

(b) FACTORS.—In conducting the study under subsection (a), the Secretary shall analyze whether modifying the geographic area under the jurisdiction of the Office of National Region Coordination will—

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

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

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a), and shall include in the report such recommendations (including recommendations for legislation to amend section 882 of the Homeland Security Act of 2002) as the Secretary considers appropriate.

SEC. 509. AUTHORITY OF OTHER FEDERAL AGENCIES UNAFFECTED.

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

SEC. 510. CENTERS OF EXCELLENCE.

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

"(F) A center under this paragraph may include participation of a Department of Energy laboratory, including in the preparation of a proposal.".

SEC. 511. REPORT TO CONGRESS ON UNIFORM AND IDENTIFICATION SECURITY.

(a) DEFINITION.—For the purpose of this section, the term "forms of Homeland Security identification" means any uniform, badge, identification card, or other apparel or insignia of the design prescribed by the Department of Homeland Security for use by any officer or employee of such Department.

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

(1) describing the efforts taken by the Department of Homeland Security—

(A) to curtail the production of imitation forms of Homeland Security identification, including efforts to improve the design of the various forms of Homeland Security identification to prevent unauthorized replication; and

(B) to increase public awareness of the existence of imitation forms of Homeland Security identification, and educate the public about means by which to identify bona fide forms of Homeland Security identification;

(2) assessing the effectiveness of the efforts described in paragraph (1); and

(3) recommending any legislation or administrative actions necessary to achieve the objectives described in subparagraphs (A) and (B), respectively, of paragraph (1).

SEC. 512. BORDER SURVEILLANCE.

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

(b) CONTENTS.—The plan submitted under subsection (a) shall include—

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

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

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

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

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

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

(E) further validating and testing of remotely piloted aircraft for airspace security missions;

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

(7) a recommendation regarding whether to expand the pilot program along the entire northern border.

(c) IMPLEMENTATION.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as a pilot program as soon as sufficient funds are appropriated and available for this purpose.

SEC. 513. ADVANCED TECHNOLOGY NORTHER BORDER SECURITY PILOT PROGRAM.

Section 5101 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1712 note) is amended by striking ''The Secretary of Homeland Security may carry out'' and inserting ''To the extent funds are provided in advance in appropriations Acts, the Secretary of Homeland Security shall carry out''.

SEC. 514. GAO STUDY OF PROPOSALS TO INCREASE TEMPORARY PROTECTED STATUS REGISTRATION FEE.

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

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

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

(2) project the cost at which such fee would be set if it were calculated consistent with the manner in which the Department of Homeland Security calculates fees under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m));

(3) taking into account the countries of nationality of the current population of beneficiaries of section 244 and the lack of work authorization that such beneficiaries have while awaiting the outcome of an adjudication, assess the ability of the current population of beneficiaries under section 244 to pay such fee if it were increased to the level projected pursuant to paragraph (2);

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

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

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

SEC. 515. GAO STUDY OF CONSEQUENCES OF EXPANDING USE OF PREMIUM SERVICE FOR IMMIGRATION BENEFIT APPLICATIONS AND PETITIONS.

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

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

(1) shall consider and assess—

(A) all factors that help quantify and assess the current impact of premium processing

on immigration benefits adjudications of employment-based applications and petitions; and

(B) the degree to which the use of premium processing for employment-based applications and petitions has negatively or positively impacted the length of time that it takes to adjudicate employment-based applications and petitions that are eligible for treatment under section 286(u) of the Immigration and Nationality Act but for which no premium fee is paid; and

(2) shall assess—

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

(B) all other likely future impacts of an expansion of premium processing to family-based immigration benefits applications and petitions;

(C) the number of additional adjudicators needed to process premium processing applications;

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

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

SEC. 516. BUY AMERICAN REQUIREMENT FOR PROCUREMENTS OF GOODS CONTAINING COMPONENTS.

(a) REQUIREMENT.—Notwithstanding any agreement described in subsection (b), more than 50 percent of the components in any end product procured by the Department of Homeland Security that contains components shall be mined, produced, or manufactured inside the United States.

(b) AGREEMENTS DESCRIBED.—An agreement referred to in subsection (a) is any of the following:

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

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

SEC. 517. DISASTER ASSISTANCE FOR FUNERAL EXPENSES.

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

(1) develop criteria and guidelines for determining if a death is disaster-related; and

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

SEC. 518. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR OFFICE OF COUNTERNARCOTICS ENFORCEMENT AT DEPARTMENT OF HOMELAND SECURITY.

Section 7407(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3853) is amended by striking ''2005, there is authorized up to $6,000,000'' and inserting ''2005 or 2006, there is authorized up to $6,000,000 for each such fiscal year''.

SEC. 519. PROHIBITION AGAINST INCREASE IN SECURITY SERVICE FEES.

None of the funds authorized under this Act may be derived from an increase in security service fees established under section 44940 of title 49, United States Code.

SEC. 520. FEDERAL AFFIRMATION OF ASSISTANCE IN IMMIGRATION LAW ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS.

Notwithstanding any other provision of law and reaffirming the existing general authority, law enforcement personnel of a State or a political subdivision of a State are fully authorized to apprehend, detain, or remove aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purposes of assisting in the enforcement of the immigration laws of the United States in the course of carrying out routine duties. This State authority has never been displaced or preempted by the Congress.

SEC. 521. TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL IN ENFORCEMENT OF IMMIGRATION LAWS.

(a) TRAINING AND POCKET GUIDE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish—

(A) a training manual for law enforcement personnel of a State or political subdivision of a State to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of aliens in the United States (including the transpor-

tation of such aliens across State lines to detention centers and identification of fraudulent documents); and

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

(2) AVAILABILITY.—The training manual and pocket guide established in accordance with paragraph (1) shall be made available to all State and local law enforcement personnel.

(3) APPLICABILITY.—Nothing in this subsection shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide established in accordance with paragraph (1) with them while on duty.

(4) COSTS.—The Department of Homeland Security shall be responsible for any costs incurred in establishing the training manual and pocket guide under this subsection.

(b) TRAINING FLEXIBILITY.—

(1) IN GENERAL.—The Department of Homeland Security shall make training of State and local law enforcement officers available through as many

means as possible, including residential training at Federal facilities, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses.

(2) FEDERAL PERSONNEL TRAINING.—The training of State and local law enforcement personnel under this section shall not displace or otherwise adversely affect the training of Federal personnel.

(c) CLARIFICATION.—Nothing in this Act or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer exercising that officer's inherent authority to assist in the apprehension, arrest, detention, or transfer to Federal custody illegal aliens during the normal course of carrying out their law enforcement duties.

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

(1) by striking 'Attorney General' each place that term appears and inserting ''Secretary of Homeland Security''; and

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

Passed the House of Representatives May 18, 2005.

Attest:

Clerk.

109TH CONGRESS
1ST SESSION

H. R. 1817

AN ACT

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