COMMITTEE PRINT

JULY 11, 2002

[Showing provisions agreed to by
the Committee on Energy and Commerce
as provisions recommended for inclusion
in H.R. 5005, as reported]

107TH CONGRESS
2D Session

H. R. 5005

To establish the Department of Homeland Security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2002

Mr. Armey (for himself, Mr. Hastert, Mr. DeLay, Mr. Watts of Oklahoma, Mr. Cox, Ms. Pryce of Ohio, Mrs. Cubin, Mr. Tom Davis of Virginia, Mr. Blunt, Mr. Portman, Mr. Aderholt, Mr. Akin, Mr. Ballenger, Mr. Barr of Georgia, Mr. Bass, Mr. Bereuter, Mr. Boehlert, Mr. Bonilla, Mrs. Bono, Mr. Brady of Texas, Mr. Brown of South Carolina, Mr. Burton of Indiana, Mr. Buyer, Mr. Calvert, Mr. Camp, Mr. Cantor, Mrs. Capito, Mr. Castle, Mr. Chablis, Mr. Cooksey, Mr. Crenshaw, Mrs. Jo Ann Davis of Virginia, Mr. Dreier, Mr. DeMint, Ms. Dunn of Washington, Mr. Ehrlich, Mr. English, Mr. Ferguson, Mr. Forbes, Mr. Fossella, Mr. Ganske, Mr. Gekas, Mr. Gibbons, Mr. Gilman, Mr. Gillmor, Mr. Goode, Ms. Granger, Mr. Green of Wisconsin, Mr. Greenwood, Mr. Grucci, Mr. Hansen, Ms. Harman, Ms. Hart, Mr. Hastings of Washington, Mr. Hayes, Mr. Hayworth, Mr. Hefley, Mr. Herger, Mr. Hoekstra, Mr. Horn, Mr. Houghton, Mr. Issa, Mr. Jenkins, Mrs. Johnson of Connecticut, Mr. Keller, Mrs. Kelly, Mr. King, Mr. Kolbe, Mr. LaHood, Mr. Linder, Mr. McCrery, Mr. McKeon, Mr. Maloney of Connecticut, Mr. Manzullo, Mr. Dan Miller of Florida, Mr. Gary G. Miller of California, Mrs. Morella, Mrs. Myrick, Mr. Nussle, Mr. Osborne, Mr. Oxley, Mr. Pickering, Mr. Pitts, Mr. Putnam, Mr. Rehberg, Mr. Rohrabacher, Mr. Royce, Mrs. Roukema, Mr. Ryun of Kansas, Mr. Saxton, Mr. Schrock, Mr. Sensenbrenner, Mr. Sessions, Mr. Shaw, Mr. Shays, Mr. Sherwood, Mr. Simpson, Mr. Skeen, Mr. Souder, Mr. Sweeney, Mr. Tancredo, Mr. Tauzin, Mr. Thorn-
berry, Mr. Tiberi, Mr. Upton, Mr. Shimkus, Mr. Walden, Mr.
Wamp, Mr. Weldon of Pennsylvania, Mr. Weller, Mr. Whitfield,
Mr. Wicker, Mrs. Wilson of New Mexico, and Mr. Wilson of South
Carolina) (all by request) introduced the following bill; pursuant to House
Resolution 449, referred to the Select Committee on Homeland Security
for a period to be subsequently determined by the Speaker, and in addi-
tion to the Committees on Agriculture, Appropriations, Armed Services,
Energy and Commerce, Financial Services, Intelligence (Permanent Se-
lect), International Relations, the Judiciary, Science, Transportation and
Infrastructure, and Ways and Means, for a period ending not later than
July 12, 2002, in each case for consideration of such matters as fall with-
in the jurisdiction of the committee concerned

A BILL
To establish 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,
3
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
4 (a) Short Title.—This Act may be cited as the
5 “Homeland Security Act of 2002”.
6 (b) Table of Contents.—The table of contents for
7 this Act is as follows:

sec. 1. Short title; table of contents.
sec. 2. Definitions.
sec. 3. Construction; severability.
sec. 4. Effective date.

Title I—Department of Homeland Security

Sec. 101. Executive department; mission.
Sec. 102. Secretary; functions.
Sec. 103. Other officers.

Title II—Cybersecurity, Information Analysis, and
Infrastructural Protection

Sec. 201. Under Secretary for Cybersecurity, Information Analysis, and Infra-
structure Protection.
Sec. 202. Functions transferred.
Sec. 203. Access to information.
Sec. 204. Information voluntarily provided.
Sec. 205. Federal cybersecurity program.

TITLE III—RESEARCH, DEVELOPMENT AND TECHNOLOGY SYSTEMS

Sec. 301. Under Secretary for Research, Development, and Technology Systems.
Sec. 302. Functions transferred.
Sec. 303. Conduct of certain public health-related activities.
Sec. 304. Security at Federal research laboratories.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

Sec. 401. Under Secretary for Border and Transportation Security.
Sec. 402. Functions transferred.
Sec. 403. Visa issuance.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.
Sec. 502. Functions transferred.
Sec. 503. Nuclear incident response.
Sec. 504. Definition.

TITLE VI—MANAGEMENT

Sec. 601. Under Secretary for Management.
Sec. 602. Chief Financial Officer.
Sec. 603. Chief Information Officer.

TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; GENERAL PROVISIONS

Subtitle B—Inspector General

Sec. 710. Authority of the Secretary.

Subtitle C—United States Secret Service

Sec. 720. Functions transferred.

Subtitle D—General Provisions

Sec. 730. Establishment of human resources management system.
Sec. 731. Advisory committees.
Sec. 732. Acquisitions; property.
Sec. 733. Reorganization; transfer.
Sec. 734. Miscellaneous provisions.
Sec. 735. Authorization of appropriations.
Sec. 736. Military activities.
Sec. 737. Rule of construction regarding regulatory authority.
Sec. 738. Provisions regarding transfers from Department of Energy.

TITLE VIII—TRANSITION
Sec. 801. Definitions.
Sec. 802. Transfer of agencies.
Sec. 803. Transitional authorities.
Sec. 804. Savings provisions.
Sec. 805. Terminations.
Sec. 806. Incidental transfers.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

Sec. 901. Inspector General Act.
Sec. 902. Executive schedule.
Sec. 903. United States Secret Service.
Sec. 904. Coast Guard.
Sec. 905. Strategic national stockpile and smallpox vaccine development.
Sec. 906. Biological agents; Public Health Service Act.

SEC. 2. DEFINITIONS.

The following shall apply for purposes of this Act:

(1) The term “American homeland” or “homeland” means the United States, in a geographic sense.

(2) The term “assets” includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(3) The term “Department” means the Department of Homeland Security.

(4) The term “emergency response providers” includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical, and related personnel, agencies, and authorities.

(5) The term “executive agency” means an executive agency and a military department, as de-
fined, respectively, in sections 105 and 102 of title 5, United States Code.

(6) The term “functions” includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations.

(7) The term “local government” has the meaning given in section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288).

(8) The term “major disaster” has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288).

(9) The term “personnel” means officers and employees.

(10) The term “Secretary” means the Secretary of Homeland Security.

(11) The term “United States”, when used in a geographic sense, means any State (within the meaning of section 102(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288)), any possession of the United States, and any waters within the jurisdiction of the United States.
SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect thirty days after the date of enactment or, if enacted within thirty days before January 1, 2003, on January 1, 2003.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) MISSION.—(1) The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;
reduce the vulnerability of the United States to terrorism; and

(C) minimize the damage, and assist in the recovery, from terrorist attacks that occur within the United States.

(2) The Secretary shall also be responsible for carrying out the functions of entities transferred to the Department as provided by law.

SEC. 102. SECRETARY; FUNCTIONS.

(a) SECRETARY.—(1) There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) FUNCTIONS.—The Secretary—

(1) may delegate any of his functions to any officer, employee, or organizational unit of the Department;

(2) may promulgate regulations as provided in section 301 of title 5, United States Code; and

(3) shall have the authority to make contracts, grants, and cooperative agreements, and to enter
into agreements with other executive agencies, as
may be necessary and proper to carry out his re-
sponsibilities under this Act or otherwise provided by
law.

SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—

To assist the Secretary in the performance of his func-
tions, there are the following officers, appointed by the
President, by and with the advice and consent of the Sen-
ate:

(1) A Deputy Secretary of Homeland Security,
who shall be the Secretary’s first assistant for pur-
poses of chapter 33, subchapter 3, of title 5, United
States Code.

(2) An Under Secretary for Cybersecurity, In-
formation Analysis, and Infrastructure Protection.

(3) An Under Secretary for Research, Develop-
ment, and Technology Systems.

(4) An Under Secretary for Border and Trans-
portation Security.

(5) An Under Secretary for Emergency Pre-
paredness and Response.

(6) An Under Secretary for Management.

(7) Not more than six Assistant Secretaries.
(b) INSPECTOR GENERAL.—To assist the Secretary in the performance of his functions, there is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(c) COMMANDANT OF THE COAST GUARD.—To assist the Secretary in the performance of his functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code.

(d) OTHER OFFICERS.—To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President:

(1) A General Counsel, who shall be the chief legal officer of the Department.

(2) Not more than ten Assistant Secretaries.

(3) A Director of the Secret Service.

(4) A Chief Financial Officer.

(5) A Chief Information Officer.

(e) PERFORMANCE OF SPECIFIC FUNCTIONS.—Subject to the provisions of this Act, every officer of the department shall perform the functions specified by law for his office or prescribed by the Secretary.
TITLE II—CYBERSECURITY, INFORMATION ANALYSIS, AND INFRASTRUCTURE PROTECTION

SEC. 201. UNDER SECRETARY FOR CYBERSECURITY, INFORMATION ANALYSIS, AND INFRASTRUCTURE PROTECTION.

The Secretary, acting through the Under Secretary for Cybersecurity, Information Analysis, and Infrastructure Protection, shall have responsibility for—

(1) taking (with respect to those functions established under another Act and transferred to the Secretary by this Act) or seeking to effect necessary measures to protect the key resources and critical infrastructures in the United States, in coordination with other executive agencies and in cooperation with State and local government personnel, agencies, and authorities, the private sector, and other entities;

(2) receiving and analyzing law enforcement information, intelligence, and other information in order to understand the nature and scope of the terrorist threat to the American homeland and to detect and identify potential threats of terrorism within the United States;
(3) comprehensively assessing (in addition to, and not in lieu of, assessments collected, possessed, or prepared by other executive agencies) the vulnerabilities of the key resources and critical infrastructures in the United States to a terrorist attack or other intentional act intended to substantially disrupt the functioning of such resources and infrastructures;

(4) integrating relevant information, intelligence analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) to identify protective priorities and to support protective measures by the Department (with respect to those functions established under another Act and transferred to the Secretary by this Act), by other executive agencies, by State and local government personnel, agencies, and authorities, by the private sector, and by other entities;

(5) developing a comprehensive national plan for securing the key resources and critical infrastructures in the United States to a terrorist attack or other intentional act intended to substantially disrupt the functioning of such resources and infrastructure;
(6) administering the Homeland Security Advisory System, exercising primary responsibility for public advisories relating to terrorist threats, and (in coordination with other executive agencies) providing specific warning information to State and local government personnel, agencies, and authorities, the private sector, other entities, and the public, as well as advice about appropriate protective actions and countermeasures; and

(7) reviewing, analyzing, and making recommendations for improvements in the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to homeland security within the Federal Government and between such government and State and local government personnel, agencies, and authorities.

SEC. 202. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.
(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The Computer Security Division of the National Institute of Standards and Technology, including the functions of the Secretary of Commerce relating thereto.

(5) The energy security and assurance program and activities of the Department of Energy (including the National Infrastructure Simulation and Analysis Center), including the functions of the Secretary of Energy relating thereto.

(6) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

SEC. 203. ACCESS TO INFORMATION.

The Secretary shall have access to all reports, assessments, and analytical information relating to threats of terrorism in the United States, and to all information concerning the vulnerabilities of key resources and critical in-
1 frastructures, or other vulnerabilities, of the United States
to terrorism, whether or not such information has been
analyzed, that may be collected, possessed, or prepared by
any executive agency, except as otherwise directed by the
President. The Secretary shall also have access to other
information relating to the foregoing matters that may be
collected, possessed, or prepared by an executive agency,
as the President may further provide. With respect to the
material to which the Secretary has access under this
section—

(1) the Secretary may obtain such material by
request, and may enter into cooperative arrange-
ments with other executive agencies to share such
material on a regular or routine basis, including re-
quests or arrangements involving broad categories of
material;

(2) regardless of whether the Secretary has
made any request or entered into any cooperative ar-
angement pursuant to paragraph (1), all executive
agencies promptly shall provide to the Secretary—

(A) all intelligence reports, assessments,
and analytical information relating to threats of
terrorism in the United States;

(B) all information relating to significant
and credible threats of terrorism in the United
States, whether or not such information has been analyzed, if the President has provided that the Secretary shall have access to such information; and

(C) such other material as the President may further provide; and

(3) the Secretary shall ensure that—

(A) material to which the Secretary has access under this section is protected from disclosure to the extent provided under Federal laws other than this Act, and is handled and used only for the performance of official duties;

(B) such material that is intelligence information is transmitted, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act and related procedures; and

(C) such material that is sensitive law enforcement information is transmitted, retained, and disseminated consistent with the authority of the Attorney General under applicable law.

SEC. 204. INFORMATION VOLUNTARILY PROVIDED.

[Omitted from Committee consideration]
SEC. 205. FEDERAL CYBERSECURITY PROGRAM.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Cybersecurity, Information Analysis, and Infrastructure Protection, shall establish and manage a program to improve the security of Federal critical information systems, including carrying out responsibilities under paragraphs (2) and (3) of section 201 that relate to such systems.

(b) DUTIES.—The duties of the Secretary under subsection (a) are—

(1) to evaluate the increased use by civilian executive agencies of techniques and tools to enhance the security of Federal critical information systems, including, as appropriate, consideration of cryptography;

(2) to provide assistance to civilian executive agencies in protecting the security of Federal critical information systems, including identification of significant risks to such systems; and

(3) to coordinate research and development for critical information systems relating to supervisory control and data acquisition systems, including, as appropriate, the establishment of a test bed.

(e) FEDERAL INFORMATION SYSTEM SECURITY TEAM.—
(1) IN GENERAL.—In carrying out subsection (b)(2), the Secretary shall establish, manage, and support a Federal information system security team whose purpose is to provide technical expertise to civilian executive agencies to assist such agencies in securing Federal critical information systems by conducting information security audits of such systems, including conducting tests of the effectiveness of information security control techniques and performing logical access control tests of interconnected computer systems and networks, and related vulnerability assessment techniques.

(2) TEAM MEMBERS.—The Secretary shall ensure that the team under paragraph (1) includes technical experts and auditors, computer scientists, and computer forensics analysts whose technical competence enables the team to conduct audits under such paragraph.

(3) AGENCY AGREEMENTS REGARDING AUDITS.—Each civilian executive agency may enter into an agreement with the team under paragraph (1) for the conduct of audits under such paragraph of the Federal critical information systems of the agency. Such agreement shall establish the terms of the audit and shall include provisions to minimize the
extent to which the audit disrupts the operations of the agency.

(4) REPORTS.—Promptly after completing an audit under paragraph (1) of a civilian executive agency, the team under such paragraph shall prepare a report summarizing the findings of the audit and making recommendations for corrective action. Such report shall be submitted to the Secretary, the head of such agency, and the Inspector General of the agency (if any), and upon request of any congressional committee with jurisdiction over such agency, to such committee.

(d) DEFINITION.—For purposes of this section, the term “Federal critical information system” means an “information system” as defined in section 3502 of title 44, United States Code, that—

(1) is, or is a component of, a key resource or critical infrastructure;

(2) is used or operated by a civilian executive agency or by a contractor of such an agency; and

(3) does not include any national security system as defined in section 5142 of the Clinger-Cohen Act of 1996.
TITLE III—RESEARCH, DEVELOPMENT AND TECHNOLOGY SYSTEMS

SEC. 301. UNDER SECRETARY FOR RESEARCH, DEVELOPMENT AND TECHNOLOGY SYSTEMS.

The Secretary, acting through the Under Secretary for Research, Development, and Technology Systems, shall have responsibility for—

(1) conducting and supporting a national scientific research and development program to support the mission of the Department, except that such responsibility does not extend to human health-related research and development activities;

(2) establishing long-term research and development needs and capabilities for all elements of the Department;

(3) integrating similar research and development needs between the operating elements of the Department;

(4) aligning research and development programs with other executive agencies to reduce duplication and identify unmet needs;

(5) in consultation with other appropriate executive agencies, developing a national policy and strategic plan for, identifying priorities for, and coordi-
nating the Federal Government’s civilian efforts to identify and develop countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats;

(6) establishing priorities for, conducting, and supporting national research, development, demonstration, and, as appropriate, transitional operation of technology and systems—

(A) for preventing the importation of chemical, biological, radiological, nuclear weapons and related material;

(B) for detecting, preventing, and protecting against terrorist attacks that involve such weapons or related material; and

(C) for interoperability of communications systems for emergency response providers;

(7) establishing a central Federal repository for information relating to technologies and systems described in paragraph (6) for dissemination to Federal, State and local government and private sector personnel, agencies and authorities; and

(8) developing nonmandatory and technology-neutral standards, and providing recommendations and technical assistance as appropriate, to assist Federal, State and local government and private sec-
tor efforts to evaluate and implement the use of technologies and systems described in subparagraphs (A) and (B) of paragraph (6).

SEC. 302. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following:

(1) The program under section 351A of the Public Health Service Act, and functions thereof, including the functions of the Secretary of Health and Human Services relating thereto, subject to the amendments made by section 906(3), except that such transfer shall not occur unless the program under section 212 of the Agricultural Bioterrorism Protection Act of 2002 (subtitle B of title II of Public Law 107-188), and functions thereof, including the functions of the Secretary of Agriculture relating thereto, subject to the amendments made by section 907, is transferred to the Department.

(2) Such aspects of programs and activities of the Department of Energy as relate to homeland security, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States), as follows:
(A) The chemical and biological national security and supporting programs and activities of the non-proliferation and verification research and development program.

(B) The nuclear smuggling programs and activities, and other programs and activities, within the proliferation detection program of the non-proliferation and verification research and development program, except that the programs and activities described in this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(C) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(D) Such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated for transfer to the Department by the President.

(E) The Environmental Measurements Laboratory.
(F) The advanced scientific computing research program and activities, and the intelligence program and activities, at Lawrence Livermore National Laboratory.

(3) The National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto.

(4) The Plum Island Animal Disease Center of the Department of Agriculture, including the functions of the Secretary of Agriculture relating thereto.

SEC. 303. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

With respect to civilian human health-related research and development activities relating to countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities for such activities in collaboration with the Secretary of the Department of Homeland Security.
SEC. 304. SECURITY AT FEDERAL RESEARCH LABORATORIES.

[Former section 304 transferred to title VII]

The Secretary, in consultation with the Attorney General, shall have authority to establish standards for security at Federal civilian facilities, other than facilities of the Department of Energy, that conduct research and development to identify and develop countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

[Omitted from Committee consideration]

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, shall have responsibility for—

(1) assisting in the preparedness of emergency response providers for terrorist attacks, major disasters, and other emergencies;
(2) with respect to Federal emergency response providers, conducting joint and other exercises and training and evaluating performance in consultation with the heads of the relevant executive agencies;

(3) with respect to emergency response functions transferred to the Secretary by this Act, providing the Federal Government’s response to terrorist attacks and major disasters;

(4) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(5) assisting in the recovery from terrorist attacks and major disasters;

(6) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(7) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(8) with respect to Federal programs that provide assistance to emergency response providers to enhance preparedness and response for terrorist attacks or major disasters—

(A) identifying preparedness priorities;
(B) evaluating the effectiveness of, and co-
ordination among, such programs; and
(C) making recommendations to enhance
the effectiveness of such programs, and to mini-
mize inconsistencies and duplication among
such programs.

SEC. 502. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be trans-
ferred to the Secretary the functions, personnel, assets,
and liabilities of the following:

(1) The Federal Emergency Management Agen-
cy, including the functions of the Director of the
Federal Emergency Management Agency relating
thereto.

(2) The Office for Domestic Preparedness of
the Office of Justice Programs, including the func-
tions of the Attorney General relating thereto.

(3) The National Domestic Preparedness Office
of the Federal Bureau of Investigation, including the
functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams
of the Department of Justice, including the func-
tions of the Attorney General relating thereto.

(5) The Office of Emergency Preparedness, the
National Disaster Medical System, and the Metro-
politiat Medical Response System of the Department
of Health and Human Services, including the func-
tions of the Secretary of Health and Human Serv-
ices and the Assistant Secretary for Public Health
Emergency Preparedness relating thereto.

(6) To the extent provided pursuant to the
amendments made by section 905, the Strategic Na-
tional Stockpile of the Department of Health and
Human Services.

SEC. 503. NUCLEAR INCIDENT RESPONSE.

(a) Nuclear Incident Response Team.—At the
direction of the Secretary (in connection with an actual
or threatened terrorist attack or major disaster), the Nu-
clear Incident Response Team shall operate as an organi-
zational unit of the Department. While so operating, the
Nuclear Incident Response Team shall be subject to the
direction, authority, and control of the Secretary.

(b) Construction.—Nothing in this title limits the
authority of the Secretary of Energy or the Administrator
of the Environmental Protection Agency to organize,
train, equip, or utilize their respective entities in the Nu-
clear Incident Response Team, or to exercise direction, au-
thority, and control of their respective entities when the
entities are not operating as a unit of the Department.
SEC. 504. DEFINITION.

For purposes of this title, “nuclear incident response team” means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as Oak Ridge National Laboratory, radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform radiological emergency response and support functions.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

[The Committee Print strikes section 505.]

TITLE VI—MANAGEMENT

[Omitted from Committee consideration]
TITLE VII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; GENERAL PROVISIONS

[Omitted from Committee consideration, except section 701; 733; the addition of a section 736 (transferred from title III of the bill); and the addition of new sections 737 and 738.]

SEC. 701. RESPONSIBILITIES.

[The Committee Print strikes section 701.]

SEC. 733. REORGANIZATION; TRANSFER.

The Secretary may allocate or reallocate functions among the officers of the Department, and may establish, consolidate, alter, or discontinue organizational units within the Department, but only after the expiration of 90 days after providing notice of such action to the Congress, which shall include an explanation of the rationale for the action. Authority under this section does not extend to the abolition of any entity established or required to be maintained as a distinct entity by this Act, or to any entity
or function transferred to the Department by this Act and
established by statute.

SEC. 736. MILITARY ACTIVITIES.

[Formerly was section 304]

Except as specifically provided in this Act, nothing
in this Act shall confer upon the Secretary any authority
to engage in warfighting, the military defense of the
United States, or other traditional military activities.

SEC. 737. RULE OF CONSTRUCTION REGARDING TRANSFER
OF AUTHORITY.

(a) REGULATORY AUTHORITY.—With respect to reg-
ulatory authority (whether applying by order, by regula-
tion, or by direct operation of law), this Act may not be
construed as—

(1) establishing such authority for the Sec-
retary, except to the extent that a function trans-
ferred to the Secretary by section 202, 302, 402,
403, 502, or 720 includes such authority; or

(2) altering or diminishing such authority of
any other executive agency, except to the extent that
a function of such agency that includes such author-
ity is transferred to the Secretary by a section speci-
fied in paragraph (1).
(b) OTHER AUTHORITY.—With respect to authority that is not regulatory authority, this Act may not be construed as—

(1) transferring to the Secretary such authority of another executive agency, except to the extent that a function transferred to the Secretary by a section specified in subsection (a)(1) includes such authority; or

(2) altering or diminishing such authority of any other executive agency, except to the extent that—

(A) a function of such agency that includes such authority is transferred to the Secretary by a section specified in subsection (a)(1); or

(B) with respect to functions not so transferred to the Secretary, such agency is required by this Act to coordinate or collaborate with the Secretary, or to provide information or documents to the Secretary.

SEC. 738. PROVISIONS REGARDING TRANSFERS FROM DEPARTMENT OF ENERGY.

(a) SEPARATE CONTRACTING.—To the extent that programs or activities transferred by this Act from the Department of Energy to the Department of Homeland Security are being carried out through contracts with the
operator of a national laboratory of the Department of
Energy, the Secretary of Homeland Security and the Sec-
retary of Energy shall ensure that contracts for such pro-
grams and activities between the Department of Home-
land Security and such operator are separate from the
contracts of the Department of Energy with such oper-
ator.

(b) REIMBURSEMENT OF COSTS.—In the case of an
activity carried out by the operator of a national labora-
tory of the Department of Energy but under contract with
the Department of Homeland Security, the Department
of Homeland Security shall reimburse the Department of
Energy for costs of such activity through a method under
which the Secretary of Energy waives any requirement for
the Department of Homeland Security to pay administra-
tive charges or personnel costs of the Department of En-
ergy or its contractors in excess of the amount that the
Secretary of Energy pays for an activity carried out by
such contractor and paid for by the Department of En-
ergy.

TITLE VIII—TRANSITION

[Omitted from Committee consideration]
1 TITLE IX—CONFORMING AND
2 TECHNICAL AMENDMENTS

3 [Sections 901 through 904 omitted from Committee
4 consideration]

5 SEC. 905. STRATEGIC NATIONAL STOCKPILE AND SMALL-
6 POX VACCINE DEVELOPMENT.
7 (a) IN GENERAL.—The Public Health Security and
8 Bioterrorism Preparedness and Response Act of 2002 is
9 amended—
10 (1) in section 121(a)(1)—
11 (A) by striking “Secretary of Health and
12 Human Services” and inserting “Secretary of
13 Homeland Security”; and
14 (B) by inserting “the Secretary of Health
15 and Human Services and” between “in coordi-
16 nation with” and “the Secretary of Veterans
17 Affairs”; and
18 (C) by inserting “of Health and Human
19 Services” after “as are determined by the Sec-
20 retary”; and
21 (2) in subsections 121(a)(2) and (b), by insert-
22 ing “of Health and Human Services” after “Sec-
23 retary” each place it appears.
(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 906. BIOLOGICAL AGENT REGISTRATION; PUBLIC HEALTH SERVICE ACT.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 351A(a)(1)(A), by inserting “(as defined in subsection (l)(9))” after “Secretary”;

(2) in section 351A(h)(2)(A), by inserting “Department of Homeland Security, the” before “Department of Health and Human Services”; and

(3) in section 351A(l), by inserting after paragraph (8) a new paragraph as follows:

“(9) The term ‘Secretary’ means the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services.”.

(b) PUBLIC HEALTH SECURITY AND BIOTERRORISM PREPAREDNESS AND RESPONSE ACT OF 2002.—Section 201(b) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended by striking “Secretary of Health and Human Services” and inserting “Secretary of Homeland Security”.

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(c) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the select agent registration enforcement programs and activities of the Department of Health and Human Services to the Department.

SEC. 907. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

[Omitted from Committee consideration]