To establish the Department of National Homeland Security and the National Office for Combating Terrorism.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2002

Mr. LIEBERMAN (for himself, Mr. SPECTER, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To establish the Department of National Homeland Security and the National Office for Combating Terrorism.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “National Homeland Security and Combating Terrorism Act of 2002”.

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—DEPARTMENT OF NATIONAL HOMELAND SECURITY

Sec. 102. Transfer of authorities, functions, personnel, and assets to the Department.

Sec. 103. Establishment of directorates and office.

Sec. 104. Steering Group; Coordination Committee; and Acceleration Fund.

Sec. 105. Reporting requirements.

Sec. 106. Planning, programming, and budgeting process.

Sec. 107. Environmental protection, safety, and health requirements.

Sec. 108. Savings provisions.

TITLE II—NATIONAL OFFICE FOR COMBATING TERRORISM

Sec. 201. National Office for Combating Terrorism.

Sec. 202. Funding for Strategy programs and activities.

TITLE III—NATIONAL STRATEGY FOR COMBATING TERRORISM AND THE HOMELAND SECURITY RESPONSE

Sec. 301. Strategy.


TITLE IV—EFFECTIVE DATE

Sec. 401. Effective Date.

1 SEC. 2. DEFINITIONS.

In this Act:

(1) DIRECTOR.—Except as provided under section 104, the term “Director” means the Director of the National Office for Combating Terrorism.

(2) DEPARTMENT.—The term “Department” means the Department of National Homeland Security established under title I.

(3) FEDERAL TERRORISM PREVENTION AND RESPONSE AGENCY.—The term “Federal terrorism prevention and response agency” means any Federal department or agency charged under the Strategy with responsibilities for carrying out the Strategy.
(4) **Office.**—The term “Office” means the National Office for Combating Terrorism established under title II.

(5) **Secretary.**—The term “Secretary” means the Secretary of National Homeland Security.

(6) **Strategy.**—The term “Strategy” means the National Strategy for Combating Terrorism and the Homeland Security Response developed under this Act.

**TITLE I—DEPARTMENT OF NATIONAL HOMELAND SECURITY**

**SEC. 101. ESTABLISHMENT OF THE DEPARTMENT OF NATIONAL HOMELAND SECURITY.**

(a) **Establishment.**—

(1) **In General.**—There is established the Department of National Homeland Security.

(2) **Executive Department.**—Section 101 of title 5, United States Code, is amended by adding at the end the following:

“The Department of National Homeland Security.”.

(b) **Secretary of National Homeland Security.**—
(1) **IN GENERAL.**—The Secretary of National Homeland Security shall be the head of the Department. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(2) **RESPONSIBILITIES.**—The responsibilities of the Secretary shall be the following:

(A) To develop policies, goals, objectives, priorities, and plans for the United States for the promotion of homeland security.

(B) To develop, with the Director, a comprehensive strategy in accordance with title III.

(C) Develop processes to integrate the elements and goals of the Strategy into the strategies and plans of Federal, State, and local departments and agencies, including interagency and intergovernmental shared policies.

(D) To evaluate the programs of the Federal Government relating to homeland security that involve activities of State and local governments as part of the Strategy.

(E) To advise the Director on the development of a comprehensive annual budget for the programs and activities under the Strategy, and have the responsibility for budget recommenda-
tions relating to border security, critical infra-
structure protection, emergency preparation
and response, and State and local activities.

(F) To plan, coordinate, and integrate
those United States Government activities relat-
ing to border security, critical infrastructure
protection and emergency preparedness, and to
act as the focal point regarding natural and
manmade crises and emergency planning and
response.

(G) To work and coordinate with State
and local governments and executive agencies in
providing United States homeland security, and
to communicate with and support State and
local officials through the use of regional offices
around the Nation.

(H) To provide overall operational plan-
ning guidance to executive agencies regarding
United States homeland security.

(I) To conduct exercise and training pro-
grams for employees of the Department and
other involved agencies, and establish effective
command and control procedures for the full
range of potential contingencies regarding
United States homeland security, including con-
tingencies that require the substantial support
of military assets.

(J) To annually develop a Federal re-
response plan for homeland security and emer-
gency preparedness with regard to terrorism
and other manmade and natural disasters.

(K) To identify and promote technological
innovation that will enhance homeland security.

(L)(i) To develop and implement within
the Department a coordinating center with rep-
resentatives from other Federal departments or
agencies with homeland security responsibilities.

(ii) To designate departments and agencies
to provide a representative under clause (i) and
require those departments and agencies to fur-
nish a representative on a permanent, part-
time, or as needed basis, as determined by the
Secretary.

(iii) To request additional personnel from
appropriate departments and agencies as may
be necessary and coordinate with those depart-
ments and agencies.

(iv) To request State and local authorities
to provide representatives to the coordination
center.
(3) EXECUTIVE SCHEDULE LEVEL I POSITION.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

“Secretary of National Homeland Security.”.

(4) MEMBERSHIP ON THE NATIONAL SECURITY COUNCIL.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended in the fourth sentence by striking paragraphs (5), (6), and (7) and inserting the following:

“(5) the Secretary of National Homeland Security; and

“(6) each Secretary or Under Secretary of such other executive department, or of a military department, as the President shall designate.”.

(c) DEPUTY SECRETARY OF NATIONAL HOMELAND SECURITY.—

(1) IN GENERAL.—There shall be in the Department a Deputy Secretary of National Homeland Security, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Deputy Secretary of National Homeland Security shall—

(A) assist the Secretary in the administration and operations of the Department;
(B) perform such responsibilities as the Secretary shall prescribe; and

(C) act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary.

(3) Executive Schedule Level II Position.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

“Deputy Secretary of National Homeland Security.”.

(d) Inspector General.—


(A) in paragraph (1), by inserting “National Homeland Security,” after “Labor,”; and

(B) in paragraph (2), by inserting “National Homeland Security,” after “Labor,”.

(e) Director of the Coordinating Center.—
(1) IN GENERAL.—There shall be in the Department a Director of the Coordinating Center who shall report directly to the Deputy Secretary. The Coordinating Center shall be developed and implemented in accordance with subsection (b)(2)(L).

(2) RESPONSIBILITIES.—The Director of the Coordinating Center shall be responsible for—

(A) ensuring that the law enforcement, immigration, and intelligence databases information systems containing information relevant to homeland security are compatible; and

(B) with respect to the functions under this paragraph, ensuring compliance with Federal laws relating to privacy and intelligence information.

SEC. 102. TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.

The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department.

(2) The United States Customs Service, which shall be maintained as a distinct entity within the Department.
(3) The law enforcement components of the Immigration and Naturalization Service relating to Border Patrol, Inspections, Investigations (interior enforcement), Intelligence, Detention and Removal, and International Affairs.

(4) The United States Coast Guard, which shall be maintained as a distinct entity within the Department.


(7) The Animal and Plant Health Inspection Service of the Department of Agriculture, that portion of which administers laws relating to agricultural quarantine inspections at points of entry.

SEC. 103. ESTABLISHMENT OF DIRECTORATES AND OFFICE.

(a) Establishment of Directorates.—The following staff directorates are established within the Department:

(1) Directorate of Border and Transportation Protection.—The Directorate of Border and Transportation Protection, which shall be responsible for the following:
(A) Overseeing and coordinating all United States border security activities.

(B) Developing border and maritime security policy for the United States.

(C) Developing and implementing international standards for enhanced security in transportation nodes.

(D) Performing such other duties assigned by the Secretary.

(2) \textbf{DIRECTORATE OF CRITICAL INFRASTRUCTURE PROTECTION}.—The Directorate of Critical Infrastructure Protection, which shall be responsible for the following:

(A) Acting as the Critical Information Technology, Assurance, and Security Officer of the Department to coordinate efforts to address the vulnerability of the United States to electronic or physical attacks on critical infrastructure of the United States, including utilities, transportation nodes, and energy resources.

(B) Overseeing the protection of such infrastructure and the physical assets and information networks that make up such infrastructure.
(C) Ensuring the maintenance of a nucleus of cyber security experts within the United States Government.

(D) Enhancing sharing of information regarding cyber security and physical security of the United States, tracking vulnerabilities and proposing improved risk management policies, and delineating the roles of various government agencies in preventing, defending, and recovering from attacks.

(E) Coordinating with the Federal Communications Commission in helping to establish cyber security policy, standards, and enforcement mechanisms, and working closely with the Federal Communications Commission on cyber security issues with respect to international bodies.

(F) Coordinating the activities of Information Sharing and Analysis Centers to share information on threats, vulnerabilities, individual incidents, and privacy issues regarding United States homeland security.

(G) Assuming the responsibilities carried out by the Critical Infrastructure Assurance Office before the effective date of this Act.
(H) Assuming the responsibilities carried out by the National Infrastructure Protection Center before the effective date of this Act.

(I) Performing such other duties assigned by the Secretary.

(3) DIRECTORATE FOR EMERGENCY PREPAREDNESS AND RESPONSE.—The Directorate for Emergency Preparedness and Response, which shall be responsible for the following:

(A) Carrying out all emergency preparedness and response activities carried out by the Federal Emergency Management Agency before the effective date of this Act.

(B) Assuming the responsibilities carried out by the National Domestic Preparedness Office before the effective date of this Act.

(C) Organizing and training local entities to respond to emergencies and providing State and local authorities with equipment for detection, protection, and decontamination in an emergency involving weapons of mass destruction.

(D) Overseeing Federal, State, and local emergency preparedness training and exercise programs in keeping with current intelligence
estimates and providing a single staff for Federal assistance for any emergency (including emergencies caused by flood, earthquake, hurricane, disease, or terrorist bomb).

(E) Creating a National Crisis Action Center to act as the focal point for monitoring emergencies and for coordinating Federal support for State and local governments and the private sector in crises.

(F) Establishing training and equipment standards, providing resource grants, and encouraging intelligence and information sharing among the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, State emergency management officials, and local first responders.

(G) Coordinating and integrating operational activities of the Department of Defense, the National Guard, and other Federal agencies into a Federal response plan.

(H) Coordinating activities among private sector entities, including entities within the medical community, with respect to recovery, consequence management, and planning for continuity of services.
(I) Developing and managing a single response system for national incidents in coordination with the Department of Justice, the Federal Bureau of Investigation, the Department of Health and Human Services, the Centers for Disease Control, and other appropriate Federal departments and agencies.

(J) Maintaining Federal asset databases and supporting up-to-date State and local databases.

(K) Performing such other duties as assigned by the Secretary.

(b) Establishment of Office of Science and Technology.—

(1) In general.—There is established in the Department an Office of Science and Technology.

(2) Purpose.—The Office of Science and Technology shall advise the Secretary regarding research and development efforts and priorities for the directorates established in subsection (a).

SEC. 104. STEERING GROUP; COORDINATION COMMITTEE; AND ACCELERATION FUND.

(a) Definitions.—In this section:

(1) Coordination Committee.—The term “Coordination Committee” means the Homeland Se-
(2) **DIRECTOR.**—The term “Director” means the Director of the Office of Science and Technology.

(3) **FUND.**—The term “Fund” means the Acceleration Fund for Research and Development of Homeland Security Technologies established under this section.

(4) **HOMELAND SECURITY RESEARCH AND DEVELOPMENT.**—The term “homeland security research and development” means research and development of technologies that are applicable in the detection of, prevention of, protection against, response to, and recovery from homeland security threats, particularly acts of terrorism.

(5) **STEERING GROUP.**—The term “Steering Group” means the Homeland Security Science and Technology Senior Steering Group established under this section.

(b) **PURPOSES.**—The purposes of this section are to—

(1) establish a fund to leverage existing research and development and accelerate the deploy-
ment of technology that will serve to enhance homeland defense;

(2) establish a committee and steering group to coordinate and advise on issues relating to homeland security research and development and administer the Fund; and

(3) establish the responsibilities of the Director of the Office of Science and Technology relating to homeland security research and development.

(c) FUND.—

(1) ESTABLISHMENT.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies.

(2) USE OF FUND.—The Fund may be used to—

(A) accelerate research, development, testing, and evaluation of critical homeland security technologies; and

(B) support homeland security research and development.

(3) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated $200,000,000 to the Fund for fiscal year 2003.

(d) STEERING GROUP.—
(1) **Establishment.**—There is established the Homeland Security Science and Technology Senior Steering Group within the Office of Science and Technology. The Director shall chair the Steering Group.

(2) **Responsibilities.**—The Steering Group shall—

(A) provide recommendations and priorities to the Director; and

(B) assist the Director in establishing priorities and forwarding recommendations on homeland security technology to the Secretary.

(3) **Composition.**—The Steering Group shall be composed, as named by the Director, of senior research and development officials representing all appropriate Federal departments and agencies that conduct research and development relevant for homeland security and combating terrorism.

(4) **Qualifications.**—Each representative shall—

(A) possess extensive experience in managing research and development projects; and

(B) be appointed by the head of the respective department or agency.

(5) **Subgroups.**—
(A) IN GENERAL.—At the discretion of the Director, the Steering Group may be composed of subgroups with expertise in specific homeland security areas.

(B) SUBGROUP AREAS.—The Director may establish subgroups in areas including—

(i) information technology infrastructure;

(ii) critical infrastructure;

(iii) interoperability issues in communications technology;

(iv) bioterrorism;

(v) chemical, biological, radiological defense; and

(vi) any other area as determined necessary.

c) COORDINATION COMMITTEE.—

(1) ESTABLISHMENT.—There is established a Homeland Security Science and Technology Coordination Committee within the Office of Science and Technology. The Director shall chair the Coordination Committee.

(2) COMPOSITION.—The Coordination Committee shall be a working level group composed of representatives managing relevant agency research
and development portfolios, appointed by the head of
each department or agency described under sub-
section (d)(2).

(3) SUBGROUPS.—

(A) IN GENERAL.—At the discretion of the
Director, the Coordination Committee may be
composed of subgroups with relevant expertise
in specific homeland security areas.

(B) SUBGROUP AREAS.—The Director may
establish subgroups in areas, including—

(i) information technology infrastruc-
ture;

(ii) critical infrastructure;

(iii) interoperability issues in Commu-
ications Technology;

(iv) bioterrorism;

(v) chemical, biological, radiological
defense; and

(vi) any other area as determined nec-
essary.

(4) RESPONSIBILITIES.—The Coordination
Committee shall have the following responsibilities:

(A) To facilitate effective communication
among departments, agencies, and other enti-
ties of the Federal Government, with respect to
the conduct of research and development related to homeland security.

(B) To identify, by consensus and on a yearly basis, specific technology areas for which the Fund shall be used to rapidly transition homeland security research and development into deployed technology and reduce identified homeland security vulnerabilities. The identified technology areas shall, as determined by the Coordination Committee, be areas in which there exist research and development projects that address identified homeland security vulnerabilities and, assuming single-year funding, can be accelerated to the stage of prototyping, evaluating, transitioning, or deploying.

(C) To administer the Fund, including—

(i) issuing an annual multiagency program announcement soliciting proposals from governmental entities, industry, and academia;

(ii) competitively selecting, on the basis of a merit-based review, proposals that advance the state of deployed technologies in the areas identified for that year;
(iii) at the discretion of the Coordination Committee, assigning 1 or more program managers from any department or agency represented on the Coordination Committee to oversee, administer, and execute a Fund project as the agent of the Coordination Committee; and

(iv) providing methods of funding administration, including grant, cooperative agreement, or any other transaction.

(f) Office of Science and Technology Responsibilities.—The Director shall—

(1) assist the Secretary, the Directorates, and cooperating agencies in—

(A) assessing and testing homeland security vulnerabilities and possible threats;

(B) evaluating and advising on maintaining talent resources in key technology and skill areas required for homeland security, including information security experts;

(C) developing a system for sharing key homeland security research and technology developments and opportunities with appropriate Federal, State, local, and private sector entities; and
(D) proposing risk management strategies
based on technology developments;

(2) assist the Directorate of Critical Infrastructure Protection in the responsibilities of that Directorate;

(3) with respect to expenditures from the Fund, exercise acquisition authority consistent with the authority described under section 2371 of title 10, United States Code, relating to authorizing cooperative agreements and other transactions;

(4) in hiring personnel to assist in the administration of the Office of Science and Technology, have the authority to exercise the personnel hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261); and

(5) develop and oversee the implementation of periodic homeland security technology demonstrations, held at least annually, for the purpose of improving contact between technology developers, vendors, and acquisition personnel associated with related industries.
SEC. 105. REPORTING REQUIREMENTS.

(a) BIENNIAL REPORTS.—Every 2 years the Secretary shall submit to Congress—

(1) a report assessing the resources and requirements of executive agencies relating to border security and emergency preparedness issues; and

(2) a report certifying the preparedness of the United States to prevent, protect against, and respond to natural disasters, cyber attacks, and incidents involving weapons of mass destruction.

(b) ADDITIONAL REPORT.—Not later than 1 year after the effective date of this Act, the Secretary shall submit to Congress a report—

(1) assessing the progress of the Department in—

(A) implementing this title; and

(B) ensuring the core functions of each entity transferred to the Department are maintained and strengthened; and

(2) recommending any conforming changes in law necessary as a result of the enactment and implementation of this title.

SEC. 106. PLANNING, PROGRAMMING, AND BUDGETING PROCESS.

The Secretary shall establish procedures to ensure that the planning, programming, budgeting, and financial
activities of the Department comport with sound financial
and fiscal management principles. At a minimum, those
procedures shall provide for the planning, programming,
and budgeting of activities of the Department using funds
that are available for obligation for a limited number of
years.

SEC. 107. ENVIRONMENTAL PROTECTION, SAFETY, AND
HEALTH REQUIREMENTS.

The Secretary shall—

(1) ensure that the Department complies with
all applicable environmental, safety, and health stat-
utes and substantive requirements; and

(2) develop procedures for meeting such re-
quirements.

SEC. 108. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—
All orders, determinations, rules, regulations, permits,
agreements, grants, contracts, recognitions of labor orga-
nizations, collective bargaining agreements, certificates, li-
censes, registrations, privileges, and other administrative
actions—

(1) which have been issued, made, granted, or
allowed to become effective by the President, any
Federal agency or official thereof, or by a court of
competent jurisdiction, in the performance of functions which are transferred under this title; and

(2) which are in effect at the time this Act takes effect, or were final before the effective date of this Act and are to become effective on or after the effective date of this Act,

shall, to the extent related to such functions, continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of National Homeland Security or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdic-
tion, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) Suits Not Affected.—The provisions of this title shall not affect suits commenced before the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against an agency, or by or against any individual in the official capacity of such individual as an officer of an agency, shall abate by reason of the enactment of this title.

(e) Administrative Actions Relating to Promulgation of Regulations.—Any administrative action relating to the preparation or promulgation of a regulation by an agency relating to a function transferred under this title may be continued by the Department of National Homeland Security with the same effect as if this title had not been enacted.

(f) Employment and Personnel.—
(1) **INTERIM AUTHORITY FOR APPOINTMENT AND COMPENSATION.**—Funds available to any official or component of any entity the functions of which are transferred to the Department, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer or employee under this title until such time as funds for that purpose are otherwise available.

(2) **EMPLOYEE RIGHTS.**—

(A) **IN GENERAL.**—The Department or a subdivision within the Department shall not be excluded under section 7103(b)(1) of title 5, United States Code, from coverage under chapter 71 of that title unless the President determines that a majority of employees within the Department or applicable subdivision have, as their primary job duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(B) **NATIONAL SECURITY POSITIONS.**—Employees transferred under this title shall not be considered to perform work which directly affects national security within the meaning of section 7112(b)(6) of title 5, United States Code.
Code, unless their primary job duty involves intelligence, counterintelligence, or investigative duties directly related to terrorism investigation. All employees transferred under this title who are not in the counterterrorism positions described in the preceding sentence shall continue to be afforded the full rights and protections under chapter 71 of title 5, United States Code.

(g) NO AFFECT ON INTELLIGENCE AUTHORITIES.—The transfer of authorities, functions, personnel, and assets of elements of the United States Government under this title, or the assumption of authorities and functions, by the Department of Homeland Security under this title, shall not be construed, in cases where such authorities, functions, personnel, and assets, are engaged in intelligence activities as defined in the National Security Act of 1947, as affecting the authorities of the Director of Central Intelligence, the Secretary of Defense, or the heads of departments and agencies within the intelligence community.

(h) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a depart-
ment, agency, or office from which a function is transferred by this title—

(1) to the head of such department, agency, or office is deemed to refer to the Secretary of National Homeland Security; or

(2) to such department, agency, or office is deemed to refer to the Department of National Homeland Security.

TITLE II—NATIONAL OFFICE FOR COMBATING TERRORISM

SEC. 201. NATIONAL OFFICE FOR COMBATING TERRORISM.

(a) Establishment.—There is established within the Executive Office of the President the National Office for Combating Terrorism.

(b) Officers.—

(1) Director.—The head of the Office shall be the Director of the National Office for Combating Terrorism, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Executive schedule level I position.—Section 5312 of title 5, United States Code, is amended by adding at the end the following:

“Director of the National Office for Combating Terrorism.”.
(3) Other Officers.—The President shall assign to the Office such other officers as the President, in consultation with the Director, considers appropriate to discharge the responsibilities of the Office.

(c) Responsibilities.—Subject to the direction and control of the President, the responsibilities of the Office shall include the following:

(1) To develop national objectives and policies for combating terrorism.

(2) To direct and review the development of a comprehensive national assessment of terrorist threats and vulnerabilities to those threats, which shall be—

(A) conducted by the heads of relevant Federal agencies; and

(B) used in preparation of the Strategy.

(3) To develop with the Secretary of National Homeland Security, the Strategy under title III.

(4) To coordinate, oversee, and evaluate the implementation and execution of the Strategy by agencies of the Federal Government with responsibilities for combating terrorism under the Strategy, particularly those involving military, intelligence, law enforcement, and diplomatic assets.
(5)(A) To coordinate, with the advice of the Secretary of National Homeland Security, the development of a comprehensive annual budget for the programs and activities under the Strategy, including the budgets of the military departments and agencies within the National Foreign Intelligence Program relating to international terrorism, but excluding military programs, projects, or activities relating to force protection.

(B) To have the lead responsibility for budget recommendations relating to military, intelligence, law enforcement, and diplomatic assets in support of the Strategy.

(6) To exercise funding authority for Federal terrorism prevention and response agencies in accordance with section 202.

(7) To serve as an advisor to the National Security Council.

(d) RESOURCES.—In consultation with the Director, the President shall assign or allocate to the Office such resources, including funds, personnel, and other resources, as the President considers appropriate in order to facilitate the discharge of the responsibilities of the Office.

(e) OVERSIGHT BY CONGRESS.—The establishment of the Office within the Executive Office of the President
shall not be construed as affecting access by Congress, or any committee of Congress, to—

(1) any information, document, record, or paper in the possession of the Office or any study conducted by or at the direction of the Director; or

(2) any personnel of the Office.

SEC. 202. FUNDING FOR STRATEGY PROGRAMS AND ACTIVITIES.

(a) BUDGET REVIEW.—In consultation with the Director of the Office of Management and Budget, the Secretary of National Homeland Security, and the heads of other executive departments and agencies, the Director shall—

(1) identify programs that contribute to the Strategy; and

(2) in the development of the budget submitted by the President to Congress under section 1105 of title 31, United States Code, review and provide advice to the heads of executive departments and agencies on the amount and use of funding for programs identified under paragraph (1).

(b) SUBMITTAL OF PROPOSED BUDGETS TO THE DIRECTOR.—

(1) IN GENERAL.—The head of each Federal terrorism prevention and response agency shall sub-
mit to the Director each year the proposed budget
of that agency for the fiscal year beginning in that
year for programs and activities of that agency
under the Strategy during that fiscal year.

(2) DATE FOR SUBMISSION.—The proposed
budget of an agency for a fiscal year under para-
graph (1) shall be submitted to the Director—

(A) not later than the date on which the
agency completes the collection of information
for purposes of the submission by the President
of a budget to Congress for that fiscal year
under section 1105 of title 31, United States
Code; and

(B) before that information is submitted to
the Director of the Office of Management and
Budget for such purposes.

(3) FORMAT.—In consultation with the Director
of the Office of Management and Budget, the Direc-
tor shall specify the format for the submittal of pro-
posed budgets under paragraph (1).

(c) REVIEW OF PROPOSED BUDGETS.—

(1) IN GENERAL.—The Director shall review
each proposed budget submitted to the Director
under subsection (b).
(2) Inadequate funding determination.—
If the Director determines under paragraph (1) that
the proposed budget of an agency for a fiscal year
under subsection (b) is inadequate, in whole or in
part, to permit the implementation by the agency
during the fiscal year of the goals of the Strategy
applicable to the agency during the fiscal year, the
Director shall submit to the head of the agency—
(A) a notice in writing of the determina-
tion; and
(B) a statement of the proposed funding,
and any specific initiatives, that would (as de-
termined by the Director) permit the implemen-
tation by the agency during the fiscal year of
the goals of the Strategy applicable to the agen-
cy during the fiscal year.

(3) Adequate funding determination.—If
the Director determines under paragraph (1) that
the proposed budget of an agency for a fiscal year
under subsection (b) is adequate to permit the im-
plementation by the agency during the fiscal year of
the goals of the Strategy applicable to the agency
during the fiscal year, the Director shall submit to
the head of the agency a notice in writing of that
determination.

(4) MAINTENANCE OF RECORDS.—The Director shall maintain a record of—

(A) each notice submitted under paragraph (2), including any statement accompanying such notice; and

(B) each notice submitted under paragraph (3).

(d) AGENCY RESPONSE TO REVIEW OF PROPOSED BUDGETS.—

(1) INCORPORATION OF PROPOSED FUNDING.—

The head of a Federal terrorism prevention and response agency that receives a notice under subsection (c)(2) with respect to the proposed budget of the agency for a fiscal year shall incorporate the proposed funding, and any initiatives, set forth in the statement accompanying the notice into the information submitted to the Office of Management and Budget in support of the proposed budget for the agency for the fiscal year under section 1105 of title 31, United States Code.

(2) ADDITIONAL INFORMATION.—The head of each agency described under paragraph (1) for a fiscal year shall include as an appendix to the information submitted to the Office of Management and
Budget under that paragraph for the fiscal year the following:

(A) A summary of any modifications in the proposed budget of such agency for the fiscal year under that paragraph.

(B) An assessment of the effect of such modifications on the capacity of such agency to perform its responsibilities during the fiscal year other than its responsibilities under the Strategy.

(3) Submission to Congress.—

(A) In general.—Subject to subparagraph (B), the head of each agency described under paragraph (1) for a fiscal year shall submit to Congress a copy of the appendix submitted to the Office of Management and Budget for the fiscal year under paragraph (2) at the same time the budget of the President for the fiscal year is submitted to Congress under section 1105 of title 31, United States Code.

(B) Elements within intelligence programs.—In the submission of the copy of the appendix to Congress under subparagraph (A), those elements of the appendix which are
within the National Foreign Intelligence Pro-
gram shall be submitted to—

(i) the Select Committee on Intel-
ligence of the Senate; and

(ii) the Permanent Select Committee
on Intelligence of the House of Represent-
atives.

(c) Submittal of Revised Proposed Budgets.—

(1) In general.—At the same time the head
of a Federal terrorism prevention and response
agency submits its proposed budget for a fiscal year
to the Office of Management and Budget for pur-
poses of the submission by the President of a budget
to Congress for the fiscal year under section 1105
of title 31, United States Code, the head of the
agency shall submit a copy of the proposed budget
to the Director.

(2) Review and Decertification Author-
ity.—The Director of the National Office for Com-
bating Terrorism—

(A) shall review each proposed budget sub-
mitted under paragraph (1); and

(B) in the case of a proposed budget for a
fiscal year to which subsection (c)(2) applies in
the fiscal year, if the Director determines as a
result of the review that the proposed budget
does not include the proposed funding, and any
initiatives, set forth in the notice under that
subsection with respect to the proposed
budget—

(i) may decertify the proposed budget;

and

(ii) with respect to any proposed
budget so decertified, shall submit to
Congress—

(I) a notice of the decertification;

(II) a copy of the notice sub-
mitted to the agency concerned for
the fiscal year under subsection
(c)(2)(B); and

(III) the budget recommenda-
tions made under this section.

(f) NATIONAL TERRORISM PREVENTION AND Re-
spONE PROGRAM BUDGET.—

(1) IN GENERAL.—For each fiscal year, fol-
lowing the submittal of proposed budgets to the Di-
rector under subsection (b), the Director shall, in
consultation with the Secretary of National Home-
land Security and the head of each Federal ter-
rorism prevention and response agency concerned—
(A) develop a consolidated proposed budget
for such fiscal year for all programs and activi-
ties under the Strategy for such fiscal year; and

(B) subject to paragraph (2), submit the
consolidated proposed budget to the President
and to Congress.

(2) ELEMENTS WITHIN INTELLIGENCE PRO-
GRAMS.—In the submission of the consolidated pro-
posed budget to Congress under paragraph (1)(B),
those elements of the budget which are within the
National Foreign Intelligence Program shall be sub-
mited to—

(A) the Select Committee on Intelligence of
the Senate; and

(B) the Permanent Select Committee on
Intelligence of the House of Representatives.

(3) DESIGNATION OF CONSOLIDATED PRO-
POSED BUDGET.—The consolidated proposed budget
for a fiscal year under this subsection shall be
known as the National Terrorism Prevention and
Response Program Budget for the fiscal year.

(g) REPROGRAMMING AND TRANSFER REQUESTS.—

(1) APPROVAL BY THE DIRECTOR.—The head
of a Federal terrorism prevention and response
agency may not submit to Congress a request for
the reprogramming or transfer of any funds specified in the National Terrorism Prevention and Response Program Budget for programs or activities of the agency under the Strategy for a fiscal year in excess of $5,000,000 without the approval of the Director.

(2) APPROVAL BY THE PRESIDENT.—The President may, upon the request of the head of the agency concerned, permit the submittal to Congress of a request previously disapproved by the Director under paragraph (1) if the President determines that the submittal of the request to Congress will further the purposes of the Strategy.

TITLE III—NATIONAL STRATEGY FOR COMBATING TERRORISM AND THE HOMELAND SECURITY RESPONSE

SEC. 301. STRATEGY.

(a) DEVELOPMENT.—The Secretary and the Director shall develop the National Strategy for Combating Terrorism and Homeland Security Response for detection, prevention, protection, response, and recovery to counter terrorist threats, including the plans, policies, training, exercises, evaluation, and interagency cooperation that address each such action relating to such threats.
(b) Responsibilities.—

(1) Responsibilities of the Secretary.—
The Secretary shall have responsibility for portions of the Strategy addressing border security, critical infrastructure protection, emergency preparation and response, and integrating State and local efforts with activities of the Federal Government.

(2) Responsibilities of the Director.—
The Director shall have overall responsibility for development of the Strategy, and particularly for those portions of the Strategy addressing intelligence, military assets, law enforcement, and diplomacy.

(c) Contents.—The contents of the Strategy shall include—

(1) policies and procedures to maximize the collection, translation, analysis, exploitation, and dissemination of information relating to combating terrorism and the homeland security response throughout the Federal Government and with State and local authorities;

(2) plans for countering chemical, biological, radiological, nuclear and explosives, and cyber threats;

(3) plans for improving the resources of, coordination among, and effectiveness of health and med-
ical sectors for detecting and responding to terrorist
attacks on the homeland;

(4) specific measures to enhance cooperative ef-
forts between the public and private sectors in pro-
tecting against terrorist attacks;

(5) a review of measures needed to enhance
transportation security with respect to potential ter-
rorist attacks; and

(6) other critical areas.

(d) COOPERATION.—At the request of the Secretary
or Director, departments and agencies shall provide nec-
dessary information or planning documents relating to the
Strategy.

(e) INTERAGENCY COUNCIL.—

(1) ESTABLISHMENT.—There is established the
National Combating Terrorism and Homeland Secu-
ritv Response Council to assist with preparation and
implementation of the Strategy.

(2) MEMBERSHIP.—The members of the Coun-
cil shall be the heads of the Federal terrorism pre-
vention and response agencies or their designees.
The Secretary and Director shall designate such
agencies.
(3) **CO-CHAIRS AND MEETINGS.**—The Secretary and Director shall co-chair the Council, which shall meet at their direction.

(f) **SUBMISSION TO CONGRESS.**—Not later than December 1, 2003, and each year thereafter in which a President is inaugurated, the Secretary and the Director shall submit the Strategy to Congress.

(g) **UPDATING.**—Not later than December 1, 2005, and on December 1, of every 2 years thereafter, the Secretary and the Director shall submit to Congress an updated version of the Strategy.

(h) **PROGRESS REPORTS.**—Not later than December 1, 2004, and on December 1, of each year thereafter, the Secretary and the Director may submit to Congress a report that—

(1) describes the progress on implementation of the Strategy; and

(2) provides recommendations for improvement of the Strategy and the implementation of the Strategy.

SEC. 302. NATIONAL COMBATING TERRORISM STRATEGY PANEL.

(a) **ESTABLISHMENT.**—The Secretary and the Director shall establish a nonpartisan, independent panel to be
known as the National Combating Terrorism Strategy Panel (in this section referred to as the “Panel”).

(b) Membership.—

(1) Appointment.—The Panel shall be composed of a chairperson and 8 other individuals appointed by the Secretary and the Director, in consultation with the chairman and ranking member of the Committee on Governmental Affairs of the Senate and the chairman and ranking member of the Committee on Government Reform of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to the homeland security of the United States.

(2) Terms.—

(A) In general.—An individual shall be appointed to the Panel for an 18-month term.

(B) Term periods.—Terms on the Panel shall not be continuous. All terms shall be for the 18-month period which begins 12 months before each date a report is required to be submitted under subsection (l)(2)(A).

(C) Multiple terms.—An individual may serve more than 1 term.

(c) Duties.—The Panel shall—
(1) conduct and submit to the Secretary the as-
seSSment of the Strategy; and

(2) conduct the independent, alternative assess-
ment of homeland security measures required under
this section.

(d) ALTERNATIVE ASSESSMENT.—The Panel shall
submit to the Secretary an independent assessment of the
optimal policies and programs to combat terrorism, includ-
ing homeland security measures. As part of the assess-
ment, the Panel shall, to the extent practicable, estimate
the funding required by fiscal year to achieve these opti-
mal approaches.

(e) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—Subject to paragraph (2),
the Panel may secure directly from any Federal de-
partment or agency such information as the Panel
considers necessary to carry out this section. Upon
request of the Chairperson, the head of such depart-
ment or agency shall furnish such information to the
Panel.

(2) INTELLIGENCE INFORMATION.—The provi-
sion of information under this paragraph related to
intelligence shall be provided in accordance with pro-
cedures established by the Director of Central Intel-
ligence and in accordance with section 103(d)(3) of
the National Security Act of 1947 (50 U.S.C. 403–3(d)(3)).

(f) COMPENSATION OF MEMBERS.—Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel.

(g) TRAVEL EXPENSES.—The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(h) STAFF.—

(1) IN GENERAL.—The Chairperson of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Panel to perform its duties. The employment of an executive director shall be subject to confirmation by the Panel.
(2) COMPENSATION.—The Chairperson of the Panel may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Panel who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF PANEL.—Subparagraph (A) shall not be construed to apply to members of the Panel.

(4) REDUCTION OF STAFF.—During periods that members are not serving terms on the Panel, the executive director shall reduce the number and hours of employees to the minimum necessary to—
(A) provide effective continuity of the
Panel; and

(B) minimize personnel costs of the Panel.

(i) Detail of Government Employees.—Any
Federal Government employee may be detailed to the
Panel without reimbursement, and such detail shall be
without interruption or loss of civil service status or privi-
lege.

(j) Administrative Provisions.—

(1) Use of mail and printing.—The Panel
may use the United States mails and obtain printing
and binding services in the same manner and under
the same conditions as other departments and agen-
cies of the Federal Government.

(2) Support services.—The Secretary shall
furnish the Panel any administrative and support
services requested by the Panel.

(3) Gifts.—The Panel may accept, use, and
dispose of gifts or donations of services or property.

(k) Payment of Panel Expenses.—The com-
pensation, travel expenses, and per diem allowances of
members and employees of the Panel shall be paid out of
funds available to the Department for the payment of
compensation, travel allowances, and per diem allowances,
respectively, of civilian employees of the Department. The
other expenses of the Panel shall be paid out of funds
available to the Department for the payment of similar
expenses incurred by the Department.

(l) REPORTS.—

(1) PRELIMINARY REPORT.—

(A) REPORT TO SECRETARY.—Not later
than July 1, 2004, the Panel shall submit to
the Secretary and the Director a preliminary
report setting forth the activities and the find-
ings and recommendations of the Panel under
subsection (d), including any recommendations
for legislation that the Panel considers appro-
priate.

(B) REPORT TO CONGRESS.—Not later
than 30 days after the submission of the report
under subparagraph (A), the Secretary and the
Director shall submit to the committees re-
ferred to under subsection (b) a copy of that re-
port with the comments of the Secretary on the
report.

(2) QUADRENNIAL REPORTS.—

(A) REPORTS TO SECRETARY.—Not later
than December 1, 2004, and not later than De-
cember 1 every 4 years thereafter, the Panel
shall submit to the Secretary and the Director
a report setting forth the activities and the findings and recommendations of the Panel under subsection (d), including any recommendations for legislation that the Panel considers appropriate.

(B) REPORTS TO CONGRESS.—Not later than 60 days after each report is submitted under subparagraph (A), the Secretary shall submit to the committees referred to under subsection (b) a copy of the report with the comments of the Secretary and the Director on the report.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of enactment of this Act.