A BILL

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

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

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents for 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—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Sec. 201. Under Secretary for Information Analysis and Infrastructure Protection.
Sec. 202. Functions transferred.
Sec. 203. Access to information.
Sec. 204. Information voluntarily provided.

TITLE III—CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR COUNTERMEASURES

Sec. 301. Under Secretary for Chemical, Biological, Radiological, and Nuclear Countermeasures.
Sec. 302. Functions transferred.
Sec. 303. Conduct of certain public health-related activities.
Sec. 304. Military activities.

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.
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 A—Coordination with Non-Federal Entities

Sec. 701. Responsibilities.

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.

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. Select agent registration.

Sec. 2. Definitions.
Unless the context clearly indicates otherwise, the following shall apply for purposes of this Act:

(1) ‘American homeland’ or ‘homeland’ means the United States, in a geographic sense;

(2) ‘Assets’ includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel);

(3) ‘Department’ means the Department of Homeland Security;

(4) ‘Emergency response providers’ includes Federal, State, and local government emergency public safety, law enforcement, emergency response, emergency medical, and related personnel, agencies, and authorities;

(5) ‘Executive agency’ means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code;

(6) ‘Functions’ includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations;

(7) ‘Local government’ has the meaning given in section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288;

(8) ‘Major disaster’ has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288;

(9) ‘Personnel’ means officers and employees;

(10) ‘Secretary’ means the Secretary of Homeland Security; and

Assistance Act, Pub. L. No. 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) 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)(1) The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism; and

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

(2) In carrying out the mission described in paragraph (1), and as further
described in this Act, the Department’s primary responsibilities shall include—

(A) information analysis and infrastructure protection;

(B) chemical, biological, radiological, nuclear, and related countermeasures;

(C) border and transportation security;

(D) emergency preparedness and response; and

(E) coordination (including the provision of training and equipment) with other executive agencies, with State and local government personnel, agencies, and authorities, with the private sector, and with other entities.

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

SEC. 102. SECRETARY; FUNCTIONS.

(a)(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) The Secretary—

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

(2) may promulgate regulations hereunder; and

(3) shall have such functions, including 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 responsibilities under this Act or otherwise provided by law.

**SEC. 103. OTHER OFFICERS.**

(a) To assist the Secretary in the performance of his functions, there are the following officers, appointed by the President, by and with the advice and consent of the Senate:

- (1) a Deputy Secretary of Homeland Security, who shall be the Secretary’s first assistant for purposes of chapter 33, subchapter 3, of title 5, United States Code;
- (2) an Under Secretary for Information Analysis and Infrastructure Protection;
- (3) an Under Secretary for Chemical, Biological, Radiological, and Nuclear Countermeasures;
- (4) an Under Secretary for Border and Transportation Security;
- (5) an Under Secretary for Emergency Preparedness and Response;
- (6) an Under Secretary for Management; and
- (7) not more than six Assistant Secretaries.

(b) 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) 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) 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; and

(5) a Chief Information Officer.

(e) 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—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

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

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(A), the primary responsibilities of the Under Secretary for Information Analysis and Infrastructure Protection shall include—

(1) 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;

(2) comprehensively assessing the vulnerabilities of the key resources and critical infrastructures in the United States;

(3) 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 support
protective measures by the Department, by other executive agencies, by State and local
government personnel, agencies, and authorities, by the private sector, and by other
tentities;

(4) developing a comprehensive national plan for securing the key resources and
critical infrastructures in the United States;

(5) taking 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;

(6) administering the Homeland Security Advisory System, exercising primary
responsibility for public threat advisories, 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 entities—

(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 National Infrastructure Simulation and Analysis Center of the Department
of Energy, including the functions of the Secretary of Energy relating thereto; and

(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 other areas of responsibility described
in section 101(b), and to all information concerning infrastructure 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 arrangements with other executive agencies to share such material on a
regular or routine basis, including requests or arrangements involving broad categories of
material;

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

(A) all reports, assessments, and analytical information relating to threats
of terrorism in the United States and to other areas of responsibility described in
section 101(b);

(B) all information concerning infrastructure or other vulnerabilities of the
United States to terrorism, whether or not such information has been analyzed;

(C) 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

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

(3) the Secretary shall ensure that any material received pursuant to this section is
protected from unauthorized disclosure and handled and used only for the performance of
official duties, and that any intelligence information shared under this section shall be
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 or, as appropriate, similar authorities of the Attorney
General concerning sensitive law enforcement information.
SEC. 204. INFORMATION VOLUNTARILY PROVIDED.

Information provided voluntarily by non-Federal entities or individuals that relates to infrastructure vulnerabilities or other vulnerabilities to terrorism and is or has been in the possession of the Department shall not be subject to section 552 of title 5, United States Code.

TITLE III—CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR COUNTERMEASURES

SEC. 301. UNDER SECRETARY FOR CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR COUNTERMEASURES.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(B), the primary responsibilities of the Under Secretary for Chemical, Biological, Radiological, and Nuclear Countermeasures shall include—

(1) securing the people, infrastructures, property, resources, and systems in the United States from acts of terrorism involving chemical, biological, radiological, or nuclear weapons or other emerging threats;

(2) conducting a national scientific research and development program to support the mission of the Department, including developing national policy for and coordinating the Federal government’s civilian efforts to identify, devise, and implement scientific, technological, and other countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including directing, funding, and conducting research and development relating to the same;

(3) establishing priorities for, directing, funding, and conducting national research, development, and procurement of technology and systems—
(A) for preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

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

(4) establishing guidelines for State and local government efforts to develop and implement countermeasures to threats of chemical, biological, radiological, and nuclear terrorism, and other emerging terrorist threats.

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 entities—

(1) the select agent registration enforcement programs and activities of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto;

(2) the following programs and activities of the Department of Energy, 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):

(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 directly related to homeland security, within the proliferation detection program of the non-proliferation and verification research and development program: provided, 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) the energy security and assurance program and activities;
(E) such life sciences activities of the biological and environmental
research program related to microbial pathogens as may be designated by the
President for transfer to the Department;
(F) the Environmental Measurements Laboratory; and
(G) 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; and
(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.
(a)(1) Except as the President may otherwise direct, the Secretary shall carry out his
civilian human health-related biological, biomedical, and infectious disease defense research and
development (including vaccine research and development) responsibilities through the
Department of Health and Human Services (including the Public Health Service), under
agreements with the Secretary of Health and Human Services, and may transfer funds to him in
connection with such agreements.

(2) With respect to any responsibilities carried out through the Department of Health and Human Services under this subsection, the Secretary, in consultation with the Secretary of Health and Human Services, shall have the authority to establish the research and development program, including the setting of priorities.

(b) With respect to such other research and development responsibilities under this title, including health-related chemical, radiological, and nuclear defense research and development responsibilities, as he may elect to carry out through the Department of Health and Human Services (including the Public Health Service) (under agreements with the Secretary of Health and Human Services) or through other Federal agencies (under agreements with their respective heads), the Secretary may transfer funds to the Secretary of Health and Human Services, or to such heads, as the case may be.

SEC. 304. MILITARY ACTIVITIES.

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.

TITLE IV—BORDER AND TRANSPORTATION SECURITY

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(C), the primary responsibilities of the Under Secretary for Border and Transportation Security shall include—
(1) preventing the entry of terrorists and the instruments of terrorism into the United States;

(2) securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating governmental activities at ports of entry;

(3) administering the immigration and naturalization laws of the United States, including the establishment of rules, in accordance with section 403, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not citizens or lawful permanent residents thereof;

(4) administering the customs laws of the United States; and

(5) in carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

SEC. 402. FUNCTIONS TRANSFERRED.

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

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Immigration and Naturalization Service of the Department of Justice, including the functions of the Attorney General relating thereto;

(3) the Animal and Plant Health Inspection Service of the Department of Agriculture, including the functions of the Secretary of Agriculture relating thereto;

(4) the Coast Guard of the Department of Transportation, which shall be maintained as a distinct entity within the Department, including the functions of the
Secretary of Transportation relating thereto;

(5) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto; and

(6) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

**SEC. 403. VISA ISSUANCE.**

(a) Notwithstanding the provisions of section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) or any other law, and except as provided in subsection (b) of this section, the Secretary shall have—

(1) exclusive authority, through the Secretary of State, to issue regulations with respect to, administer, and enforce the provisions of that Act and all other immigration and nationality laws relating to the functions of diplomatic and consular officers of the United States in connection with the granting or refusal of visas; and

(2) authority to confer or impose upon any officer or employee of the United States, with the consent of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(b) The Secretary of State may refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the interests of the United States.
TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

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

In assisting the Secretary with the responsibilities specified in section 101(b)(2)(D), the primary responsibilities of the Under Secretary for Emergency Preparedness and Response shall include—

(1) helping to ensure the preparedness of emergency response providers for terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as
an organizational unit of the Department pursuant to this title) the Nuclear
Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

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

(4) aiding the recovery from terrorist attacks and major disasters;

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

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

(7) developing comprehensive programs for developing interoperative
communications technology, and helping to ensure that emergency response providers
acquire such technology.

SEC. 502. FUNCTIONS TRANSFERRED.

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

(1) the Federal Emergency Management Agency, 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 functions 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;
the Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto;

(5) the Office of the Assistant Secretary for Public Health Emergency Preparedness (including the Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System) of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto; and

(6) the Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 503. NUCLEAR INCIDENT RESPONSE.

(a) At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency), the Nuclear Incident Response Team shall operate as an organizational 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) Nothing in this title shall be understood to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they 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 and/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 such support functions (including radiological emergency response functions) and related functions.

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

(a) Except as the President may otherwise direct, the Secretary shall carry out the following responsibilities through the Department of Health and Human Services (including the Public Health Service), under agreements with the Secretary of Health and Human Services, and may transfer funds to him in connection with such agreements:

(1) all biological, chemical, radiological, and nuclear preparedness-related construction, renovation, and enhancement of security for research and development or other facilities owned or occupied by the Department of Health and Human Services; and

(2) all public health-related activities being carried out by the Department of Health and Human Services on the effective date of this Act (other than activities under functions transferred by this Act to the Department) to assist State and local government personnel, agencies, or authorities, non-Federal public and private health care facilities and providers, and public and non-profit health and educational facilities, to plan, prepare for, prevent, identify, and respond to biological, chemical, radiological, and nuclear events and public health emergencies, by means including direct services, technical
assistance, communications and surveillance, education and training activities, and
grants.

(b) With respect to any responsibilities carried out through the Department of Health and
Human Services under this section, the Secretary, in consultation with the Secretary of Health
and Human Services, shall have the authority to establish the preparedness and response
program, including the setting of priorities.

TITLE VI—MANAGEMENT

SEC. 601. UNDER SECRETARY FOR MANAGEMENT.

In assisting the Secretary with the management and administration of the Department, the
primary responsibilities of the Under Secretary for Management shall include, for the
Department—

(1) the budget, appropriations, expenditures of funds, accounting, and finance;
(2) procurement;
(3) human resources and personnel;
(4) information technology and communications systems;
(5) facilities, property, equipment, and other material resources;
(6) security for personnel, information technology and communications systems,
facilities, property, equipment, and other material resources; and
(7) identification and tracking of performance measures relating to the
responsibilities of the Department.

SEC. 602. CHIEF FINANCIAL OFFICER.

The Chief Financial Officer shall report to the Secretary, or to another official of the
Department, as the Secretary may direct.

SEC. 603. CHIEF INFORMATION OFFICER. The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

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

Subtitle A—Coordination with Non-Federal Entities

SEC. 701. RESPONSIBILITIES. In discharging his responsibilities relating to coordination (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, the responsibilities of the Secretary shall include—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating, the Federal government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public;

(3) directing and supervising grant programs of the Federal government for State
and local government emergency response providers; and

(4) distributing or, as appropriate, coordinating the distribution of, warnings and
information to State and local government personnel, agencies, and authorities and to the
public.

Subtitle B—Inspector General

SEC. 710. AUTHORITY OF THE SECRETARY.

(a) Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of
1978, the Inspector General shall be under the authority, direction, and control of the Secretary
with respect to audits or investigations, or the issuance of subpoenas, that require access to
information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary’s judgment,
constitute a serious threat to the protection of any person or property authorized
protection by section 3056 of title 18, United States Code, section 202 of title 3 of such
Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary’s judgment,
constitute a serious threat to national security.

(b) With respect to the information described in subsection (a), the Secretary may
prohibit the Inspector General from carrying out or completing any audit or investigation, or
from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or
complete such audit or investigation or to issue such subpoena, if the Secretary determines that
such prohibition is necessary to prevent the disclosure of any information described in subsection
(a), to preserve the national security, or to prevent a significant impairment to the interests of the
United States.

(c) The Secretary shall notify the President of the Senate and the Speaker of the House of
Representatives within thirty days of any exercise of his authority under this section.

Subtitle C—United States Secret Service

SEC. 720. FUNCTIONS TRANSFERRED.

In accordance with title VIII, there shall be transferred to the Secretary the functions,
personnel, assets, and liabilities of the United States Secret Service, which shall be maintained as
a distinct entity within the Department, including the functions of the Secretary of the Treasury
relating thereto.

Subtitle D—General Provisions

SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

Title 5, United States Code, is amended by inserting—

(1) after part III a new part as follows:

“PART IV—DEPARTMENT OF HOMELAND SECURITY

CHAPTER 100

“Sec.

“10001. Human Resources Management System.”
“§ 10001. Human Resources Management System

“Notwithstanding any other provision of this title, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security, which shall be flexible, contemporary, and grounded in the public employment principles of merit and fitness.”; and

(2) the following after the matter relating to part III in the analysis:

“PART IV—DEPARTMENT OF HOMELAND SECURITY

“Chapter

1. Human Resources Management System .............................................. 10001”.

SEC. 731. ADVISORY COMMITTEES.

The Secretary may establish, appoint members of, and use the services of, advisory committees, as he may deem necessary. The service of an individual as a member of an advisory committee established under this paragraph shall not be considered to be service bringing him within the provisions of sections 203, 205, or 207 of title 18, United States Code, unless his act, which by any such section is made unlawful when performed by an individual referred to therein, is with respect to any particular matter that directly involves the Department or in which the Department is directly interested. An advisory committee established under this section shall not be subject to Pub. L. No. 92-463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership.

SEC. 732. ACQUISITIONS; PROPERTY.

(a)(1) When the Secretary carries out basic, applied, and advanced research and development projects, he may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such
project is not feasible or appropriate. The annual report required under subsection (h) of such section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. No. 103-160). In applying the authorities of such section 845, subsection (c) thereof shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) Notwithstanding the time and pay limitations of section 3109 of title 5, United States Code, the Secretary may procure personal services, including the services of experts and consultants (or organizations thereof).

(c) Section 602 of the Act of June 30, 1949 (40 U.S.C. 474) is amended by replacing “; or (21)” with “; (21) the Department of Homeland Security; or (22)”.

(d) Notwithstanding any other provision of law, the Secretary, in accordance with regulations prescribed jointly with the Administrator of General Services and the Director of the Office of Management and Budget—

(1) may acquire replacement real property (including interests therein)—

(A) by transfer or exchange of the Department’s property with other executive agencies; or

(B) by sale to or exchange of the Department’s property with non-Federal parties;

(2) by lease, permit, license, or other similar instrument, may make available to other executive agencies and to non-Federal parties, on a fair market rental value basis, the unexpired portion of any government lease for real property occupied or possessed by
the Department;

(3) may make available by outlease agreements with other executive agencies or with non-Federal parties, any unused or underused portion of or interest in any real or related personal property occupied or possessed by the Department; and

(4) may deposit the proceeds of any exercise of the authority granted by this subsection into any account in the Treasury available to him, without regard to fiscal year limitations.

(e) Upon the written request of the Secretary, the Administrator of General Services shall delegate to him all responsibilities and authorities provided by law to the Administrator for the care and handling of the Department’s surplus real and related personal property, pending its disposition, and for the disposal of such property.

(f) Notwithstanding any other provision of law, the Secretary may retain, from the proceeds of the sale of personal property, amounts necessary to recover, to the extent practicable, the full costs (direct and indirect) incurred by the Secretary in disposing of such property, including but not limited to the costs of warehousing, storage, environmental services, advertising, appraisal, and transportation. Such amounts shall be deposited into an account available for such expenses without regard to fiscal year limitations.

SEC. 733. REORGANIZATION; TRANSFER.

(a) The Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational units within the Department, as he may deem necessary or appropriate, but such authority does not extend to—

(1) any entity transferred to the Department and established by statute, or any function vested by statute in such an entity or officer of such an entity, unless not less than ninety days’ notice has been given to the President of the Senate and Speaker of the House of Representatives; or
(2) the abolition of any entity established or required to be maintained as a distinct entity by this Act.

(b) Except as otherwise specifically provided by law, not to exceed five percent of any appropriation available to the Secretary in any fiscal year may be transferred between such appropriations: provided, That not less than fifteen days’ notice shall be given to the Committees on Appropriations of the Senate and House of Representatives before any such transfer is made.

SEC. 734. MISCELLANEOUS PROVISIONS.

(a) The Department shall have a seal, whose design is subject to the approval of the President.

(b) With respect to the Department, the Secretary shall have the same authorities that the Attorney General has with respect to the Department of Justice under section 524(d) of title 28, United States Code.

(c) With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(d) Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 735. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE VIII—TRANSITION

SEC. 801. DEFINITIONS.

For purposes of this title—

(1) ‘Agency’ includes any entity, organizational unit, or function; and

(2) ‘Transition period’ means the twelve-month period beginning on the effective
date of this Act.

SEC. 802. TRANSFER OF AGENCIES.

The transfer of an agency to the Department shall occur when the President so directs, but in no event later than the end of the transition period. When an agency is transferred, the President may also transfer to the Department any agency established to carry out or support adjudicatory or review functions in relation to the agency.

SEC. 803. TRANSITIONAL AUTHORITIES.

(a) Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as he may request in preparing for the transfer and integration of the agency into the Department.

(b) During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable or nonreimbursable basis, provide services and/or detail personnel to assist with the transition.

(c) Until the transfer of an agency to the Department, the President is authorized to transfer to the Secretary not to exceed five percent of the unobligated balance of any appropriation available to such agency, to fund the purposes authorized in this Act: provided, that not less than fifteen days’ notice shall be given to the Committees on Appropriations of the Senate and House of Representatives before any such funds transfer is made.

(d)(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act; while so acting, such officers shall receive compensation at the higher of—
(A) the rates provided by this Act for the respective offices in which they
act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this Act shall be understood to require the advice and consent of
the Senate to the appointment by the President to a position in the Department of any
officer whose agency is transferred to the Department pursuant to this Act and whose
duties following such transfer are germane to those performed before such transfer.

(e) Upon the transfer of an agency to the Department—

(1) the personnel, assets, and liabilities held by or available in connection with the
agency shall be transferred to the Secretary for appropriate allocation, subject to the
approval of the Director of the Office of Management and Budget and notwithstanding
the provisions of section 1531(a)(2) of title 31, United States Code; and

(2) the Secretary shall have all functions relating to the agency that any other
official could by law exercise in relation to the agency immediately before such transfer,
and shall have in addition all functions vested in the Secretary by this Act or other law.

SEC. 804. SAVINGS PROVISIONS.

(a)(1) Completed administrative actions of an agency shall not be affected by the
enactment of this Act or the transfer of such agency to the Department, but shall continue in
effect according to their terms until amended, modified, superseded, terminated, set aside, or
revoked in accordance with law by an officer of the United States or a court of competent
jurisdiction, or by operation of law.

(2) For purposes of paragraph (1), the term “completed administrative action”
includes orders, determinations, rules, regulations, personnel actions, permits,
agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking,
and applications for licenses, permits, certificates, grants, and financial assistance, shall
continue notwithstanding the enactment of this Act or the transfer of the agency to the
Department, unless discontinued or modified under the same terms and conditions and to
the same extent that such discontinuance could have occurred if such enactment or
transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made
pursuant to such orders, shall issue in the same manner and on the same terms as if this
Act had not been enacted or the agency had not been transferred, and any such orders
shall continue in effect until amended, modified, superseded, terminated, set aside, or
revoked by an officer of the United States or a court of competent jurisdiction, or by
operation of law.

(c) Subject to the authority of the Secretary under this Act, pending civil actions shall
continue notwithstanding the enactment of this Act or the transfer of an agency to the
Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments
rendered and enforced in the same manner and with the same effect as if such enactment or
transfer had not occurred.

(d) References relating to an agency that is transferred to the Department in statutes,
Executive orders, rules, regulations, directives, or delegations of authority that precede such
transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the
Department, to its officers, employees, or agents, or to its corresponding organizational units or
functions. Statutory reporting requirements that applied in relation to such an agency
immediately before the effective date of this Act shall continue to apply following such transfer
if they refer to the agency by name.

(e)(1) Notwithstanding the generality of the foregoing (including subsections (a) and (d)),
in and for the Department the Secretary may, in regulations prescribed jointly with the Director
of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions,
established by statute, rule, or regulation before the effective date of this Act, relating to
employment in any agency transferred to the Department pursuant to this Act; and

(2) except as otherwise provided in this Act, or under authority granted by this
Act, the transfer pursuant to this Act of personnel shall not alter the terms and conditions
of employment, including compensation, of any employee so transferred.

SEC. 805. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any
agency have been transferred pursuant to this Act, each position and office the incumbent of
which was authorized to receive compensation at the rates prescribed for an office or position at
level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 806. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the
Secretary, is authorized and directed to make such additional incidental dispositions of
personnel, assets, and liabilities held, used, arising from, available, or to be made available, in
connection with the functions transferred by this Act, as he may deem necessary to accomplish
the purposes of this Act.

TITLE IX—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 901. INSPECTOR GENERAL ACT.

Section 11 of the Inspector General Act of 1978 (Pub. L. No. 95-452) is amended by—

(1) inserting “Homeland Security,” after “Transportation,” each place it appears;

(2) replacing “; and” each place it appears with “;”; 

(3) replacing “,” with “;”; and

(4) replacing “;,” with “;”.

SEC. 902. EXECUTIVE SCHEDULE.

Title 5, United States Code, is amended—

(1) in section 5312, by inserting “Secretary of Homeland Security.” as a new item
after “Affairs.”;
(2) in section 5313, by inserting “Deputy Secretary of Homeland Security.” as a new item after “Affairs.”;
(3) in section 5314, by inserting “Under Secretaries, Department of Homeland Security.” as a new item after “Affairs.” the third place it appears;

SEC. 903. UNITED STATES SECRET SERVICE.

(a) The United States Code is amended in sections 202 and 208 of title 3, and in section 3056 of title 18, by replacing “of the Treasury”, each place it appears, with “of Homeland Security”.
(b) The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 904. COAST GUARD.

(a) Title 14 of the United States Code is amended—
(1) in sections 1, 3, 53, 95, 145, 516, 666, 669, 673 (as added by Pub. L. No. 104-201), 673 (as added by Pub. L. No. 104-324), 674, 687, and 688, by replacing “of Transportation”, each place it appears, with “of Homeland Security”; and
(2) after executing the other amendments required by this subsection, by redesignating the section 673 added by Pub. L. No. 104-324 as section 673a.
(b) Section 801(1) of title 10, United States Code, is amended by replacing “the General Counsel of the Department of Transportation” with “an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security”.

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(c) The amendments made by this section shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 905. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended—

(1) in section 121(a)(1)—

(A) by replacing “Secretary of Health and Human Services” with “Secretary of Homeland Security”;

(B) by inserting “the Secretary of Health and Human Services and” between “in coordination with” and “the Secretary of Veterans Affairs”; and

(C) by inserting “of Health and Human Services” after “as are determined by the Secretary”; and

(2) in subsections 121(a)(2) and (b), by inserting “of Health and Human Services” after “Secretary” each place it appears.

(b) 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. SELECT AGENT REGISTRATION.

(a) 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”;

(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.”; and

(4) in section 352A(i)—

(i) by striking “(1)” the first place it appears; and

(ii) by striking paragraph (2).

(b) Section 201(b) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 is amended by replacing “Secretary of Health and Human Services” with “Secretary of Homeland Security”.

(c) 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.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.