

Report for Congress

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Homeland Security: Side-by-Side Comparison of H.R. 5005 and S. 2452, 107th Congress

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Homeland Security Team
Congressional Research Service

Homeland Security: Side-by-Side Comparison of H.R. 5005 and S. 2452, 107th Congress

Summary

Leaders within the United States are involved in developing a strategy for the prevention of further terrorist attacks and for effective response and recovery should the eventuality arise. One aspect of the strategy is to consider how the federal government should be most effectively organized in order to carry out its role.

H.R. 5005 and S. 2452 have emerged as the lead legislative proposals for the related reorganization of the federal government. H.R. 5005 would create a Department of Homeland Security. In addition to establishing a department, S. 2452 would also create the National Office for Combating Terrorism, a unit within the Executive Office of the President, and the National Strategy for Combating Terrorism and the Homeland Security Response.

Both proposals would transfer the functions, responsibilities, personnel, and other assets of existing agencies into the departmental structure. Congress is considering the scope and efficacy of the proposals.

This report provides a comparison of the two bills. The comparison briefly sets out the provisions in each title. It uses H.R. 5005, as passed by the House July 26, as an organization base for the side-by-side comparison. Committee action on S. 2452 was completed July 25. That text is used for comparison with the other measure¹. Each bill has provisions not present in the other. The table of contents is a guide for the location of specific divisions, titles, and subtitles. H.R. 5005 has been presented to the Senate. The Senate will, after the August recess, take under consideration the Lieberman amendment, as amended, to which the committee agreed.

Appendix A, a second comparison, is on the positions proposed to be created.

Finally, in Appendix B, the report identifies the Homeland Security Team, CRS analysts who have been researching and analyzing homeland security issues. These staff are available to assist congressional staff in addressing questions and issues. That information follows the report text. General questions about the report may be addressed to Sharon Gressle (7-8677), and questions about the overall proposal may be addressed to Harold Relyea (7-8679), both of the Government and Finance Division.

The report will be revised as legislative action dictates.

¹ Text can be found at "TEXT OF AMENDMENTS — SA 4467," *Congressional Record*, daily edition, vol. 148, 107th Cong., 2nd sess., August 1, 2002 (Washington: GPO, 2002), pp. S7967-S8003.

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Homeland Security: Side-by-Side Comparison of H.R. 5005 and S. 2452, 107th Congress

The following table provides a side-by-side comparison of the House and Senate proposals to create a department to achieve and maintain homeland security. The House version is H.R. 5005, as passed by the House July 26, 2002. The Senate version is S. 2452, a Lieberman substitute as agreed to by the Committee on Governmental Affairs on July 25, 2002. Blank boxes indicate that there appears to be no similar, comparable, or parallel provisions in the bill.

H.R. 5005, as passed by the House July 26, 2002	S. 2452, Lieberman Substitute agreed to by Committee, July 25, 2002
H.R. 5005: To establish the Department of Homeland Security, and for other purposes.	S. 2452: To establish the Department of National Homeland Security and the National Office for Combating Terrorism.
Sec. 1. Short Title; Table of Contents. “Homeland Security Act of 2002”	Sec. 1. Short Title. “National Homeland Security and Combating Terrorism Act of 2002”
	Sec. 2. Organization of Act into Divisions; Table of Contents.
	S. 2452, Division A — National Homeland Security and Combating Terrorism
Sec. 2. Definitions.	Sec. 100. Definitions.
<i>appropriate congressional committee</i> : any committee of the House or Senate having legislative or oversight jurisdiction under the Rules of the House or Senate, respectively, over the matter concerned.	
same	<i>assets</i> : includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

H.R. 5005, as passed by the House July 26, 2002	S. 2452, Lieberman Substitute agreed to by Committee, July 25, 2002
<i>critical infrastructure</i> : same as Sec. 1016(e), P.L. 107-56 (42 U.S.C. 5195c(e))	
	<i>Director</i> : except as provided under Sec. 104, the Director of the National Office for Combating Terrorism
<i>Department</i> : Department of Homeland Security	<i>Department</i> : Department of National Homeland Security established under Title I.
<i>emergency response providers</i> : includes federal, state, and local government emergency public safety, law enforcement, emergency response, emergency medical, and related personnel, agencies, and authorities.	
	<i>Federal Terrorism Prevention and Response Agency</i> : any federal department or agency charged under the strategy with responsibilities for carrying out the strategy
same	<i>functions</i> : includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, responsibilities, and obligations
same; also <i>American homeland</i>	<i>homeland</i> : U.S. in a geographic sense
<i>key resources</i> : publicly or privately controlled resources essential to the minimal operations of the economy and government	
<i>local government</i> : (A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether it is incorporated), regional or interstate government entity, or agency or instrumentality of a local government; (B) an Indian tribe or authorized tribal organization, or Alaska Native village or organization; and (C) a rural community, unincorporated town or village, or other public entity.	<i>local government</i> : same meaning given under section 102(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288)
<i>major disaster</i> : meaning given in Sec. 102(2) of P.L. 93-288 (42 U.S.C. 5122)	
	<i>Office</i> : the National Office for Combating Terrorism established under Title II

H.R. 5005, as passed by the House July 26, 2002	S. 2452, Lieberman Substitute agreed to by Committee, July 25, 2002
same	<i>personnel</i> : officers and employees
same	<i>Secretary</i> : Secretary of Homeland Security
<i>State</i> : any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States. [See also <i>United States</i>]	
	<i>Strategy</i> : the National Strategy for Combating Terrorism and the Homeland Security Response developed under this Act
<i>terrorism</i> : any activity that (A) involves an act that (i) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and (ii) is a violation of the criminal laws of the U.S. or of any state or other subdivision of the U.S.; and (B) appears to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.	
<i>United States</i> : when used in a geographic sense, means any state of the U.S., D.C., Puerto Rico, Virgin Islands, Guam, American Samoa, Northern Mariana Islands, any possession of the U.S. and any waters within the jurisdiction of the U.S.	<i>United States</i> : the term when used in a geographic sense, means any State (within the meaning of P.L. 93-288), any possession of the U.S., and any waters within the jurisdiction of the U.S.
Sec. 3. Construction; Severability. Any provision of the act held to be invalid or unenforceable shall be construed to give it maximum effect allowed by law. If determined to be utterly invalid or unenforceable, it shall be considered severed from the other provisions of the act and will not affect the remainder of the act.	
Sec. 4. Effective Date. Act will take effect 30 days after the date of enactment of this Act or, if enacted within 30 days before January 1, 2003, on January 1, 2003.	S. 2452, Title VI — Effective Date Sec. 601. Act will take effect 30 days after the date of enactment of this Act or, if enacted within 30 days before January 1, 2003, on January 1, 2003.

H.R. 5005, as passed by the House July 26, 2002	S. 2452, Lieberman Substitute agreed to by Committee, July 25, 2002
H.R. 5005, Title I — Department of Homeland Security (DHS)	S. 2452, Title I — Department of Homeland Security
	S. 2452, Title I, Subtitle A — Establishment of the Department of Homeland Security.
Sec. 101. Executive Department; Mission. Establishes DHS as an executive department within the meaning of Title 5, United States Code, and the primary mission of the department, but, with certain exceptions, reserves responsibility for investigating and prosecuting terrorism to federal, state, and local law enforcement agencies with jurisdiction over the acts in question.	Sec. 101 Establishment of the Department of National Homeland Security. Establishes DHS by amending 5 U.S.C. 101 and the mission of the department.
Note: Although the comparison uses H.R. 5005 as the organizational base, in the sections related to the Office of the Secretary, some of the sections of both bills concerning officers of the department are presented here out of sequence to facilitate understanding the range of statutory officers proposed. The sections are repeated where they fall sequentially. See also Appendix A, “Positions Created and Compensation.”	
Sec. 102. Secretary; Functions.	Sec. 102. Secretary of Homeland Security.
Sec. 102(a) Establishes position of Secretary, appointed by President subject to Senate confirmation (PAS), at the head of DHS. Vests functions of all subordinate employees and units in the Secretary.	Sec. 102(a) Establishes position of Secretary, appointed by President subject to Senate confirmation (PAS), as “the head of” DHS. [Vesting of all authority, functions, and ability to delegate not specified.]
Sec. 102(b) Allows Secretary to delegate functions within department; provides Secretary with authority to make contracts, grants and agreements; and directs Secretary to ensure compatibility of information systems and databases within department and with appropriate databases of other departments.	Sec. 102(b) Directs Secretary to develop policies, goals, objectives, priorities, and plans for U.S. homeland security, particularly with regard to terrorism; to administer, carry out and promote the other established missions of departmental entities; to develop, with the Director of the National Office for Combating Terrorism (the Director), a strategy for a terrorism and homeland security response in accordance with Title III; to advise the Director on budget development for National Strategy for Combating Terrorism-related programs and activities; to make budget recommendations for some of the functions carried out by the department; to plan, coordinate, and integrate

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	federal activities related to several of the functions carried out by the department; to serve as a national focal point to analyze all information available to the U.S. related to threats of terrorism or other homeland threats; to establish and coordinate an integrated program for threat and vulnerability assessments and risk analysis and to disseminate related intelligence and information; to identify and promote relevant key scientific and technological advances; with the Secretary of Defense and governors, to coordinate the involvement of the national guard and other military in the Strategy and its implementation; with the Secretary of Defense, to make recommendations regarding organizational structure, equipment and military assets to benefit the Strategy and train personnel to respond to biological and chemical attacks; to ensure homeland security operations coordination within the department and with other entities; to administer the Homeland Security Advisory System; to conduct departmental and cross-agency exercise and training programs and prepare for contingencies, including those requiring military involvement; to annually review, update, and amend the plan for federal response to terrorism and manmade and natural disasters; to direct acquisition and management of communication and other information resources of the department; and to take specified steps to ensure appropriate information technology (IT) systems; to oversee and ensure the development of an enterprise architecture for departmental IT, with timetables, and with updates as needed; and to report to Congress on enterprise architecture implementation progress.
Sec. 102(c) Directs Secretary to coordinate with state and local governments, the private sector, and other entities including by ensuring adequate planning, equipment, training and exercise activities; coordinating and consolidating federal communications and communications systems related to homeland security; and distributing or coordinating distribution of warnings and information.	Sec. 102(b)(9) Directs Secretary to include, as appropriate, state and local governments and other entities in department homeland security activities, including providing intelligence information and warnings regarding terrorism threats; facilitating state and local collection and dissemination of intelligence information and provision of such information to the department and other agencies; coordinating government, private sector, and other entities to ensure

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	adequate planning, team work, coordination, information sharing, equipment, training and exercise activities; consulting other levels of government and other entities regarding the development of the Strategy under Title III; and identifying and removing obstacles to team work between different entities.
[Sec. 403(a) Visa Issuance. Gives the Secretary authority to issue regulations on visa policy.]	Sec. 102(c)(2) Visa Issuance. Gives the Secretary authority to issue regulations on visa policy, but provides that the Secretary is required to exercise authority to grant or deny visas through the Secretary of State.
Sec. 102(d) Allows Secretary to participate in National Security Council Meetings at the direction of the President.	Sec. 102(d) Makes Secretary a member of the National Security Council.
Sec. 102(e) Provides for Secretary's legal authority to issue regulations.	
Sec. 102(f) Establishes Special Assistant to the Secretary to be appointed by the Secretary. Responsible for serving as a liaison with the private sector as discussed in the same section.	
Sec. 102(g) Sets standards policy.	
Sec. 103. Other Officers.	Sec. 103. Deputy Secretary of Homeland Security.
Sec. 103(a) Establishes Deputy Secretary and Under Secretaries as PAS positions; Deputy will be first assistant.	Sec. 103(a) Establishes Deputy Secretary of Homeland Security as PAS position. Sec. 103(b) Directs Deputy to assist in administration and operations; take on responsibilities delegated by the Secretary, act as Secretary in the event of his or her absence, disability, or vacancy.
Sec. 103(a)(2) Establishes Under Secretary for Information Analysis and Infrastructure Protection as PAS position (responsibilities identified in Title II).	Sec. 132(a)(2) Establishes Under Secretary for Intelligence as PAS position with responsibilities described in Sec. 132(b). Sec. 133(a)(2) Establishes Under Secretary for Critical Infrastructure Protection as PAS position with responsibilities identified at Sec. 133(b).
Sec. 103(a)(3) Establishes Under Secretary for	Sec. 135(c)(2) Establishes Under Secretary for

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Science and Technology as PAS position (responsibilities, see Title III).	Science and Technology as PAS position and identifies responsibilities of that position.
Sec. 103(a)(4) Establishes Under Secretary for Border and Transportation Security as PAS position (responsibilities, see Title IV).	Sec. 131(a)(2) Establishes Under Secretary of Border and Transportation Protection as a PAS position with responsibilities identified in Sec. 131(b).
Sec. 103(a)(5) Establishes Under Secretary for Emergency Preparedness and Response as PAS position (responsibilities, see Title V).	Sec. 134(a)(2) Establishes Under Secretary of Emergency Preparedness and Response as a PAS position with responsibilities described in Sec. 134(b). Sec. 134(c) The Federal Emergency Management Administration (FEMA) is maintained as a “distinct entity within the department.” Sec. 134(d) Allows one individual to serve as both Under Secretary of Emergency and Response and Director of FEMA if nominated and confirmed to each office.
Sec. 103(a)(6) Establishes Under Secretary for Management as PAS position (responsibilities, see Title VI).	Sec. 104. Establishes Under Secretary for Management as PAS position. Directs Under Secretary to take on management and administration-related functions including those related to budget, appropriations, expenditures of funds, accounting, finance, procurement, human resources and personnel, information technology and communications systems, facilities, property, equipment, and other material resources, security for personnel and material resources, identification and tracking of performance measures relating to responsibilities of the department.
Sec. 103(a)(7) Establishes not to exceed (nte) four Assistant Secretaries as PAS positions. Sec. 103(d)(2) Establishes nte eight Assistant Secretaries, appointed by President and not subject to confirmation (PA). Sec. 412(a)(2) Establishes Assistant Secretary of the Bureau of Border Security reporting to the Under Secretary. [Not clear if this is one of those specified in 103(a)(7), 103(d)(2), or neither.]	Sec. 105. Establishes Assistant Secretaries, nte five (not including two Assistant Secretaries identified below), as PAS positions. General responsibilities will be described by President when submitting nomination; functions will then be assigned as Secretary determines appropriate. Sec. 1104(a) Establishes Assistant Secretary for Immigration Affairs within the Bureau of Immigration Services, appointed by Secretary in consultation with the Under Secretary of

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	Immigration Affairs and reporting to the Under Secretary, to be compensated at Level IV of the Executive Schedule. Responsibilities identified under the same section. Sec. 1105(a) Establishes Assistant Secretary for Enforcement and Border Affairs within the Bureau of Enforcement and Border Affairs, appointed by Secretary in consultation with the Under Secretary of Immigration Affairs and reporting to the Under Secretary, to be compensated at Level IV of the Executive Schedule. Responsibilities identified under the same section.
Sec. 103(a)(8) Chief Financial Officer position created as PAS position. Procedure for appointment of CFO akin to that for existing positions under the CFO Act of 1990 (see adjacent entry). Sec. 103(e) Performance of specific functions. Officers of the Department [CFO included] “shall perform the functions specified by law for the official’s office or prescribed by the Secretary.” [CFO apparently to be position created de novo, not formally under Chapter 9 of Title 31.] Sec. 421(e) Establishes Chief Budget Officer for the Bureau of Citizenship and Immigration Services in the Department of Justice. Responsibilities are identified in the same section. [Appointment process not specified.]	Sec. 107(a) Chief Financial Officer position created, to be appointed or designated as prescribed in sec. 901(a)(1) of 31 U.S.C. (as for existing CFOs in cabinet departments: CFO to be nominated by President and confirmed by Senate, or designated from among agency officials so appointed.) Sec. 107(b) Chief Financial Officer in DHS. Technical and conforming amendment to bring position fully under Chapter 9 of 31 U.S.C., with same authority and functions as for other agency CFOs, and with creation of a Deputy Chief Financial Officer in DHS. Sec. 1103. Establishes a Chief Financial Officer for the Directorate of Immigration Affairs as a career-reserved Senior Executive Service (SES) position, with authorities and functions prescribed in 31 U.S.C. 902(a)(1), reporting to the Under Secretary of the Directorate, and with responsibilities identified in the same section. Although established as an SES position, the position is to be compensated at Level V of the Executive Schedule. Also establishes Deputy Chief Financial Officer under 31 U.S.C. 903(a)(1). Sec. 1104. Establishes a Chief Budget Officer for the Bureau of Immigration Services, under the authority of the Chief Financial Officer of the Directorate, with responsibility for monitoring

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	and supervising all financial activities of the bureau. Sec. 1105. Establishes a Chief Budget Officer for the Bureau of Enforcement and Border Affairs, under the authority of the Chief Financial Officer of the Directorate, with responsibility for monitoring and supervising all financial activities of the bureau.
Sec. 103(b) Establishes Inspector General (IG), appointed under provisions of IG Act of 1978 (PAS position). Sec. 701. Gives Secretary greater authority, direction, and control over the IG in certain areas; allows the Secretary to prohibit certain investigations under certain circumstances; requires that the Secretary notify the IG and the IG transmit that notification, with comment, to the President of the Senate, the Speaker of the House, and appropriate committees and subcommittees of Congress; provides that the Secretary's prohibition authority does not limit the right of Congress or congressional committees to information; and specifically provides for IG oversight of internal investigations by the office of Internal Affairs of the U.S. Customs Service and the Office of Inspections of the U.S. Secret Service. Sec. 815. Provides for continuity between prior IG and new department IG. Sec. 901. Provides conforming and technical amendments for the Inspector General Act of 1978.	Sec. 106. Establishes Inspector General (IG) as PAS position under the provisions of Inspector General Act of 1978, as amended by this Act. Directs IG to designate an official to review information and receive complaints regarding alleged civil rights and civil liberties abuses by the department, to publicize such a process, and to report to Congress semi-annually on implementation of this function, findings and expenditures. Gives Secretary greater authority, direction, and control over the IG in certain areas; allows Secretary to prohibit certain investigations under certain circumstances; and requires that Secretary notify the IG and the IG transmit that notification, with comment, to the President of the Senate, the Speaker of the House, the Senate Governmental Affairs Committee, the House Committee on Government Reform, and other appropriate committees and subcommittees of Congress. Provides for the interaction between IG and other offices performing internal investigation and auditing functions, including assignment to the IG of oversight responsibility for internal investigations and audits by any other office in the department; communication of the activities of other offices to the IG; authority of the IG to initiate other audits and investigations; provision of notice of such investigations to other offices; and provisions for informing Congress.
Sec. 103(c) Provides that the Commandant of the Coast Guard, be appointed as provided in 14 U.S.C. 44 (PAS position), with duties specified in 14 U.S.C. 2. Reports directly to the Secretary. Sec. 402(2) Stipulates Coast Guard will be a distinct entity.	Sec. 131(c)(2) Stipulates Coast Guard will be a distinct entity. Sec. 131(e)(6) Provides that the Commandant will report directly to the Secretary.

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Sec. 103(d)(1) Establishes General Counsel as PA position and as chief legal officer of the department. Sec. 421(d) Establishes a General Counsel for the Bureau of Citizenship and Immigration Services in the Department of Justice. Responsibilities are identified in the same section.	Sec. 109. Establishes General Counsel as a PAS position. Directs General Counsel to serve as the chief legal officer of the department; provide legal assistance to the Secretary concerning the programs and policies of the department; and advise and assist the Secretary in carrying out his or her responsibilities. Sec. 1103. Establishes General Counsel for the Directorate of Immigration Affairs, appointed by the Secretary in consultation with the Under Secretary with responsibilities identified in the same section. To be compensated at Executive Schedule Level V.
Sec. 103(d)(3) Provides for the Director of the Secret Service as PA position. Sec. 711. Maintains the U.S. Secret Service as a “distinct entity” with the department.	Sec. 138. Maintains U.S. Secret Service as a “distinct entity” within the department.
Sec. 103(d)(4) Establishes Chief Information Officer (CIO) as a PA position. Sec. 603. CIO reports to Secretary or other department officer as Secretary may direct.	Sec. 108. Chief Information Officer, designated as prescribed under 44 U.S.C. 3506(a)(2)(A).
[Sec. 604. Establishes Director of the Office of Civil Rights and Civil Liberties. Responsibilities identified in the same section.]	Sec. 110. Establishes Civil Rights Officer as a PAS position, with responsibilities identified in Sec. 110(b).
[Sec. 205. Provides that the Secretary will appoint a “senior official as Privacy Officer, with responsibilities identified in Sec. 205.]	Sec. 111. Establishes Privacy Officer, to be appointed by the Secretary, with responsibilities identified in Sec. 111(b).
	Sec. 112. Chief Human Capital Officer. The Secretary would appoint or designate a Chief Human Capital Officer (CHCO) to advise and assist the Secretary and department officers in ensuring that the workforce of the department has the necessary skills and training, and that the department’s recruitment and retention policies allow it to attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, to enable the department to achieve its missions. Seven additional CHCO responsibilities are identified in Sec. 112(b).

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Sec. 104. Establishes National Council of First Responders. Chair and members appointed by the President. Reports congressional findings on the important role of first responders in homeland security and establishes National Council of First Responders in DHS to disseminate information, advise DHS officials, evaluate resources and threats, and report annually to Congress.	
[Sec. 777. Establishes Office for State and Local Government Coordination within the Office of the Secretary.]	Sec. 137(c)(1)(A) Establishes Chief Homeland Security Liaison Officer, appointed by the Secretary, to coordinate activities of Homeland Security Liaison Officers and prepare annual report as specified in Sec. 137(c)(1)(B). (Liaisons to state and local governments.)
	Sec. 152(a) Establishes Director of the National Clearinghouse on Emergency Preparedness, with responsibilities identified in Sec. 152(c).
	Sec. 166. Establishes Director of the Bioterrorism Preparedness and Response Division of the Centers for Disease Control, to be appointed by the Director of the Centers for Disease Control in consultation with the Secretaries of Health and Human Services and Homeland Security.
	Sec. 183(c) During the transition, pending the confirmation process, President may designate any PAS position-holder to continue until the office is filled. Compensation is also specified. Vacancy Act provisions apply (5 U.S.C. 3346).
	Sec. 183(d) Under this act, present office holders do not necessarily need to be reconfirmed if their new positions are equivalent to the old ones.
	Sec. 201. Establishes Director of the National Office for Combating Terrorism as PAS position, in the Executive Office of the President, to be compensated at Executive Schedule Level I, with responsibilities identified in Sec. 201(c).
	Sec. 1103. Establishes Under Secretary for Immigration Affairs to be appointed in accordance with Sec. 103(c) of the Immigration and Nationality Act with responsibilities described in the same section.

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H.R. 5005, Title II, Subtitle A — Under Secretary for Information Analysis and Infrastructure Protection.	
Sec. 201. Establishes Under Secretary; Responsibilities.	Sec. 133. Directorate of Critical Infrastructure Protection.
	Sec. 133(a) Establishes the Directorate of Critical Infrastructure Protection. Also establishes an Under Secretary for Critical Infrastructure Protection, who shall be appointed by the President, with the advice and consent of the Senate.
Sec. 201. Responsibilities. (1) Conducting analysis of information, including foreign intelligence and open source information lawfully collected by federal, state, and local law enforcement agencies and by elements of the intelligence community with respect to threats of terrorist acts against the United States; (2) Integrating information, intelligence, and intelligence analyses to produce and disseminate infrastructure vulnerability assessments with respect to such threats; (3) Identifying priorities for protective and support measures by the Department, by other executive agencies, by state and local governments, by the private sector, and by other entities; (4) Reviewing, analyzing, and recommending improvements in law, policy, and procedure for the sharing of intelligence and other information with respect to threats against the United States within the federal government and between the federal government and state and local governments; (5) Developing a comprehensive national plan to provide for the security of key resources and critical infrastructures; including, but not limited to, power production, generation, and distribution	Sec. 133(b) Responsibilities. The Directorate of Critical Infrastructure Protection shall be responsible for the following: (1) Receiving relevant intelligence information from a variety of sources; (2) Integrating relevant intelligence information in order to develop vulnerability assessments for use by federal, state, and local authorities; (3) Developing a comprehensive national plan for securing the key resources and critical infrastructure in the United States; (4) Establishing specialized research and analysis units for the purpose of processing intelligence to identify vulnerabilities and protective measures in (A) public health, (B) food and water, (C) commerce systems, (D) energy systems, (E) transportation systems, (F) information and communication systems; (G) continuity of government services; and (H) other systems or facilities; (5) Enhancing the sharing of information regarding cyber security and physical security of the United States; (6) Acting as the Critical Information Technology, Assurance, and Security Officer of the Department; (7) Coordinating the activities of the Information

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systems, information technology and telecommunications systems (including satellites), electronic financial and property record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems; (6) Coordinating with other executive agencies, state and local government personnel, agencies and authorities, and the private sector, to provide advice on implementation of such comprehensive national plan; (7) Supporting the intelligence and information requirements of the Department; and (8) Administering the Homeland Security Advisory System.	Sharing and Analysis Centers to share information between the public and private sectors on threats, vulnerabilities, individual incidents, and privacy issues; (8) Working with the Department of State on cyber security with respect to international bodies and coordinating with appropriate agencies in helping to establish cyber security policy, standards, and enforcement mechanisms; (9) Providing leadership and focus on both cyber security and physical security within the United States government; and (10) Performing such other duties as assigned.
Sec. 202. Functions Transferred.	Sec. 133(c) Transfer of Authorities, Functions, Personnel, and Assets to the Department.
(1) National Infrastructure Protection Center of the FBI, excluding the Computer Investigations and Operations Section.	(1) The Critical Infrastructure Assurance Office of the Department of Commerce.
(2) National Communications System of the Department of Defense.	(2) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section).
(3) Critical Infrastructure Assurance Office of the Department of Commerce.	(3) The National Communications System of the Department of Defense.
(4) Energy Security and Assurance Program of the Department of Energy.	(4) The Computer Security Division of the National Institute of Standards and Technology of the Department of Commerce.
(5) Federal Computer Incident Response Center of the General Services Administration.	(5) The National Infrastructure Simulation and Analysis Center of the Department of Energy.
	(6) The Federal Computer Incident Response Center of the General Services Administration.
	(7) The Energy Security and Assurance Program of the Department of Energy.
	(8) The Federal Protective Service of the General Services Administration.

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Sec. 203. Access to Information. Provides Secretary with access to reports, assessments, and “analytical information” (analyzed or unanalyzed) relating to terrorist threats in the U.S. except as otherwise directed by President. Secretary may obtain such material by request and may enter into cooperative arrangements with other agencies for routine delivery of various types of information. Regardless of whether Secretary has requested information, other agencies shall promptly provide to the Secretary reports, assessments, “analytical information” relating to threats of terrorism, and information on infrastructure vulnerabilities, or other vulnerabilities. Secretary shall have full access and input with respect to information from any national collaborative information analysis capability (as referred to in P.L. 107-107; 115 Stat. 1199). Secretary shall ensure that material received is protected from unauthorized disclosure and used only in performance of official duties; stipulates proper handling of intelligence and sensitive law enforcement information.	
Sec. 204. Procedures for Sharing Information. Secretary shall establish procedures on information shared under this title such as to limit its redissemination, ensure security and confidentiality, protect individual rights, and insure data integrity by timely removal of obsolete or erroneous information.	
Sec. 205. Privacy Officer; Appointed by Secretary; Responsibilities. Secretary shall appoint senior official to assume primary responsibility for privacy policy to protect individuals from disclosure of personal information. The Privacy Officer is responsible for reporting annually to Congress on Department activities affecting privacy.	Sec. 111. Privacy Officer, Appointed by Secretary. The Privacy Officer shall — (1) oversee compliance with Section 552a of Title 5, United States Code (commonly referred to as the Privacy Act of 1974), and all other applicable laws relating to the privacy of personal information; (2) assist with the development and implementation of policies and procedures that ensure that (A) privacy considerations and safeguards are appropriately incorporated and implemented; and (B) any information received is used or disclosed in a manner that minimizes the risk of harm to individuals; (3) assist with the

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	preparation of privacy impact assessments; (4) notify the Inspector General of any matter that, in the opinion of the Privacy Officer, warrants further investigation.
Sec. 206. Federal Cybersecurity Program.	
Sec. 206(a) The Secretary acting through the Under Secretary shall establish and manage a program to improve the security of federal critical information systems.	
Sec. 206(b) Duties of the Secretary are: (1) evaluate agencies' effectiveness in using information to improve critical infrastructure security; (2) provide assistance to civilian agencies in protecting critical federal information systems and identification of significant risks to such systems; and (3) coordinate R&D for critical information systems relating to supervisory control and data acquisition.	
Sec. 206(c) Establishes a federal information system security team that will provide technical expertise to help civilian agencies secure federal critical information systems. Team shall consist of technical experts and auditors, computer scientists, and computer forensics analysts.	
Sec. 206(d) Provides definition of critical information systems as defined in Sec. 3502 of Title 44, U.S.C. This does not include any national security system as defined in Sec. 5142 of the Clinger-Cohen Act of 1996.	
Sec. 207. Enhancement of Non-Federal Cybersecurity. The Under Secretary shall (1) as appropriate, provide to state and local government entities, and upon request to private entities that own or operate critical information systems, (A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and (B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or	

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attacks on, critical information systems; and (2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with Under Secretary, with respect to emergency recovery plans to respond to major failures of critical information systems.	
Sec. 208. Information Security. The Under Secretary shall (1) as appropriate, provide to state and local government entities, and, upon request, to private entities that own or operate critical information systems (A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and (B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or attacks on, critical information systems; and (2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with the Under Secretary, with respect to emergency recovery plans to respond to major failures of critical information systems.	
H.R. 5005, Title II, Subtitle B — Intelligence Analysis Center.	
Sec. 211. Intelligence Analysis Center. Establishes Intelligence Analysis Center within the Department under the Under Secretary for Information Analysis and Infrastructure Protection. Makes Intelligence Analysis Center part of National Foreign Intelligence Program (NFIP). Intelligence Analysis Center will conduct analysis of foreign intelligence, law enforcement information, and open source information with respect to terrorist threats to U.S., produce vulnerability assessments, identifying priorities for protective measures, and advise on comprehensive plan for infrastructure security. Arrangements will made to detail to the Center analysts from CIA, FBI, and other agencies. Details to be for less than two years and on reimbursable basis.	

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National Security Act amended to make DHS Office of Intelligence an element of the Intelligence Community (50 U.S.C. 401a(4)).	
Sec. 212. Mission of the Intelligence Analysis Center. Mission of Intelligence Analysis Center is correlation and evaluation of information from all sources available; producing all-source collaborative intelligence analysis, warnings, tactical and strategic assessments of terrorist threat and infrastructure vulnerabilities; improving lines of communication between federal and state and local governments and private sector regarding terrorist threats. Intelligence Analysis Center shall conduct strategic and tactical assessments relating to domestic terrorism, international terrorism, counterintelligence, transnational crime, proliferation of weapons of mass destruction, illicit financing of terrorist activities, cybersecurity and cybercrime, and key resources and critical infrastructures. Transfers to Intelligence Analysis Center the functions, personnel, assets, and liabilities of: FBI's National Infrastructure Protection Center; Commerce Department's Critical Infrastructure Assurance Office; GSA's Federal Computer Incident Response Center; Energy Department's National Infrastructure Simulation and Analysis Center; DOD's National Communications System; intelligence elements of the Coast Guard, Customs Service, INS, Transportation Security Administration, and Federal Protective Service. Expresses sense of Congress that Intelligence Analysis Center should be modeled upon the Army's Information Dominance Center to the maximum extent feasible and appropriate.	
Sec. 213. Net Guard. The Under Secretary may establish a national technology guard, to be known as "NET Guard," composed of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.	

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	S. 2452, Title I, Sec. 132. Directorate of Intelligence
	Sec. 132(a) Establishment. Establishes Directorate of Intelligence to serve as national-level focal point for analysis of all information available to the U.S. government for preventing, deterring, protecting against, preparing for, and responding to threats of terrorism. Directorate shall communicate, coordinate, and cooperate with the FBI, the intelligence community, and other agencies or entities, including those within DHS. The terms <i>foreign intelligence</i> and <i>counterintelligence</i> shall have the meaning given those terms in 50 U.S.C. 401a. The Director of Central Intelligence (DCI), the Attorney General, and heads of other agencies shall ensure that all intelligence and other information relating to international terrorism is provided to the DCI's Counterterrorist Center. The DCI shall ensure that the Counterterrorist Center analyzes all intelligence and other information provided to it regarding international terrorism. The DCI's Counterterrorist Center shall have "primary responsibility" for the analysis of foreign intelligence relating to international terrorism. There shall be an Under Secretary for Intelligence appointed by the President with the advice and consent of the Senate.
	Sec. 132(b) Responsibilities. The Directorate of Intelligence shall be responsible for receiving and analyzing law enforcement and other information from federal, state, and local law enforcement agencies and fusing it with analytical products, assessments, and warnings concerning foreign intelligence from the DCI's Counterterrorist Center in order to (i) identify and assess the nature and scope of threats to the homeland, and (ii) detect and identify threats of terrorism. However, nothing shall be construed to prohibit supplemental

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	analysis of foreign intelligence relating to terrorist threats. The Directorate of Intelligence shall: – Ensure timely and effective access to information from intelligence and law enforcement agencies, state and local governments, and private sector entities; and to open source information. – Represent DHS in procedures to establish requirements and priorities in the collection of national intelligence relating to terrorist threats to the homeland. It shall consult with the Attorney General to establish overall collection priorities and strategies for information relating to terrorist threats to the homeland. – Disseminate information to the Directorate of Critical Infrastructure Protection, the FBI and intelligence agencies, state and local governments, and private sector entities to assist in the deterrence, prevention, preemption, and response to threats of terrorism. – Establish in conjunction with other officials a secure communications and information technology infrastructure, and advanced analytical tools. Develop in conjunction with other officials appropriate software, hardware, and other protocols to ensure that federal databases and information technology systems are compatible with DHS infrastructure and comply with federal privacy laws. – Ensure, in conjunction with the DCI and Attorney General, that material received by DHS is protected against unauthorized disclosure and used only for official duties consistent with DCI's authority to protect intelligence sources and methods and similar authorities of the Attorney General concerning sensitive law enforcement information and privacy concerns. – Provide information and analysis relating to threats to law enforcement and intelligence agencies. – Coordinate training to providers of information to enable them to identify and share intelligence information revealed in their ordinary duties. – Review, analyze, and make recommendations

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	for improving the policies and procedures governing the sharing of law enforcement, intelligence, and other information relating to threats to homeland security. – Assist and support the DHS Secretary in conducting threat and vulnerability assessments and risk analyses.
	Sec. 132(c) Access to Information. Unless otherwise directed by the President, the Secretary shall have access to, and U.S. government agencies shall provide, all reports, assessments, analytical information, and information “including unevaluated intelligence, relating to the plans, intentions, capabilities, and activities” of terrorists and terrorist organizations. As the President may further provide, the Secretary shall receive additional information requested by the Secretary from law enforcement and intelligence agencies. All information shall be provided consistent with information security and privacy statutes. The Secretary may enter into cooperative arrangements with other agencies to share material on a regular or routine basis. Regardless of whether such arrangements have been made, all agencies shall promptly provide DHS with information regarding terrorist threats. The Secretary shall be deemed to be a federal law enforcement, intelligence, protective, national defense, or national security official for the purposes of information sharing statutes. The Under Secretary for Intelligence shall also be responsible for developing analysis concerning means to exploit vulnerabilities; developing and conducting experiments, tests, and inspections to test weaknesses; developing and practicing countersurveillance techniques; conducting risk assessments; working with the Directorate of Critical Infrastructure Protection and other agencies, state and local governments, and private entities to address vulnerabilities.
	Sec. 132(d) Authorization to Share Law Enforcement Information. The Secretary shall be deemed to be a federal law enforcement, intelligence, protective, national

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	defense, or national security official for purposes of the information sharing provisions of relevant statutes.
	Sec. 132(e) Additional Responsibilities. The Under Secretary for Intelligence shall also be responsible for developing information about means terrorists are likely to use to exploit vulnerabilities; conducting experiments to test weaknesses in homeland defenses; developing methods to conduct counter-surveillance of critical infrastructure and terrorist targets; preparing risk assessments of specific kinds of attacks; working with other offices, agencies, and the private sector to address vulnerabilities.
	Sec. 132(f) Management and Staffing. The Directorate of Intelligence will be staffed in part by analysts from other law enforcement and intelligence agencies (or other parts of DHS) on reimbursable detail. The President shall prescribe regulations to provide that such service will be considered a positive factor for selection to positions of greater authority within all supporting agencies. Personnel shall be employed in accordance with security standards established by the Secretary in conjunction with the DCI. Performance of personnel shall be evaluated by the Secretary or Under Secretary for Intelligence.
	Sec. 132(g) Intelligence Community. Those portions of the Directorate of Intelligence that undertake information analysis shall be considered part of the U.S. intelligence community within the meaning of 50 U.S.C. 401a and, for budgetary purposes, within the National Foreign Intelligence Program.

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H.R. 5005, Title III — Under Secretary for Science and Technology	S. 2452, Title I, Sec. 135. Directorate of Science and Technology
	Sec. 135(a) Purpose. Describes purposes of the Directorate to include the following relating to homeland security: – research, development, demonstration, testing, and evaluation (RDT&E); – national research and development (R&D) priorities, strategies, and policies; – coordination and collaboration with government and private entities; – advising the Secretary; – facilitating transfer and deployment of technologies.
	Sec. 135(b) Definitions in this section. <i>council</i>: the Homeland Security Science and Technology Council established in Sec. 135(e). <i>fund</i>: the Acceleration Fund for Research and Development of Homeland Security Technologies established in Sec. 135(d). <i>homeland security research and development</i>: R&D applicable to the detection of, prevention of, protection against, response to, and recovery from homeland security threats. <i>OSTP</i>: the Office of Science and Technology Policy <i>SARPA</i>: the Security Advanced Research Projects Agency established in Sec. 135(f). <i>technology roadmap</i>: plan or framework in which goals, priorities, and milestones for desired future technological capabilities and functions are established, and R&D for achieving them is identified and analyzed to guide decisions on resource allocation and investments. <i>Under Secretary</i>: the Under Secretary for Science and Technology.
	Sec. 135(c) Directorate of Science and Technology.
	Sec. 135(c)(1) Establishment. Establishes the Directorate.

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Sec. 301. Under Secretary for Science and Technology. [Position established by Sec. 103(a)(3).] Stipulates responsibilities of the Under Secretary, including: – administering and conducting research, development, demonstration, testing, and evaluation (RDDT&E) activities in DHS, except responsibilities do not include R&D relating to human health; – coordinating with other federal agencies; – developing a national policy and strategic plan for countermeasures to terrorist threats; – establishing federal priorities for technologies to protect against chemical, biological, radiological, and nuclear (CBRN) weapons; – aligning RDDT&E with procurement needs; – facilitating deployment of technology to enhance homeland security; and – providing guidelines for merit review and dissemination of research.	Sec. 135(c)(2) Under Secretary. Establishes Under Secretary of Science and Technology as a presidential appointee with Senate confirmation. Stipulates responsibilities, including: – coordination with other federal agencies; – developing technology roadmap; – facilitating transfer and deployment of technologies; – assisting in developing the national strategy (Title III); – establishing mechanisms for sharing and dissemination of developments and opportunities with government and private entities; – establishing a National Emergency Technology Guard of volunteer experts to assist local communities in emergencies (will coordinate with EPR Under Secretary); – chairing the interagency working group on bioterrorism and other public health emergencies established under Sec. 108 of P.L. 107-188; – assisting in developing the strategy for countermeasure research [Sec. 135(k)]; – establishing or contracting with federally funded research and development centers; – assisting in establishing agreements with DOE on use of national laboratories.
Sec. 302. Functions Transferred. Transfers functions, personnel, assets, and obligations as follows: (1) From DOE, elements of the Nonproliferation and Verification R&D, Nuclear Assessment, and Life Sciences programs; the Environmental Measurements Laboratory; and the portion of the Advanced Scientific Computing Research program that is conducted at Lawrence Livermore National Laboratory; but not any program or activity relating to the strategic nuclear defense posture of the United States. (2) From DOD, the Biological Defense Homeland Security Support and Biological Counterterrorism Research Programs of the Chemical Biological Defense Program.	Sec. 135(i) Office of Laboratory Research. Establishes the office and transfers functions, personnel, and assets as follows: [Sec. 134(c)(6) transfers administration of both DHHS and USDA select agent rules] – From DOE, similar provisions, but not including elements of the Life Sciences program or the Advanced Scientific Computing Research program. Elements within the Proliferation Detection subprogram of the Nonproliferation and Verification R&D program may be designated by the President either for transfer to the Department or for joint operation by the Secretary of DHS and the Secretary of Energy. – From DOD, the National Bioweapons Defense Analysis Center established in Sec. 161. Designates functions of the office to include supervision of transferred entities, administration

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	and oversight of R&D funds transferred to other agencies, establishment and direction of new R&D facilities, and providing a science advisor and supporting staff.
Sec. 303. Conduct of Certain Public Health-Related Activities. Directs the Secretary of Health and Human Services, in collaboration with the Secretary of Homeland Security, to set priorities for human health-related R&D on countermeasures for CBRN and other emerging terrorist threats, and to develop a coordinated strategy for such activities to ensure consistency with DHS's national policy and strategic plan for developing countermeasures.	Sec. 135(c)(3)(E) Authorizes the Secretary of Homeland Security to carry out human health-related countermeasures research in collaboration with the DHHS. Requires that NIH bioterrorism research be conducted under joint strategic prioritization agreements between DHS and DHHS. DHS has the authority to establish general research priorities in those agreements, but DHHS shall set the specific research agenda in consultation with DHS. Requires NIH to manage and fund the research and authorizes DHS to transfer funds to DHHS for this purpose.
Sec. 304. Federally Funded Research and Development Center. Permits DHS to establish or contract with federally funded research centers to provide independent analysis of homeland security issues or to carry out other responsibilities, such as coordinating and integrating R&D programs under Sec. 307.	Sec. 135(c)(2)(I) Gives the Under Secretary responsibility for establishing or contracting with federally funded research and development centers to provide independent technical analysis and support.
Sec. 305. Miscellaneous Provisions. Directs that DHS research should be unclassified to the greatest extent practicable and that other Under Secretaries in the Department may conduct R&D if coordinated through the Under Secretary for Science and Technology. Provides authority for DHS to regulate RDT&E activities of the department. Requires the President to notify Congress of any proposed transfer of DOE Life Sciences activities [as provided for in Sec. 302(2)(D)].	Sec. 135(l) Classification of Research. Directs that DHS research should be unclassified to the greatest extent practicable. Provides procedures for classification and review. Prohibits placing restrictions on unclassified federally funded fundamental research, except as provided under applicable laws.
Sec. 306. Homeland Security Science and Technology Coordination Council. Establishes a coordination council of DHS officials to establish priorities and assist in coordinating RDDT&E within DHS.	Sec. 135(e) Science and Technology Council. Establishes a council of officials from agencies engaged in homeland security-related R&D to make recommendations on priorities, facilitate coordination among federal and private entities on such R&D, and assist in development of the technology roadmap [Sec. 135(c)(2)(C)].

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[See Sec. 309 below].	Permits establishment of an advisory panel and working groups in specific areas.
Sec. 307. Conduct of Research, Development, Demonstration, Testing, and Evaluation. Stipulates that RDDT&E be carried out through both intramural and extramural programs. For extramural programs, directs that participation be geographically diverse, that funded research be of high quality as determined through merit review, and that awards be issued through open competition where possible. Requires establishment of a university center(s) for homeland security and specifies criteria to be considered when selecting its/their location.	Sec. 135(c)(3) Research and Development-Related Authorities. Authorizes DHS to conduct R&D similar to that possessed by the Secretary of Defense under 10 U.S.C. 2371 and to carry out prototype projects according to requirements and conditions of Sec. 845 of P.L. 103-160. Requires use of competitive, merit-based selection procedures. Permits transfer of funds to other agencies for R&D. Requires that at least 10% of funds authorized through FY2005 for the Acceleration Fund (see Sec. 135(d)) be used for R&D to minimize the diversion of Coast Guard resources from non-homeland security missions. Provides for use of authorities described in 5 U.S.C. 3104 note in hiring personnel, with limitations. [See also Sec. 731 of H.R. 5005.]
Sec. 307(c) Intramural Programs. Permits the Secretary to draw on the expertise of any federal laboratory and to establish a headquarters laboratory for the Department at any national laboratory and additional units at other national laboratories. Stipulates procedures for selecting a headquarters laboratory.	Sec. 135(j) Office for National Laboratories. Establishes office to coordinate and use DOE national laboratories and sites in support of departmental mission. Department may be a joint sponsor of one or more national laboratories and sets conditions for such sponsorship. Also permits other arrangements for Department use of the national laboratories or sites. Provides office with technology transfer authorities under 15 U.S.C. 3710a (Stevenson-Wydler). Permits detailing of certain DOE employees to assist in establishing Department.
Sec. 308. Transfer of Plum Island Animal Disease Center, Department of Agriculture. Transfers to DHS the USDA/APHIS/Agricultural Research Service (ARS) Foreign Animal Disease Diagnostics Lab on Plum Island, NY; requires the DHS and USDA Secretaries to establish an agreement ensuring ARS's access to the facility for its program purposes. Requires congressional notification before any change in biosafety level at the facility.	
Sec. 309. Homeland Security Science and Technology Advisory Committee.	Sec. 135(e)(4) Advisory Panel. Permits establishment of a panel to advise the

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Establishes a 20-member advisory committee appointed by the Under Secretary for Science and Technology. Specifies criteria for selection of members and procedures for calling and conducting meetings. Requires an annual report and permits additional reports. Exempts the committee from Sec. 14 of the Federal Advisory Committee Act (regarding termination and renewal procedures).	Science and Technology Council.
Sec. 310. Homeland Security Institute. Establishes a Homeland Security Institute as a federally funded research and development center (FFRDC) administered by DHS. The duties of the institute may include systems and risk analysis, policy and economic analysis, evaluation of the effectiveness of security measures, support of security exercises, and other activities. Requires the institute to consult with industry, universities, and nonprofit institutions. Requires the institute to issue an annual report.	Sec. 135(g) Office of Risk Analysis and Assessment. Establishes an Office of Risk Analysis and Assessment within DHS to assist in and coordinate with other entities on threat-assessment and risk-analysis studies, monitor and evaluate novel scientific findings, design metrics to evaluate programs, and support the Office of Emergency Preparedness in designing field tests and exercises.
Sec. 311. Technology Clearinghouse to Encourage and Support Innovative Solutions to Enhance Homeland Security. Establishes within DHS a centralized clearinghouse for dissemination of technology information, issuance of announcements seeking innovative technologies, screening and assessment of proposals, assistance to the public and private sectors in technology evaluation and implementation, and guidance on submission of proposals. Requires the clearinghouse to coordinate with the Technical Support Working Group.	Sec. 135(h) Office for Technology Evaluation and Transition. Establishes the office to serve, for technologies, as a clearinghouse for proposals and inquiries, to identify and evaluate new ones, to assist in transition to deployment, and to consult with and advise agencies.
	Sec. 135(d) Acceleration Fund. Establishes fund for awards to public and private entities for homeland security R&D projects selected by Security Advanced Research Projects Agency (SARPA). Authorizes \$200 million for FY2003 and sums necessary thereafter.
	Sec. 135(f) Security Advanced Research Projects Agency (SARPA). Establishes SARPA and identifies responsibilities, including R&D activities (among

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	them high-risk/high-payoff opportunities) and technology deployment for homeland security, administration of Acceleration Fund, and providing advice on funding priorities.
	Sec. 135(k) Strategy for Countermeasure Research. Requires development of a strategy and plan to engage nonfederal entities in R&D and production of countermeasures, in consultation with specified government and private entities. Stipulates purposes of the strategy and plan, including an evaluation of tax and other incentives (e.g., intellectual property, risk protection, technology transfer). DHS to report to Congress within 270 days with legislative recommendations.
	Sec. 136(m) Office of Science and Technology Policy. Amends current law to add homeland security to areas on which the Director of OSTP provides advice to the President and to add the National Office for Combating Terrorism to the list of federal entities with which the Director is to consult and cooperate.

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H.R. 5005, Title IV — Border and Transportation Security	S. 2452, Title I, Sec. 131. Directorate of Border and Transportation
H.R. 5005, Title IV, Subtitle A — General Provisions.	Sec. 131(a) Establishment. Under Secretary appointed by the President, subject to confirmation.
Sec. 401. Under Secretary for Border and Transportation Security. Specifies the responsibilities of the Under Secretary for Border and Transportation Security as: (1) preventing the entry of terrorists and their instruments of terror; (2) securing the borders, territorial waters, ports, and transportation systems of the United States, and coordinating governmental activities at ports of entry; (3) carrying out immigration enforcement functions immediately before the transfer of functions under Sec. 411 takes place; (4) establishing and administering rules governing the entry of individuals who are not citizens or lawfully admitted permanent residents into the United States; (5) administering the customs laws of the United States (except those specified under subtitle C); (6) conducting the functions of the Department of Agriculture transferred to the Secretary under section 404; (7) ensuring the efficient flow of lawful traffic and commerce while carrying out these duties.	Sec. 131(b) Responsibilities. Specifies the responsibilities of the Directorate of Border and Transportation Protection as: (1) securing the borders and transportation systems of the United States and coordinating governmental activities at ports of entry; (2) receiving and providing intelligence on threats of terrorism and other homeland threats; (3) administering, carrying out, and promoting the missions of the entities transferred to the Directorate; (4) using intelligence gathered by other intelligence entities to establish inspection priorities; (5) providing agency-specific training for agents and analysts within the Department, other agencies, and state and local agencies and international entities that have established partnerships with the Federal Law Enforcement Training Center; (6) performing other duties as assigned by the Secretary.
Sec. 402. Functions Transferred.	Sec. 131(c) Transfer of Authorities, Functions, Personnel, and Assets to Department.
Sec. 402(1) Transfer of the Customs Service and Related Functions, Personnel, Assets, and Obligations to the Department of Homeland Security, with Certain Exceptions. Under the title outlining the responsibilities of the Under Secretary for Border and Transportation Security, transfers to the Secretary for Homeland Security the functions, personnel, assets, and obligations of the U.S. Customs Service, except as otherwise provided in the bill. See Sec. 451 below.	Sec. 131(c)(1) Transfer of Customs-Related Authorities, Functions, Personnel, and Assets to the Department of Homeland Security. Under the Directorate of Border and Transportation Protection, transfers the U.S. Customs Service and related authorities, functions, personnel, and assets to the Department of Homeland Security, except as otherwise provided in the bill. Maintains the Customs Service as a distinct entity.
Sec. 402(2) Transfers Coast Guard functions,	Sec. 131(c)(2) Authorizes the transfer of Coast

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personnel, assets, and obligations. Stipulates that the Coast Guard shall be maintained as a distinct entity within the new Department.	Guard functions, personnel, assets and obligations. Stipulates that the Coast Guard shall be maintained as a distinct entity within the new Department.
	Sec. 131(e) Preserving Coast Guard Mission Performance. (1) Includes two definitions in subsection, one defining Coast Guard homeland security missions, the other its non-homeland security missions. (2) The Coast Guard authorities, functions, assets, organizational structure, units, personnel and non-homeland security functions are to remain intact and not be reduced. (3) Prohibits transferring to another agency in DHS any Coast Guard authorities, functions, personnel, and assets. (4)(A) DHS Secretary is prohibited from modifying non-homeland security Coast Guard missions or related capabilities without prior congressional approval. The President may waive this requirement for up to 90 days during a certified national emergency. (5)(A) and (5)(B) Require that annually, by March 1, the DHS Inspector General provide the agency's authorizing and appropriations committees an assessment of Coast Guard mission performance with an emphasis on non-homeland security missions. (6) Specifies that the Commandant will report directly to the DHS Secretary. (7) States that none of subsection (e) conditions and restrictions applies when the Coast Guard is operating as a service of the Navy.
Sec. 402(3) Transfers the Transportation Security Administration, including the related functions of the Secretary of Transportation and of the Under Secretary of Transportation for Security.	Sec. 131(c)(4) Transfers the Transportation Security Administration of the Department of Transportation.
Sec. 402(4) Transfers the Federal Protective Service of the General Services Administration, including the related functions of the Administrator of General Services.	Sec. 133(c)(8) Transfers the Federal Protective Service of the General Services Administration to the <i>Directorate of Critical Infrastructure Protection</i> .
Sec. 402(5) Transfers the Office for Domestic	Sec. 134(c)(3) Transfers the Office of Domestic

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Preparedness of the Office of Justice Programs of the Department of Justice, including the related functions of the Attorney General.	Preparedness of the Department of Justice to the <i>Directorate of Emergency Preparedness and Response</i> .
Sec. 402(6) Transfers the National Domestic Preparedness Office of the Federal Bureau of Investigation, including the related functions of the Attorney General.	Sec. 134(c)(2) Transfers the National Office of Domestic Preparedness to the <i>Directorate of Emergency Preparedness and Response</i> .
Sec. 402(7) Transfers the Domestic Emergency Support Teams of the Department of Justice, including the related functions of the Attorney General.	
Sec. 403(a) Visa Issuance. Gives the Secretary exclusive authority to issue regulations on visa policy. Vests authority to refuse visas in accordance with law and to develop training for State Department consular officers on homeland security; these authorities are to be exercised through the Secretary of State.	Sec. 102(c)(2) Visa Issuance. Gives the Secretary authority to issue regulations on visa policy, but provides that the Secretary may delegate this authority to the Secretary of State.
Sec. 403(b) Authority of the Secretary of State. Expands the current exclusion authority of the Secretary of State by permitting the Secretary to exclude an alien when necessary or advisable in the foreign policy or security interests of the U.S. (As a result of the Immigration Act of 1990, current law contains significantly more circumscribed discretion to exclude on foreign policy and security grounds.) Expressly retains the authority of the Secretary of State under several statutes, including that with respect to the exclusion of violators of the Convention on Protection of Children and Cooperation in Respect to Inter-Country Adoption.	Sec. 102(c)(2). Same. Similar, but differs by including foreign relations-based findings, including (1) designation of aliens abroad who espouse or endorse terrorist activities and (2) exclusion of aliens found to have disclosed certain business records in violation of the Chemical Weapons Convention.
Sec. 403(c)(1) Assignment of Homeland Security Employees to Diplomatic and Consular Posts. Authorizes assignment of homeland security employees to diplomatic and consular posts for advice, review, and investigations.	Similar language at Sec. 102(c)(5)(A).
Sec. 403(c)(2) Provides for homeland security personnel assigned overseas to participate in the terrorist lookout committees established by §304	Similar language at Sec. 102(c)(5)(B).

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of the Enhanced Border Security and Visa Entry Reform Act of 2002.	
Sec. 403(c)(3) Training and Hiring. The Secretary must ensure that any employees of the Department of Homeland Security assigned to perform functions described at Sec. 403(c)(1) [relating to visa applications] would be provided all necessary training to enable them to carry out such functions, including training in foreign languages, interview techniques, fraud detection techniques, and other skills required by such employees, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study. The Secretary shall prescribe regulations within 60 days of the act's enactment to establish foreign language proficiency requirements for employees performing the functions. Preference in hiring employees to perform such functions would be given to those who meet such requirements. The Secretary may use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training.	Sec. 102(c)(5)(C) Training and Hiring. The Secretary would ensure that any employees of the Department assigned to perform functions described at Sec. 102(c)(5)(A) [relating to visa applications] and, as appropriate, consular officers, would be provided all necessary training to enable them to carry out such functions, including training in foreign languages, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study. Before assigning employees to perform the functions, the Secretary would prescribe regulations to establish foreign language proficiency requirements for employees. Preference in hiring employees to perform such functions would be given to those who meet such requirements. The Secretary could use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training.
Sec. 403(d) Clarifies that current law on the non-reviewability of consular decisions remains.	
Sec. 403(e) Requires a study and report to Congress on the use of foreign nationals in the process of rendering decisions in the visa issuance process, specifically addressing national security concerns and cost-effective alternatives.	
Sec. 403(f) Requires the Director of the Office of Science and Technology Policy to submit a report to Congress within 120 days on the effect of §403 on visa issuances to students.	
Sec. 403(g) Creates a special visa issuance program in Saudi Arabia with all interviews conducted by homeland security personnel. All visa applicants in Saudi Arabia shall be interviewed unless it is determined in writing that they are unlikely to pose a risk. The Secretary must promulgate guidelines for such determinations within 30 days of enactment.	

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Sec. 404. Transfer of Certain Agricultural Inspection Functions of the Department of Agriculture. Transfers to DHS the USDA agricultural import and entry inspection (but <i>not</i> quarantine) function, of USDA's Animal and Plant Health Inspection Service (APHIS); requires DHS and USDA secretaries to create a transfer agreement to address employee training and DHS access to user fee funds collected by USDA for inspection services; allows cooperation and reciprocity in administering programs; requires consultation in regulatory compliance and rulemaking. With regard to personnel issues: Under Sec. 404(d)(3), the Secretary of DHS Security, in consultation with the Secretary of Agriculture, could issue such directives and guidelines as are necessary to ensure the effective use of DHS personnel to carry out the functions transferred; and Under Sec. 404(g), during the transition period, the Secretary of Agriculture would transfer to the Secretary of Homeland Security not more than 3,200 full-time equivalent positions of USDA. Provides conforming language.	Sec. 131(c)(3). Transfers to DHS the USDA/APHIS authorities, functions, personnel, and assets pertaining to agricultural import inspection at U.S. borders and ports of entry, including quarantine activities.
Sec. 405. Functions of Administrator of General Services. The only effect of this act on GSA is to transfer the Federal Protective Service to the Department of Homeland Security. The Secretary of Homeland Security is not authorized to obligate amounts in the Federal Buildings Fund. If the Administrator transfers any funds collected from rents and fees to Homeland Security, the funds must be used for the protection of buildings owned or occupied by the federal government.	
Sec. 406. Functions of Transportation Security Administration (TSA). (a) Requires that the Secretary and other Homeland Security Department officials consult with the FAA administrator before taking any action that might affect aviation safety, air carrier operations, aircraft airworthiness, or the use of airspace. Also requires the Secretary to establish a liaison office for the purpose of consulting with	Sec. 131. Establishes the Directorate of Border and Transportation Protection and places transportation security responsibilities and activities under the Directorate, but has no section equivalent to H.R. 5005, Sec. 406, that refers to the functions of the TSA.

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the FAA administrator. (b) Requires the Secretary of Transportation to report, within 60 days of enactment, a plan for complying with the Aviation and Transportation Security Act (P.L. 107-71, Sec. 110(b)), which requires that sufficient explosive detection systems be deployed at all designated commercial airports to screen all checked baggage by December 31, 2002. (c) Limits the authority over transportation security of the Secretary or other Department officials to that vested in the Secretary of Transportation or Under Secretary of Transportation for Security under chapter 449 [Security] U.S.C. Also denies the Secretary of Homeland Security or other Department officials the authority to obligate Airport Improvement Program (AIP) funds.	
Sec. 407. Preservation of Transportation Security Administration (TSA) as a distinct entity. Requires that the TSA be maintained as a distinct entity within the Department under the Under Secretary for Border and Transportation Security. This provision applies for only two years after enactment.	Sec. 131(c) Transfers the authorities, functions, personnel, and assets of the TSA to the Directorate of Border and Transportation Protection in the new Department, but does not require that the TSA remain a distinct entity.
Sec. 408. Annual assessment of Terrorist-Related Threats to Public Transportation. Requires the Secretary, in consultation with the heads of other appropriate federal departments and agencies, to conduct an assessment of terrorist-related threats to all forms of public transportation, including gathering places related to public transportation.	Sec. 170. Review of Transportation Security Enhancements. Requires the Comptroller General to conduct a detailed, comprehensive study that shall: review all available intelligence on terrorist threats against aviation, seaport, rail, and transit facilities; review all available information on vulnerabilities at such facilities; and review the steps taken by agencies, since Sept. 11, 2001, to improve aviation, seaport, rail, and transit security to determine their effectiveness at protecting passengers and transportation infrastructure from terrorist attack. The Comptroller General is to submit, not later than 1 year after enactment, a comprehensive report of the findings of the reviews and proposed steps to improve any deficiencies in aviation, seaport, rail, and transit security, including, to the extent possible, the cost of implementing the steps. Not later than 90 days after receipt, the Secretary of

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	DHS is to provide Congress and the President with the DHS response to the recommendations; and DHS recommendations to further protect passengers and transportation infrastructure from terrorist attack. Sec. 301. Requires that the Secretary, as part of developing a National Strategy for Combating Terrorism, include a review of measures needed to enhance transportation security with respect to potential terrorist attacks.
Sec. 409. Explosive Detection Systems. Installation of systems [waiver of deadline]. Not later than October 1, 2002, the Under Secretary shall notify each airport served by a certificated carrier of the number and type of explosive detection systems required to be deployed at the airport to screen all checked baggage by explosive detection systems (EDS) without imposing unreasonable delays on passengers at the airport. If the owner or operator of such an airport determines that the airport cannot make the necessary modifications to the airport's terminal building to accommodate the EDS in a cost-effective manner by the December 31, 2002 deadline, then the airport shall notify the Under Secretary by November 1, 2002. Airports providing such notice shall produce, jointly with the Under Secretary, not later than December 1, 2002, a plan for making necessary modifications to the airport's terminal buildings so as to deploy and fully utilize EDS equipment to screen all baggage. Deadline. Plans developed under this paragraph shall include a date for executing the plan. All such plans shall be executed as expeditiously as practicable but not later than December 31, 2003. The developed plans shall be transmitted to Congress but not to the public for security reasons. Requirements for Plans. To the maximum extent possible, the plans will provide for: EDS deployment in the baggage sorting area rather than in terminal lobbies; deployment of state-of-the-art EDS that have high throughput, low false alarm rates, and high reliability without reducing	

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detection rates. Use of Screening Methods other than EDS. If explosive detection systems are not screening all checked baggage at an airport, such baggage shall be screened by methods described in Sec. 44903(e) of Title 49, U.S.C. (i.e. positive bag match, explosive-sniffing dogs, manual search, or other means or technology approved by the Under Secretary), until all checked baggage can be screened by EDS. Purchase of EDS. Shall be purchased by the Under Secretary. EDS Defined. EDS means a device, or combination of devices, that can detect different types of explosives.	
Sec. 410. Transportation Security. Makes the Secretary or the Secretary's designee a member of the Transportation Security Oversight Board. Also makes the Secretary the Chairperson of the Board. Requires the Secretary of Transportation to consult with the Secretary of Homeland Security before approving Airport Improvement Program (AIP) grants for security equipment or grants related to the installation of bulk explosive detection systems.	
	Sec. 139. Border Coordination Working Group.
	Sec. 139(a). (1) Defines <i>border security</i> functions as "the securing of the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States." (2) Defines <i>relevant agencies</i> as any department or agency determined by the President to be relevant to performing border security functions.
	Sec. 139(b) Establishes the Border Coordination Working Group composed of the Secretary, the Under Secretary for Border and Transportation Security, and the Under Secretary for Immigration Affairs.
	Sec. 139(c) Requires the group to meet quarterly to: (1) develop coordinated budget requests and allocations of resources and personnel for border security; (2) coordinate joint and cross-training

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	programs for border security personnel; (3) monitor, evaluate, and improve the coverage and distribution of border security programs and personnel; (4) develop and implement policies and technologies to aid the efficient flow of lawful traffic, and enhance scrutiny for high-risk traffic; (5) identify systemic coordination problems and propose changes.
	Sec. 139(c) Requires the Secretary to consult with representatives of the relevant agencies in fulfilling the requirements of Sec. 139(b)(1). [Note: This section should be labeled Sec. 139(d), and should reference the requirements of Sec. 139(c)(1).]
H.R. 5005, Title IV, Subtitle B — Immigration and Nationality Functions.	
Chapter 1 — Immigration Enforcement [sic]	
Sec. 411. Transfer of Functions to Under Secretary for Border Transportation Security. Transfers the following functions from the INS Commissioner to the Under Secretary for Border and Transportation Security, and, immediately before the transfer occurs, all personnel, assets and liabilities pertaining to them: (1) border patrol, (2) detention and removal, (3) intelligence, (4) investigations, and (5) inspections.	Sec. 1120. Transitional Funding. Authorizes appropriations of such sums as may be necessary to abolish INS; to establish the Directorate of Immigration Affairs, its components, and its bureaus; and to transfer relevant functions to the Directorate and the bureaus. Supports the following activities: (1) planning for the transfer, (2) acquiring, dividing or disposing of property, and (3) other expenditures necessary to effect the transfer. Requires the amount appropriated to remain available until expended. Establishes a transition account for the transfer and would require the Secretary to report to Congress, no later than 90 days after the effective date of Division A of this act, on the availability of funds to cover the transition cost.
Sec. 412. Establishment of Bureau of Border Security.	
Sec. 412(a) Establishment of Bureau. Establishes the Bureau of Border Security, to be headed by an Assistant Secretary who has a minimum of 10 years experience in law	Sec. 1105. Amends the INA by creating a Bureau of Enforcement and Border Affairs within the Directorate of Immigration Affairs. The bureau would be headed by an Assistant Secretary of

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enforcement, including 5 years in management. (See also Sec. 103(a)(7) above.) Requires the Assistant Secretary to establish and oversee the administration of relevant policies, and advise the Under Secretary for Border and Transportation Security with respect to any policy or operation that may affect the Bureau of Citizenship and Immigration Services in DOJ.	Homeland Security for Enforcement and Border Affairs, appointed by the Secretary of Homeland Security (in consultation with the Under Secretary). Charges the Assistant Secretary of Homeland Security for Enforcement and Border Affairs (under the authority of the Under Secretary) with administering immigration enforcement functions, including (1) border patrol function, (2) immigration detention function, (3) removal function, (4) intelligence function, (5) investigation function; and with training of personnel.
Sec. 412(a)(4) Program to Collect Information Relating to Foreign Students. Requires the Assistant Secretary to administer a program to collect information on nonimmigrant foreign students and other exchange program participants.	
Sec. 412(a)(5) Managerial Rotation Program. Not later than one year after the date on which the transfer of functions specified at Sec. 411 takes effect, the Assistant Secretary of the Bureau of Border Security would design and implement a managerial rotation program under which bureau employees holding positions involving supervisory or managerial responsibility and classified at GS-14 or above would, as a condition of further promotion, gain some experience in all the major functions performed by the bureau and work in at least one local office of the bureau. The Secretary would submit a report to Congress on implementation of the program not later than two years after the date on which the transfer of functions specified at Sec. 411 takes effect.	
Sec. 412(b) Chief of Policy and Strategy. Establishes a Chief of Policy and Strategy position responsible for (1) establishing national immigration enforcement policies and priorities, (2) performing research and analysis on immigration enforcement issues, and (3) coordinating policy issues with the Chief of	Sec. 1103. Establishes a Chief of Policy position under the Directorate.

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Policy and Strategy for the Bureau of Citizenship and Immigration Services in DOJ.	
	Sec. 1105. Establishes a Chief Budget Officer position in the enforcement bureau. The Chief Budget Officer would report to the Chief Financial Officer of the Directorate. The Chief Budget Officer would be responsible for monitoring and supervising all financial matters of the bureau.
Sec. 412(c) Citizenship and Immigration Services Liaison. Establishes a Citizenship and Immigration Services Liaison who would be responsible for the allocation and coordination of resources for the purpose of supporting “shared support functions” for DOJ’s Bureau of Citizenship and Immigration Services and DHS’s Bureau of Border Security. The liaison would also be responsible for (1) facilities management, (2) information resources management, (3) records and file management, and (4) forms management.	
Sec. 413. Professional Responsibility and Quality Review. Makes the Under Secretary for Border and Transportation Security responsible for: (1) conducting investigations on employees of the bureau with regard to allegations involving noncriminal misconduct, corruption, and fraud that is not subject to investigation by the Inspector General; (2) inspecting the operations of the bureau and providing assessments with regard to the quality of operations; and (3) providing an analysis of the management of the bureau.	Sec. 1105. Establishes an Office of Professional Responsibility position within the enforcement bureau. The office would be responsible for ensuring the professionalism of the bureau and accepting charges of employee misconduct.
Sec. 414. Employee Discipline. The Under Secretary for Border and Transportation Security could, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to FBI employees, on any employee of the Bureau of Border Security who willfully deceives the Congress or agency leadership on any matter.	

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Sec. 415. Report on Improving Enforcement Functions. Requires the Secretary (after consulting with other federal, state and local officials) to submit to Congress, no later than one year after the Secretary is sworn, a report regarding how the Bureau of Border Security will effectively enforce the enforcement provisions of the INA.	
Sec. 416. Sense of Congress. States that it is the sense of Congress that the 14-mile border fence project required by 8 U.S.C. 1103 should be a priority for the Secretary.	
Chapter 2 — Citizenship and Immigration Services	
Subchapter A — Transfers of Functions	
Sec. 421. Establishment of Bureau of Citizenship and Immigration Services.	
Sec. 421(a) Establishes a Bureau of Citizenship and Immigration Services in DOJ, to be headed by an Assistant Attorney General for Citizenship and Immigration Services who reports directly to the Deputy Attorney General and has a minimum of 10 years experience in rendering of adjudications on the provisions of government benefits or services, including managerial experience. Requires the Assistant Attorney General for Citizenship and Immigration Services (1) to establish and oversee the administration of relevant policies, (2) advise the Deputy Attorney General with respect to any policy or operation that may affect the Bureau of Immigration Enforcement in the DHS, (3) meet regularly with the Citizenship and Immigration Services Ombudsman to correct problems and establish procedures that would require a formal response to any recommendations submitted in the Ombudsman's annual report. Authorizes the Secretary to implement a pilot program that would eliminate (and prevent from recurring) the backlog pertaining to the processing of immigration benefit applications.	Sec. 1102. Amends the INA (new Sec. 113) by creating a Bureau of Immigration Services within the Directorate of Immigration Affairs, headed by an Assistant Secretary of Homeland Security for Immigration Services who is appointed by the Secretary of Homeland Security. The Assistant Secretary reports directly to the Under Secretary. Charges the Assistant Secretary of the service bureau (under the authority of the Secretary and the Under Secretary) with administering immigration services and adjudication functions, including the following: (1) adjudications of nonimmigrant and immigrant petitions; (2) adjudications of visas and other entry documents, and change and adjustment of status; (3) adjudications of naturalization applications; (4) adjudications of asylum and refugee applications; (5) determinations with regard to custody, parole, and conditions of parole, as well as the responsibility for the detention of individuals subject to such determination, pertaining to asylum seekers who lack prior non-political criminal records and who have been found to have a credible fear of persecution; (6) adjudications performed at service centers; and (7) all other adjudications under U.S.

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	immigration law, as well as training of personnel.
Sec. 421(a)(4) Managerial Rotation Program. Not later than one year after the effective date specified at Sec. 427, the Assistant Attorney General for Citizenship and Immigration Services would design and implement a managerial rotation program under which bureau employees holding positions involving supervisory or managerial responsibility and classified at GS-14 or above would, as a condition of further promotion, gain some experience in all the major functions performed by the bureau and work in at least one field office and one service center of the bureau. The Attorney General would submit a report to Congress on implementation of the program not later than two years after the effective date specified at Sec. 427.	
Sec. 421(b) Requires transfer to the Assistant Attorney General for Citizenship and Immigration Services the functions, personnel, infrastructure, and funding pertaining to all adjudications performed by INS.	No similar provision, but see Sec. 1111.
Sec. 421(c) Establishes a Chief of Policy and Strategy position that would be responsible for (1) establishing national immigration services policies and priorities, (2) performing research and analysis on immigration services issues, and (3) coordinating policy issues with the Chief of Policy and Strategy in the Department of Homeland Security's Bureau of Border Security.	Sec. 1103. Establishes a Chief Policy Officer position under the Directorate.
Sec. 421(d) Establishes a General Counsel position to serve as the main legal advisor to the Assistant Attorney General for Citizenship and Immigration Services. The General Counsel is responsible for providing legal advice, determinations, regulations, and other assistance with regard to matters affecting the Bureau of Citizenship and Immigration Services. The General Counsel is responsible for representing the bureau in matters pertaining to the functions of the bureau.	Sec. 1103. Establishes a General Counsel position under the Directorate.
Sec. 421(e) Establishes a Chief Budget Officer	Sec. 1104. Establishes a Chief Budget Officer

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who is responsible for (1) formulating and executing the bureau's budget, (2) all financial matters of the bureau, (3) the collection of all payments, fines, and other debts for the bureau.	position in the service bureau. The Chief Budget Officer reports to the Chief Financial Officer of the Directorate. The Chief Budget Officer is responsible for monitoring and supervising all financial matters of the bureau.
Sec. 421(f) Establishes a Chief of Congressional, Intergovernmental, and Public Affairs position responsible for (1) providing immigration services information to Congress, (2) serving as a liaison with other federal agencies on immigration services issues, and (3) responding to media and public inquiries with regard to immigration services issues.	Sec. 1103. Establishes a Chief of Congressional, Intergovernmental, and Public Affairs within the Directorate.
Sec. 421(g) Establishes a Border Security Liaison who would be responsible for the allocation and coordination of resources for the purpose of supporting shared support functions for the Bureau of Border Security of the DHS and the Bureau of Citizenship and Immigration Services. The liaison is responsible for (1) information resources management, (2) records and file management, and (3) forms management.	
Sec. 421(h) Establishes a Chief of the Office of Citizenship position that would be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens.	
Sec. 422. Citizenship and Immigration Services Ombudsman.	
Sec. 422(a) Establishes a Citizenship and Immigration Services Ombudsman position. The Ombudsman reports directly to the Deputy Attorney General.	Sec. 1106(a) Amends the INA (new Sec. 115 in the INA) creating an Office of the Ombudsman. The Ombudsman is appointed by the Secretary of Homeland Security, after consultation with the Under Secretary. Requires the Ombudsman to report to the Under Secretary and be compensated under the Senior Executive Series. Gives the Ombudsman the following functions: (1) assist individuals with resolving problems, (2) identify persistent problems experienced by the public in dealing with the Directorate, (3) propose potential administrative and statutory changes to minimize the problems, and (4)

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	monitor the coverage and geographic distribution of local offices. Would permit the Ombudsman to appoint local or regional representatives to address and rectify problems.
Sec. 422(b) Requires the Ombudsman to have experience in customer service and immigration law. The Ombudsman is responsible for assisting individuals and employers, identifying issues pertaining to problems, resolving them, and proposing changes in administrative practices. The Ombudsman is responsible for identifying potential legislative changes that could aid in mitigating such problems.	
Sec. 422(c) Requires the Ombudsman to report no later than June 30 of each year to Congress on the objectives of the office for the upcoming fiscal year. Requires the report to be submitted to Congress without prior review or comment from other officials. Requires the report to have analysis, statistical information, and the following: (1) identification of initiatives the office has taken with regard to improving services and the responsiveness of the bureau; (2) summary of the “most pervasive and serious problems” experienced by individuals and employers; (3) inventory of the aforementioned items for which action has been taken; (4) inventory of the aforementioned items for which action is still needed; (5) inventory of the aforementioned items for which no action has been taken; (6) recommendations for administrative and legislative action, if necessary, to resolve problems experienced by individuals and employers; and (7) any other information the Ombudsman deems necessary.	Sec. 1106(a). Requires the Ombudsman to report annually to Congress on the objectives of the office for the upcoming fiscal year. Requires the report to be submitted to Congress without prior review or comment from other officials. Requires the report to have analysis, statistical information, and the following: (1) description of initiatives the Ombudsman has taken with regard to improving services and the responsiveness of the bureau; (2) a summary of “serious or systemic problems encountered by the public, including a description of the nature of such problems”; (3) an inventory of the aforementioned items for which action has been taken; (4) an accounting of the aforementioned items for which action is still needed; (5) an accounting of the aforementioned items for which no action has been taken; (6) recommendations “as may be appropriate” to resolve problems experienced by individuals and employers; (7) recommendations to resolve problems “encountered by the public, including problems created by backlogs in the adjudication and processing of petitions and applications”; (8) “recommendations to resolve problems caused by inadequate funding or staffing”; and (9) any other information the Ombudsman deems necessary.
Sec. 422(d) With regard to the Ombudsman’s functions, requires additional responsibilities as follows: (1) monitor the local offices of the	

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Ombudsman, including the geographic allocation of such offices; (2) develop guidelines for all of the service bureau's officers and employees with regard to the criteria for referral of inquiries to local Ombudsman offices; (3) ensure that all local office telephone numbers are published and made available; and (4) meet regularly with the Director of the service bureau to identify problems and present recommendations for resolution of such problems.	
Sec. 422(e) Personnel Actions. The Ombudsman would have the responsibility and authority to appoint local ombudsmen and make available at least one ombudsman for each state; and to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman.	Sec. 1106(d) Personnel Actions. The Ombudsman would have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems.
Sec. 422(f) Requires the service bureau Director to establish procedures that would require a formal response to all recommendations submitted by the Ombudsman within 3 months after the submission.	
Sec. 422(g) Requires the local ombudsman to report to the Ombudsman; and notify individuals and employers seeking assistance of the local office that the local Ombudsman operates independently and reports directly to Congress through the Ombudsman. Permits the local ombudsman to consult with relevant supervisory staff of the service bureau with regard to the daily operation of the local office; and make the determination not to disclose individuals or employees seeking its assistance to the service bureau, at the local ombudsman's discretion. Requires each local office of the Ombudsman to maintain communication means, including a post office address, that is separate from the service bureau.	
Sec. 423. Professional Responsibility and Quality Review. Requires the Assistant Attorney General for Citizenship and Immigration Services to be	Sec. 1104(e) Establishes an Office of Professional Responsibility position within the service bureau. The office is responsible for ensuring the professionalism of the bureau and

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responsible for professional responsibility and quality review, specifically: (1) conduct investigations of employees of the bureau with regard to allegations involving noncriminal misconduct, corruption, and fraud that is not subject to investigation by the Inspector General; (2) inspect the operations of the bureau and provide assessments with regard to the quality of operations; and (3) provide an analysis of the management of the bureau. Requires the following special considerations with regard to assessment of operational decisions made by the bureau: (1) accuracy of findings, (2) any fraud or misrepresentation associated with the decision, and (3) the efficiency of making such decisions.	accepting charges of employee misconduct.
Sec. 424. Employee Discipline. The Assistant Attorney General for Citizenship and Immigration Services could, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to FBI employees, on any employee of the Bureau of Citizenship and Immigration Services who willfully deceives the Congress or agency leadership on any matter.	
Sec. 425. Office of Immigration Statistics within Bureau of Justice Statistics. Amends the Omnibus Crime Control and Safe Streets Act of 1968 (creating Sec. 305) by creating an Office of Immigration Statistics within the Bureau of Justice Statistics, headed by a Director who is appointed by the Attorney General and reports to the Director of Justice Statistics. Charges the Director with the following functions: (1) maintain all immigration-related statistics of the Bureau of Citizenship and Immigration Service and the Executive Office for Immigration Review (EOIR); requires the statistics to include information and statistics currently found in the <i>Statistical Yearbook of the INS</i>; (2) establish reliability and validity standards with regard to the aforementioned statistics; (3) requires the Bureau of Citizenship	Sec. 1107. Similar provision, however, creates an Office of Immigration Statistics within the Directorate, headed by a Director. Charges the Director of the Office with the following functions: (1) maintain all immigration-related statistics of the newly created agency and the existing Executive Office for Immigration Review (EOIR); (2) establish reliability and validity standards with regard to the aforementioned statistics; and (3) ensure the interoperability of the agency and EOIR databases. Transfer the functions of the Statistics Branch of the Office of Policy and Planning of the INS to the newly created office.

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and Immigration Services and the Executive Office of Immigration Review to provide statistics to the Office of Immigration Statistics; (4) collect, compile, analyze, publish, and disseminate statistics and information pertaining to immigration in the U.S. and the functions of the agency. Transfers the functions of the Statistics Branch of the Office of Policy and Planning of INS to the newly created office.	
Sec. 426. Preservation of Attorney General's Authority. Permits the Attorney General or his/her delegate to perform immigration functions transferred by this subchapter to the Bureau of Citizenship and Immigration Services.	
Sec. 427. Effective Date. Requires the citizenship and immigration provisions to take effect on the date of the transfer of the functions.	
Sec. 428. Transition.	
Sec. 428(a) With regard to INS service functions transferred, requires the transfer of any reference in any other federal law, executive order, rule, regulation, delegation of authority, or any document or component of government to the Assistant Attorney General for Citizenship and Immigration Services.	Sec. 1111. Transfer of Functions. Requires the transfer of all immigration functions under U.S. immigration laws vested by statute or exercised by the Attorney General to the Secretary on the effective date of the enactment of this title. Requires the transfer of all immigration functions under U.S. immigration laws vested by statute or performed by the INS Commissioner to the Directorate of Immigration Affairs on the effective date of this title.
Sec. 428(a) Requires the transfer (including additional incidental transfer) and allocation of personnel, assets, liabilities, contracts, property, records, unexpended balance of appropriations, authorizations, allocations, and other relevant funds from DOJ (with respect to immigration service functions) to the Assistant Attorney General for Citizenship and Immigration Services for allocation to the appropriate component of DOJ. Requires that unexpended funds in place prior	Sec. 1112. Requires the transfer and allocation of personnel, assets, liabilities, contracts, property, records, unexpended balance of appropriations, authorizations, allocations, and other relevant funds from DOJ to the Under Secretary for allocation to the appropriate component.

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to the transfer be used for their original purpose. Gives the Attorney General discretion to realign staff and funds for up to 2 years after the enactment of this act.	
Subchapter B — Other Provisions	
Sec. 431. Maintains INA provision that fees for adjudication and naturalization services be deposited into the Immigration Examinations Fee Account. No longer funds refugee and asylum processing from fees collected for adjudication and naturalization services. Authorizes appropriations of “such sums as may be necessary” for refugee and asylum adjudications to be deposited into the Immigration Examinations Fee Account.	Sec. 1121. Similar provision except requires fees collected for service programs to be used for that purpose (and refugee and asylum processing if insufficient funds are appropriated) and also requires separate accounts to be established in the Treasury of the U.S. for service and enforcement bureaus. Requires amounts appropriated to be made available until expended.
Sec. 432. Amends the Immigration Services and Infrastructure Improvements Act of 2000 by extending the deadline for eliminating the adjudication backlog to 1 year from the date of enactment of this act.	Sec. 1121. Similar provision.
Sec. 433. Requires the Attorney General (after consulting with the Secretary of State, Secretary of Labor, and the Associate Attorney General for Immigration Affairs, the Directors of both bureaus, and the Director for EOIR) to submit a report to Congress with regard to a plan for implementing a system for more timely and efficient processing of adjudications no later than one year from enactment of this act. Requires the plan to contain the following for each type of adjudication: (1) potential savings of resources, (2) goal for processing time of applications, and (3) statutory modifications with regard to adjudications, if considered advisable by the Attorney General.	
Sec. 434. Requires the Attorney General to submit a report to Congress no later than 30 days after the enactment of this act with respect to changes in the law and authorizations of appropriations that are needed in order for INS and thereafter the Bureau of Citizenship and Immigration Services to respond to applications	

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for immigration benefits and to otherwise accommodate changing immigration service needs.	
Sec. 435. Requires the Attorney General, in consultation with the Technology Advisory Committee, to establish an Internet-based system to check status of benefit applications, no later than one year after the enactment of this act. Requires the Attorney General to conduct a study to determine the feasibility of on-line filing, submit a report to Congress with the findings of the study. Establishes an advisory committee to assist with establishing the internet-based tracking system	Sec. 1122. Similar provision, except gives the Under Secretary two years to establish the system and conduct the study.
Sec. 436. Children's affairs.	
Sec. 436(a). Transfers functions with regard to the care of unaccompanied minors to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services (DHHS).	Sec. 1211. Similar provision.
Sec. 436(b) Charges the Director with the following responsibilities: (1) coordinating and implementing law and policy pertaining to unaccompanied alien minors; (2) assuring that the unaccompanied minors' interests are considered in all decisions pertaining to his/her care and custody; (3) making placement determinations on all unaccompanied minors in custody; (4) implementing all placement decisions made by the Office; (5) implementing policies with regard to unaccompanied minors' care and placement; (6) identifying adequate and qualified individuals, entities, and facilities to house unaccompanied minors; (7) overseeing facilities and personnel that house and care for unaccompanied minors; (8) reuniting unaccompanied minors with their parents abroad when appropriate; (9) compiling, updating, and publishing on an annual basis a list of professionals or entities qualified by states to provide guardian and attorney representation services; (10) maintaining statistics and other	Sec. 1211. Similar provision. In addition to the provisions in H.R. 5005, S. 2452 charges the Director with the following: (1) convene, in the absence of the Assistant Secretary of the Administration for Children and Families of DHHS, an interagency task force on unaccompanied minors, and (2) identify a sufficient number of persons, entities and facilities to ensure the compliance with family reunification provisions and (3) oversee such persons, entities and facilities to ensure their compliance with provisions.

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data on unaccompanied minors including biographical information, the date the minor came into custody, placement, removal, or release information and an explanation for all detention and release cases, and information on dispositions pertaining to unaccompanied minors; (11) collecting and compiling statistics from DOJ, DHS and DOS on each Department's actions relating to unaccompanied alien minors; and (12) conducting investigations and inspections of facilities that house unaccompanied minors. Also would encourage use of refugee foster care system already in place.	
Sec. 436(b)(2). Requires the Director of this office to consult with appropriate juvenile justice professionals and the Directors of the service and enforcement bureaus when making placement decisions with regard to unaccompanied minors to assure the following: (1) that unaccompanied minors are likely to appear for all of their hearings; (2) that unaccompanied minors are protected from smuggling, traffickers, and others who might victimize them or engage them in illegal activities; and (3) that unaccompanied minors are placed in a safe setting. Prohibits the Director of this office from releasing unaccompanied minors on their own recognition.	
Sec. 436(d). Requires the transfer of those functions pertaining to the care of unaccompanied minors under U.S. immigration laws vested by statute or performed by the Commissioner of INS before the effective date of the enactment of this act.	No similar provision, but see Sec. 1211.
Sec. 436(e). Requires the transfer of all matters pertaining to the care of unaccompanied alien children to the Director of the Office of Refugee Resettlement (ORR) of DHHS.	Sec. 1213. Provides for the transfer of all functions, personnel, appropriations, and legal documents from INS to DHHS; would ensure that proceedings would continue.
Sec. 436(g). Defines <i>placement</i> as placing an unaccompanied minor in a detention facility or an alternative facility; and <i>unaccompanied alien child</i> as having no lawful immigration status in the U.S., being under the age of 18, having no	Sec. 1202. Provides <i>definitions for (1) Director, (2) office, (3) service, (4) voluntary agency, and (5) unaccompanied refugee children</i>. Provides a similar definition for <i>unaccompanied alien child</i>.

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parent or legal guardian in the U.S., or having no parent or legal guardian in the U.S. available to provide care and physical custody for the minor.	
Chapter 3 — General Provisions	
Sec. 441. Abolishment of INS.	Sec. 1101. Similar provision.
Section 442. Voluntary separation incentive payments. Allows the Attorney General or the Secretary to offer voluntary separation incentive payments (VSIPs) not to exceed \$25,000 to eligible employees of the Immigration and Naturalization Service, Bureau of Border Security, and the Bureau of Citizenship and Immigration Services. VSIPs would be paid from funds appropriated for the employees' basic pay. Require the Attorney General and/or the Secretary to submit a strategic restructuring plan the appropriate committees of Congress before obligating funds for VSIPs. Requires agencies to make an additional payment to the Civil Service Retirement and Disability Fund (CSRDF) in each fiscal year that it makes one or more VSIPs to eligible employees. The payment to the CSRDF must be equal to the greater of (1) the amount necessary to offset any additional costs to the CSRDF resulting from the separation of employees who receive VSIPs or (2) 45% of the final basic pay of each employee who receives a VSIP. Does not require agencies making VSIPs to reduce the number of full-time equivalent positions within the agencies. Permits agencies to move the positions opened through VSIPs to other occupations or locations.	Section 2203. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement. Delegates to the Office of Personnel Management (OPM) – in consultation with the Director of the Office of Management and Budget (OMB) – authority to review and approve requests from federal departments and agencies to offer voluntary separation incentive payments (VSIPs) not to exceed \$25,000 to employees in particular occupational groups, organizational units, or specific geographic locations who retire or resign. Requires VSIPs to be paid from funds appropriated for the employees' basic pay. Permits agencies with authority to offer VSIP on the day of enactment to continue to exercise that authority until it expires. Allows the Administrative Office of the United States Courts to offer VSIPs similar to those in the executive branch. Would not require agencies making VSIPs to reduce the number of full-time equivalent positions within the agencies. Allows agencies undergoing substantial restructuring, reorganization, or reduction in force to offer voluntary early retirement with a reduced annuity to employees who are at least age 50 with 20 years of service or of any age with at least 25 years of service.
Sec. 443. Authority to Conduct a Demonstration Project Relating to Disciplinary Action. The Attorney General and the Secretary could each, during a period ending not later than five years after the act's enactment date, conduct a demonstration project to determine whether one or more changes in the policies or procedures relating to methods for disciplining employees would result in improved personnel management.	

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The bill provides details on scope, procedures, actions involving discrimination, and coverage of the demonstration project. GAO would prepare and submit to the House Committees on Government Reform and the Judiciary and the Senate Committees on Governmental Affairs and the Judiciary periodic reports on any demonstration project. The reports would be submitted after the second and fourth years of the project's operation.	
Sec. 444. Sense of Congress. Provides the following sense of Congress, (1) the missions of the Bureau of Immigration Enforcement of the DHS and the Bureau of Citizenship and Immigration Services of DOJ are equally important and should be adequately funded and (2) the border security and the citizenship and immigration services functions transferred under this subtitle should not operate at levels below those in effect prior to enactment.	
Sec. 445. Reports and Implementation Plans	
Sec. 445. Requires the Attorney General and the Secretary of DHS to submit the following: (1) a report on the proposed division and transfer of funds between both Bureaus, (2) a report on the division of personnel between both Bureaus and (3) an implementation plan. Requires the plan to contain information pertaining to the separation of the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement as well as the following: (1) organizational structure; (2) chain of command; (3) procedures for interaction among the bureaus; (4) fraud detection and investigation; (5) the processing and handling of removal proceedings and applications for relief from removal; (6) recommendations for conforming amendments to the INA; (7) the establishment of a transition team; and (8) methods to phase in the costs of separating administrative support systems of both bureaus. Requires the reports and plan to be submitted to Congress no later than 120 days after the enactment of this act. Requires the	

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implementation plan to be submitted every 6 months thereafter until the end of fiscal year 2005.	
Sec. 445(b) Division of Personnel. The Attorney General and the Secretary, not later than 120 days after the act's effective date, would each submit to the House and Senate Committees on Appropriations and the Judiciary a report on the proposed division of personnel between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.	
Sec. 445(d). Requires the Comptroller General to submit a report to Congress with regard to the status of the transition and any issues that have arisen pertaining to the transfer, no later than 18 months after the date on which the functions are transferred, and every six months thereafter until full implementation has been completed. Not later than four years after the transfer, requires a report on the study of determinations pertaining to the improvement of immigration functions as a result of the transfer, including operations, management, financial administration, and record keeping, as well as recommendations for further improvements in both bureaus. Requires the Comptroller General to submit a report to Congress no later than one year after the date of enactment of this act with regard to whether the Bureau of Citizenship and Immigration Services is likely to derive adequate funds, in the absence of appropriated funds, from its fee-based programs.	
Sec. 446. Immigration Functions. Requires the Attorney General to submit a report to Congress, one year after enactment, with regard to the impact the transfers have had on immigration functions. Would require the report to include: (1) number of all immigration applications and petitions received and processed; (2) statistics by region on number of immigration applications and petitions filed and denied; (3) quantity of backlogged applications and petitions that have been processed, the number awaiting	

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processing and a plan detailing the elimination of the backlog; (4) average processing period for immigration applications and petitions; (5) number and types of immigration-related grievances filed; (6) plans to address grievances; (7) whether fees were used consistent with the legal requirements; and (8) whether immigration-related questions were answered effectively and efficiently. States a sense of Congress that the quality and efficiency of immigration services should be improved after the transfers take effect and that the Attorney General should undertake efforts to guarantee that concerns pertaining to the quality and efficiency of immigration services are addressed.	
Subtitle C — United States Customs Service.	
Sec. 451. Establishment; Commissioner of Customs. (a) Establishes the Customs Service within the Department of Homeland Security, under the Under Secretary for Border and Transportation Security. Vests the Customs Service with certain elements of the “customs revenue function” that are performed by specified Customs personnel (sec. 457(7)), along with personnel assets, and liabilities attributable to those functions. Requires that Customs be headed by a Commissioner to be appointed with the advice and consent of the Senate.	
Sec. 451 (b) Establishes Commissioner of Customs as PAS position, to be compensated at Level III of the Executive Schedule. Responsibilities are identified in the succeeding sections.	Sec. 131(c)(1) Places the Customs Service in the Directorate of Border and Transportation Protection as a “distinct entity.”
Sec. 452. Retention of customs revenue function by Secretary of the Treasury. Prohibits the transfer of the authority vested in the Secretary of the Treasury by listed provisions of law related to certain “customs revenue functions,” including any other unlisted related provision, to the Secretary of Homeland Security.	Sec. 131(d)(1) and (2). Exercise of Customs Revenue Authority. Prohibits the transfer of authority <i>to issue regulations</i> vested in the Secretary of the Treasury by listed provisions of law related to certain “customs revenue functions,” including any unlisted related provisions, to the Secretary

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Authorizes the Secretary of the Treasury to delegate at his discretion such authority to the Secretary of Homeland Security. Lists specified provisions of law and corresponding authorities that are not to be transferred from the Secretary of the Treasury to the Secretary of Homeland Security by reason of this bill (identical to Senate bill), as well as, any other unlisted provisions of law vesting customs revenue functions in the Secretary of the Treasury. To maintain customs revenue functions, prohibits the Secretary of Homeland Security from consolidating, altering, discontinuing, or diminishing certain customs revenue functions; or reducing the staff, or their level of compensation and benefits, who are attributable to such functions. Stipulates that trade-related customs revenue functions are those carried out by: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialists, Fines and Penalties Specialists, Attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, and Financial Systems Specialists. Authorizes the Secretary of the Treasury to appoint 20 additional personnel to work with the Department of Homeland Security on customs revenue functions.	of Homeland Security. Requires the Secretary of the Treasury to exercise this authority with the concurrence of the Secretary of Homeland Security. Authorizes the Customs Commissioner to engage in activities to develop and support the issuance of such regulations. Makes the Secretary of Homeland Security responsible for the implementation and enforcement of regulations related to customs revenue functions. Within 60 days of enactment, requires the Secretary of the Treasury to report to the Senate Committee on Finance and the House Ways and Means Committee on proposed conforming amendments to certain international trade-related statutes in order to properly allocate legal authorities related to customs revenue functions, and to identify the authorities vested in his office that are exercised by the Customs Commissioner. Lists specified provisions of law and corresponding authorities that are not to be transferred from the Secretary of the Treasury to the Secretary of Homeland Security by reason of this bill (identical to Senate bill), as well as, any other unlisted provisions of law vesting customs revenue functions in the Secretary of the Treasury.
Sec. 453. Establishment and implementation of cost accounting system; reports. Requires the Customs Commissioner to establish and implement a cost accounting system, by September 30, 2003, that will track expenses by type of operation and port of entry that are covered by customs user fees. Requires the Commissioner to report to the House Committee on Ways and Means and the Senate Committee on Finance on the progress of implementing this system on a quarterly basis.	
Sec. 454. Preservation of Customs funds. Prohibits the transfer of Customs user fees for use by any other agency or department other than the Customs Service.	
Sec. 455. Separate budget request for Customs. Requires the President to include a separate	

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budget request for the Customs Service in each budget transmitted to Congress.	
Sec. 456. Payment of duties and fees. Amends sec. 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)), requiring importers to deposit estimated duties and fees at entry or such later time as Customs may prescribe by regulation, to limit such later prescribed period to 10 working days after entry or release, whichever occurs earlier; adds an exemption for merchandise covered by an import activity summary statement to the current exemption for merchandise entered for warehouse or transportation or under bond. Further amends 505(a) to require that where an import summary statement is filed, the importer must deposit estimated duties and fees covered by the statement no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever occurs earlier. Statute currently allows Customs regulations to require that estimated duties and fees be deposited before or at the time such a statement is filed.	
Sec. 457. Definition: customs revenue function. Defines “customs revenue function” to include: (1) assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, penalties due on imported merchandise, including classifying and valuing imported merchandise for the purposes of such assessment; (2) processing and denial of entry of persons, baggage, cargo, and mail for entry into the United States with respect to assessing and collecting import duties; (3) detecting and apprehending persons engaged in customs-related fraud; (4) enforcing section 337 of the Tariff Act of 1930 (infringing imports) and provision related to import quota and the marking of imported merchandise, as well as, providing Customs recordations for copyrights, patents, and trademarks; (5) collecting accurate import statistics; (6) enforcing reciprocal trade agreements; (7) any functions performed by Customs import specialists and other personnel	Sec. 131(d)(3). Definition: customs revenue function. Defines “customs revenue function” to include: (1) assessing, collecting, and refunding duties, excise taxes, fees, and any liquidated damages or penalties due on imported merchandise, including classifying and valuing merchandise and the procedures for entry; (2) administering section 337 of the Tariff Act of 1930 (infringing imports) and provisions related to import quotas and the marking of imported merchandise, as well as, providing Customs recordations for recording copyrights, patents and trademarks; (3) collecting accurate import data for compilation of international trade statistics; and (4) administering reciprocal trade agreements and trade preference legislation.

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engaged in trade-related activities (Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialists, Fines and Penalties Specialists, Attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, and Financial Systems Specialists); and (8) any functions performed by certain offices within the Customs Service at the date of enactment (Information and Technology, Laboratory Services, Chief Counsel, Congressional Affairs, International Affairs, and Training and Development).	
Sec. 458. GAO report to Congress. Not later than 3 months after enactment, requires the Comptroller General of the United States to submit a report to Congress that sets forth all trade functions performed by the executive branch, specifying each agency that performs each function.	
Sec. 459. Allocation of resources by the Secretary. Requires the Secretary of Homeland Security to provide adequate staffing for “Customs revenue services” so that the level of those services would not be diminished from the level that existed on the date of enactment. Requires the Secretary to notify the House Committee on Ways and Means and the Senate Committee on Finance at least 180 days in advance of any action that: (1) would result in a significant reduction in customs revenue services at any Customs office or port of entry; (2) eliminate or relocate of any departmental office that provides customs revenue services; or (3) eliminate of any port of entry. Defines “customs revenue services” as those activities described in paragraphs (1) through (6) and (8) of sec. 457 (described above).	
Sec. 460. Reports to Congress. Requires the Customs Service to continue to submit after the effective date of this Act any report required to be submitted under any provision of law to the House Committee on Ways and Means and the Senate Committee on Finance prior to the effective date of this Act.	

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Sec. 461. Customs User Fees. Amends 19 U.S.C. §58c(f) in regard to the disposition of Merchandise Processing Fees (MPFs). Creates within the general fund of the Department of the Treasury a “Customs Commercial and Homeland Security Account.” Requires that \$350 million in MPF receipts be deposited into that account in FYs 2003, 2004, and 2005. Authorizes for appropriation in FYs 2003-2005 such amounts as available from that account for the development, establishment, and implementation of the Automated Commercial Environment (ACE). Requires further that the Secretary of the Treasury adjust the level of MPFs for FY2006 to reflect the amount that total fees deposited into the account during FYs 2003-2005 exceed total appropriations from that account.	

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H.R. 5005, Title V. Emergency Preparedness and Response	S. 2452, Title I, Sec. 134. Directorate of Emergency Preparedness and Response
Sec. 501. Under Secretary for Emergency Preparedness and Response. Requires the Secretary of DHS, through the Under Secretary for Emergency Preparedness and Response (EPR), to:	Sec. 134(a). Establishes the Directorate of Emergency Preparedness and Response (EPR) in DHS, with an Under Secretary appointed by the President, subject to Senate approval. Sec. 134(b). Places responsibility in EPR for:
(1) help ensure preparedness of emergency response providers for terrorist attacks, major disasters (as defined in 42 U.S.C. 5122(2)), and “other emergencies”; [note: Sec. 402 (7) transfers Office of Domestic Preparedness and National Domestic Preparedness Office (NDPO) functions to the Under Secretary for Border and Transportation Security]	(1)(2) all emergency response and preparedness activities of the Federal Emergency Management Agency, and the responsibilities of the NDPO (FBI); (3) organizing and training “local entities” to respond to “emergencies” and providing equipment and training for WMD emergencies; (4) overseeing federal, state, and local preparedness training and exercises in accordance with intelligence estimates, and provide a single staff for federal assistance in any emergency, including natural disasters, human health or agricultural disease outbreaks, or terrorist attacks;
(2) for the Nuclear Incident Response Team (NIRT), defined in Sec. 504, regardless of its status as a unit of DHS, establish standards and certify when they are met, conduct training exercises, and provide funds to Dept. of Energy and EPA for preparedness activities;	
(3) provide, manage, and coordinate federal resources in response to a terrorist attack or major disaster, including directing the Domestic Emergency Support Team, Strategic National Stockpile, National Disaster Medical System, the Metropolitan Medical Response System, and NIRT (when the latter operates as a DHS unit);	(9) coordinating with other agencies to carry out functions of the Office of Emergency Preparedness (OEP) in HHS; (10) consulting and collaborating with, and transferring funds to, CDC or other agencies regarding that agency’s administration of the Strategic National Stockpile;
(4) aid recovery and treat the psychological consequences of disasters, including training mental health workers;	
(5) build a comprehensive national incident management system to coordinate federal, state, and local response;	(5) creating a National Crisis Action Center to monitor emergencies, notify affected governments, and coordinate federal support for

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	public and private entities;
(6) consolidate existing federal response plans into a single, coordinated national response plan;	(6) coordinating and integrating activities of the Department of Defense, National Guard, and other agencies into a federal response plan; (8) developing a single response system “for national incidents” in coordination with the DoJ, FBI, HHS, CDC, and other appropriate agencies;
(7) develop comprehensive programs for developing interoperative communications technology.	No similar provision, see (12), below for interoperability standards for medical responses
	(7) coordinating recovery and consequence management activities of the private sector, including animal health and plant disease communities and the medical community;
	(11) consulting with the Under Secretary for Science and Technology, the Secretary of Agriculture, and the CDC in establishing and updating the list of bioagents and toxins related to the select agent registration program;
	(12) developing a plan to address the use of medical informatics (i.e., the application of information technologies to healthcare) in the medical response to terrorism to address such issues as interoperability standards, real-time data collection, and epidemiological surveillance of human health and agricultural diseases, among others.
	(13) performing other duties as assigned by the Secretary of DHS
Sec. 502. Functions Transferred. Transfers “functions, personnel, assets, and obligations” of the following agencies to the Secretary:	Sec. 134(c). Transfers “authorities, functions, personnel, and assets” of the following agencies to the EPR Directorate:
(1) Federal Emergency Management Agency, and Integrated Hazard Information System of DoD	(1) Federal Emergency Management Agency as a distinct entity within DHS, including ten regional offices to be strengthened and maintained
(see Sec. 402 (6),(7))	(2) NDPO (FBI) (3) Office of Domestic Preparedness (DOJ)
(2) OEP, the National Disaster Medical System	(4) similar provision, but also specifies within

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(NDMS), the Metropolitan Medical Response System (MMRS), and related functions of the Secretary of HHS and the Assistant Secretary for Public Health Emergency Preparedness	OEP the Noble Training Center, Disaster Medical Assistance Teams and Disaster Mortuary Operational Response Teams (included within NDMS and listed separately), special events response, and citizen preparedness programs
(3) functions, personnel, assets, and obligations of the Strategic National Stockpile (formerly the National Pharmaceutical Stockpile) to DHS. Pursuant to Sec. 905, the HHS Secretary would continue to manage the stockpile and determine its contents	(5) authorities, functions, personnel, and assets of the Strategic National Stockpile and the HHS potassium iodide program (created by Sec. 127 of the bioterrorism legislation (P.L. 107-188))
	(6) Select Agent Registration Program of HHS and Department of Agriculture, specifically sections 201 and 221 of P.L. 107-188.
	Sec. 134(d). Authorizes an individual to serve as Under Secretary for EPR and Director of FEMA, with Senate approval, limits pay of individual appointed to both positions to that provided for the higher of the two
	Sec. 134(e). Within one year of enactment the Under Secretary for EPR must report to Congress on status of a national medical informatics system and capacity to meet goals set out in Sec. 134(b)(12)
Sec. 503. Nuclear Incident Response. Provides for the NIRT (defined in Sec. 504) to operate as an organizational unit of the DHS in the event of an emergency in the U.S. Otherwise maintains the current Team element responsibilities of the Secretary of Energy and the Administrator of the Environmental Protection Agency. Provides for continued indemnification of current Department of Energy contractors when their Team elements are operating as a unit of the Department	
Sec. 504. Definition. Defines NIRT as (1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions, including Radiation Emergency Assistance/Training Site (REAC/TS), plus (2) those entities of the Environmental Protection	

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Agency that perform radiological emergency response and support functions	
Sec. 505. Conduct of Certain Public Health-Related Activities. Requires the HHS Secretary, in collaboration with the Secretary of DHS, to set priorities and preparedness goals (including benchmarks and outcome measures for evaluating progress) and to develop a coordinated strategy for activities to improve state, local, and hospital preparedness and response	
Sec. 506. Role of Federal Emergency Management Agency. Maintains FEMA's role as lead agency for the Federal Response Plan; instructs FEMA Director to update Federal Response Plan within 60 days to incorporate new DHS; maintains FEMA's focus on response, recovery, preparedness, and mitigation for natural hazards;	
Sec. 507. Sense of Congress Regarding Funding of Trauma Systems. Expresses sense of Congress that states should use federal bioterrorism funding (through P.L. 107-188) to develop trauma care and burn center care components.	
	S. 2452, Title I, Subtitle C – National Emergency Preparedness Enhancement.
	Sec. 151. Short title: National Emergency Preparedness Enhancement Act of 2002
	Sec. 152. Preparedness Information and Education. Establishes a National Clearinghouse on Emergency Preparedness, which shall consult with heads of federal agencies and private sector representatives to collect information relevant to national strategy; Lists clearinghouse duties, including serving as a one-stop center for emergency preparedness information, including a web site and other contact information, informing states, localities, and private entities of federal grant opportunities,

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	and distributing preparedness education tools, distributing information on best practices in emergency preparedness; Requires clearinghouse to conduct a public awareness campaign, including an annual National Emergency Preparedness Week
	Sec. 153. Pilot Program.; Requires department to award grants to private entities to improve emergency preparedness through evacuation plans, drills, security measures, preparedness technologies, and employee education
	Sec. 154. Designation of National Emergency Preparedness Week. Designates each week that includes September 11 as “National Preparedness Week,” during which the President and federal agencies will conduct public education programs

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H.R. 5005, Title VI — Management	
Sec. 601. Under Secretary for Management. In general, the responsibilities would include (1) 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; (7) identification and tracking of performance measures relating to the responsibilities of the department; (8) grants and other assistance management programs; (9) transition and reorganization process, to ensure an efficient and orderly transfer of functions and personnel to the department, including the development of a transition plan; (10) conduct of internal audits and management analyses of the programs and activities of the department; and (11) any other management duties that the Secretary may designate. For Immigration Enforcement: maintenance of all immigration statistical information of the Bureau of Border Security, including data such as that contained in the current <i>Statistical Yearbook of the Immigration and Naturalization Service</i>; establishment of standards of reliability and validity for immigration statistics to be collected by the newly created Bureau of Border Security; and assumption of functions currently performed by the statistics Branch of the office of Policy and Planning of the Immigration and Naturalization Service with respect to the border patrol program, detention and removal program, intelligence program, investigations program, and inspections program.	Sec. 104. Under Secretary for Management, appointed by President subject to confirmation Responsibilities may include (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 department responsibilities.
Sec. 602 Chief Financial Officer. CFO for DHS shall report to the Secretary or another department official as the Secretary may direct. All other CFO positions coming under the	Sec. 107(b) brings CFO for DHS under Chapter 9 of 31 USC. Hence CFO reports directly to the Secretary.

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CFO Act (Chapter 9 of 31 U.S.C.), report directly to the agency head.	
Sec. 603. Chief Information Officer (appointed under Sec. 103(d)(5)) Notwithstanding 44 U.S.C. 3506(a)(2), shall report to the Secretary, or to another official of the department, as the Secretary may direct. Note: Other statutory CIOs report only to the head of the agency.	Sec. 108. Chief Information Officer, designated as prescribed under 44 U.S.C. 3506(a)(2)(A). Assist the Secretary with department-wide information resources management and perform those duties prescribed by law for chief information officer of agencies.
Sec. 604. Establishment of Office for Civil Rights and Civil Liberties. Secretary shall establish an Office for Civil Rights and Civil Liberties, headed by the Director for Civil Rights and Civil Liberties. The Director's responsibilities include: (1) reviewing and assessing information alleging abuses by employees and officials of the department; (2) making public, through mass media, information on the responsibilities and functions of and how to contact the office; and (3) submitting a report semiannually to Congress on implementation of this section, funds expended, and detailed case studies.	
Sec. 605. Consolidation and Co-Location of Offices. Not later than one year from enactment, the Secretary shall develop and submit to Congress a plan for consolidating and relocating (1) any regional offices or field offices of agencies transferred to the department, if such officers [sic] are located in the same municipality; and (2) portions of regional and field offices of other federal agencies, to the extent such offices perform functions that are transferred to the Secretary under this Act.	

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H.R. 5005, Title VII — Miscellaneous	
H.R. 5005, Title VII, Subtitle A — Inspector General.	
Sec. 701. Authority of the Secretary. (a) The bill provides that notwithstanding the last two sentences of section 3(a) of the IG Act, the IG shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, of the issuance of subpoenas that require access to sensitive 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 18 U.S.C. § 3056, 3 U.S.C. § 202, 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.	Sec. 106(d). Additional Provisions With Respect to the IG of the Department of Homeland Security. This provides for a new section 8I of the IG Act and sets forth “Special Provisions Concerning the Department of Homeland Security” for the IG and the Secretary. (Adding new § 8I(a)(1) of the IG Act), section 106(d) of the bill provides that notwithstanding the last two sentences of section 3(a) of the IG Act, the IG shall be under the authority, direction and control of the Secretary of Homeland Security with respect to audits or investigations, of the issuance of subpoenas, which require access to sensitive information concerning – (A) intelligence or counterintelligence matters; (B) ongoing criminal investigations or proceedings; (C) undercover operations; (D) the identity of confidential sources, including protected witnesses; (E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by 18 U.S.C. § 3056, 3 U.S.C. § 202, or the Presidential Protection Assistance Act of 1976 (18 U.S.C. § 3056 note); or (F) other matters the disclosure of which would constitute a serious threat to national security.
Sec. 701(b). Prohibition of certain investigations. With respect to sensitive information described in the six subparagraphs in § 701(a) (or sensitive areas of information), the Secretary may prohibit the IG from carrying out or completing any audit or investigation, or from issuing a subpoena, after the IG has decided to initiate, carry out, or complete the audit or investigation, or issue such subpoena, if the Secretary determines that such	Sec. 106(d). (Adding new § 8I(a)(2) of the IG Act). Section 106(d) of the bill provides further that with respect to sensitive information described in paragraph (1), the Secretary may prohibit the IG from carrying out or completing any audit or investigation, or from issuing any subpoena, if the Secretary determines that the prohibition is necessary to prevent the disclosure of information described in paragraph (1),

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prohibition is necessary to prevent the disclosure of information described in § 701(a), to preserve national security, or to prevent a significant impairment to the interests of the United States.	preserve the national security, or prevent significant impairment to the national security interests of the United States.
Sec. 701(c). Notification required. If the Secretary exercises any power under subsections §§ 701(a) and (b) [to prohibit the IG from carrying out an audit or investigation or from issuing a subpoena], the Secretary shall notify the IG of the Department in writing stating the reasons for the exercise. Within 30 days after receipt of the notice [from the Secretary], the IG shall transmit a copy of the notice and a written response that includes (1) a statement as to whether the IG agrees or disagrees with the Secretary's exercise of power and (2) the reasons for the disagreement, to the President of the Senate and the Speaker of the House and to appropriate committees and subcommittees of Congress.	Sec. 106(d). (Adding new § 8I(a)(3) of the IG Act.) Section 106(d) of the bill provides that if the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the IG in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise. Within 30 days after receipt of such notice, the IG shall transmit a copy of such notice, together with comments concerning the exercise of such power as the IG considers appropriate to: the President of the Senate; the Speaker of the House; the Senate Committee on Governmental Affairs; the House Committee on Government Reform; and other appropriate committees or subcommittees of Congress.
Sec. 701(d). Access to information by Congress. The exercise of authority by the Secretary described in § 701(b) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.	
Sec. 701(e). Oversight responsibility. A new section 8J is added to the IG Act. The bill provides that the IG Act is amended by inserting after section 8I the following: “Special Provisions Concerning the Department of Homeland Security:” This section provides that in carrying out the duties and responsibilities in the Act, the IG shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the U.S. Customs Service and the Office of Inspections of the U.S. Secret Service. The head of each office shall promptly report to the IG the significant activities being carried out by such office.	Sec. 106(d). (Adding new §§ 8I(b)(1), (2), (3) and (4) of the IG Act.) Section 106(d) of the bill provides that in carrying out the duties and responsibilities under this Act, the IG shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the DHS The head of each other office described herein shall promptly report to the IG the significant activities being carried out by the office. The IG of DHS may initiate, conduct, and supervise any such audits and investigations in the DHS (including any subdivision referred to in paragraph (1)) as the IG considers appropriate. If the IG initiates an audit or investigation under paragraph (3), concerning a subdivision in paragraph (1), the IG may provide the head of the

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	other office performing internal investigatory or audit functions in the subdivision with written notice that the IG has initiated such an audit or investigation. If the IG issues such a notice, no other audit or investigation shall be initiated into the matter under audit or investigation by the IG, and any other audit or investigation on the matter shall cease. Sec. 106(d). (Adding new §§ 8I(c) of the IG Act.) This section provides that any report required to be transmitted by the Secretary to the appropriate full and subcommittees of Congress under 5(d) shall also be transmitted, within the 7-day period, to the President of the Senate; the Speaker of the House; the Senate Committee on Governmental Affairs; and, the Committee on Government Reform of the House. Sec. 106(e). Technical and Conforming Amendments. This section adds related technical and conforming amendments.
H.R. 5005, Title VII, Subtitle B–United States Secret Service.	
Sec. 711. Functions transferred. The U.S. Secret Service is to be transferred intact to the new department. The service is to be “maintained as distinct entity within the Department;” and all of its “functions, personnel, assets, and obligations” are to be transferred to the Secretary.	Sec. 138. United States Secret Service. The US Secret Service is being transferred intact to the new department. The Service is to be “maintained as a distinct entity within the Department;” and all of its “authorities, functions, personnel, and assets” are to be transferred to the Secretary. The differences in the language between the two versions are that: the Senate version calls for “authorities” to be transferred, while the House does not; and the Senate version leaves out “obligations,” which the House includes.

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H.R. 5005, Title VII, Subtitle C–Critical Infrastructure Information.	
Sec. 721. Short title This subtitle may be cited as the “Critical Infrastructure Information Act of 2002.”	
Sec. 722. Definitions (1) <i>Agency</i> has the same meaning given in section 551 of title 5, United States Code. (2) Covered federal agency means Department of Homeland Security (3) <i>Critical infrastructure</i> (CI) information means, information not customarily in the public domain and related to the security of critical infrastructure or protected systems, including; (A) the actual, potential, or threatened interference with, attach on, compromise of, or incapacitation of critical infrastructure (CI) or protected systems...(B)the ability of any CI or protected system to resist such interference, compromise, or incapacitation ...(C)any planned or past operational problem or solution regarding CI or protected systems... (4) <i>Critical Infrastructure Protection Program</i> means any component or bureau of a Federal agency that has been designated by the President or any agency head to receive CI information. (5) <i>Information sharing and analysis organization</i> means any formal or informal entity or collaboration created or employed by public or private sector organizations for the purpose of gathering, organizing and disseminating critical information to federal, state and local officials to protect the Nation’s CI against attack. (6) <i>Protected system</i> means any service, physical or computer-based system, process, or procedure that directly or indirectly affects the viability of a facility of CI. (7) <i>Voluntary</i> means the transfer of information entity provided the information absent a formal request from the recipient.	
Sec. 723. Designation of critical infrastructure protection program A critical infrastructure protection program may be designated by the President, or the Secretary of	

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the Department of Homeland Security.	
Sec. 724. Protection of voluntarily shared critical infrastructure information (1) In general-CI information that is voluntarily submitted to the Federal government shall be exempt from disclosure under Freedom of Information Act, section 552 of title 5, U.S.C... Further, such information shall not be subject to any agency rules or judicial doctrine regarding ex parte communication with a Federal official. Additionally, voluntary information may not be used directly in any civil action initiated by a Federal, state or local entity without written consent, if information is submitted in good faith. Information may be disclosed to further a criminal investigation or to Congress or GAO. (2) Express statement-means that information (written or oral) is voluntarily submitted to the Federal Government in expectation of protection from disclosure as provided in the Critical Infrastructure Information Act of 2002. In addition, the transfer of CI information is not subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2). Provides savings clause for independently obtained information on critical infrastructure. Procedures-Ninety days after the passages of this bill the Secretary shall establish procedures for the receipt, care, storage, and timely retrieval of voluntary information received by the department. Penalties- Any officer or employee of the federal government that deliberately or knowingly publishes, divulges or discloses, any CI information protected under this statute shall be fined under title 18 of the U.S. Code, imprisoned not more than one year, or both, and shall be removed from office or employment. Authorizes the federal government to issue alerts and warnings regarding threats to critical infrastructure.	
Sec. 725. No private right of action. Nothing in this subtitle may be construed to create a private right of action for enforcement of any provision of this Act.	

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H.R. 5005, Title VII, Subtitle D — Acquisitions.	S. 2452, Title V — Federal Emergency Procurement Flexibility
Sec. 731. Research and development projects. Provides the Secretary with authority for a pilot program - to conduct R&D under similar authority to that possessed by the Secretary of Defense under 10 U.S.C. 2371 if other means are determined not to be suitable, and - to carry out prototype projects according to requirements and conditions of Sec. 845 of P.L. 103-160; requires use of competitive, merit-based selection procedures. Requires annual report from Comptroller General on whether above authorities attract nontraditional contractors and results in acquisition of needed technology, and what safeguards would be needed if the authorities were made permanent.	Sec. 135(c)(3) Research and Development-Related Authorities Provides the Secretary with authority to conduct R&D similar to that possessed by the Secretary of Defense under 10 U.S.C. 2371 and to carry out prototype projects according to requirements and conditions of Sec. 845 of P.L. 103-160; requires use of competitive, merit-based selection procedures.
Sec. 732. Personal Services. The Secretary could procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with 5 U.S.C. 3109; and could, whenever necessary due to an urgent homeland security need, procure temporary (not to exceed one year) or intermittent personnel services, including the services of experts or consultants (or organizations thereof) without regard to the pay limitations of 5 U.S.C. 3109.	Sec. 195. Procurement of temporary and intermittent services. (1) Authorizes the Secretary to bring on experts and consultants under 5 U.S.C. 3109; and (2) Due to urgent homeland security needs, may for a period of not more than one year, compensate them at a rate higher than the referenced section allows.
Sec. 733. Special streamlined acquisition authority	S. 2452, Title V, Subtitle A — Temporary Flexibility for Certain Procurements.
Sec. 733(a) Authority. The Secretary may use the streamlined authorities for a period of four years; can delegated only to another confirmed officer; and must submit notification and justification to appropriate congressional committees.	
	Sec. 501. Definition: <i>executive agency</i>, same as

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	41 U.S.C. 403(1).
	Sec. 502. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. Solicitations of offers must be issued during the one-year period following enactment.
	Sec. 503. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
	Sec. 503(a) Temporary Threshold Amounts. Definitions applied if contract to be awarded is \$250,000 within U.S., or \$500,000 outside U.S.
Sec. 733(b) Increased Micro-Purchase Threshold for Certain Procurements. Provides Secretary with authority to delegate purchase activity for amounts as small as \$5,000; limits the number of persons so authorized; and requires monthly review.	Sec. 504. Increased Micro-Purchase Threshold for Certain Procurements. Purchase activity amount specified as \$10,000.
Sec. 733(c) Simplified Acquisition Procedures. Secretary may deem the acquisition threshold to be \$175,000.	Sec. 503(b) Simplified Acquisition Threshold Definitions. Provides appropriate U.S. Code sites. Sec. 506. Use of streamlined procedures. In reference to Sec. 502, an agency head is required to use streamlined procedures. Specific applicable statutes are identified.
Sec. 733(d) Application of Certain Commercial Items Authorities. Secretary may deem any item or service to be commercial under this section; there will be a \$7,500,000 limitation; and the time limit under Clinger-Cohen (10 U.S.C. 2304, note) does not apply.	Sec. 505. Application of certain commercial items authorities to certain procurements. (a) in reference to Sec. 502, certain commercial determinations may be waived; (b) the monetary threshold does not apply in such instances; (c) continues certain applicable provisions of law which would otherwise expire.
Sec. 733(e) Report. No later than March 31, 2006, GAO must submit a report to Congress on the application and implementation of this section.	Sec. 507 Review and Report by GAO. No later than March 31, 2004, GAO must review and report results to Senate Committee on Governmental Affairs and House Committee on Government Reform. Report must contain recommendations on

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	property and services. Comptroller General must consult with Senate Committee on Government Affairs and House Committee on Government Reform on topics to be reviewed.
Sec. 734. Procurements from small business. (a) Establishes, within DHS, the Office of Small and Disadvantaged Business Utilization; and (b) Requires the Secretary to establish annual small business procurement goals.	Sec. 503(c) Small Business Reserve. Procurement values for small business contracts. Sec. 506(b) Waiver of certain small business threshold requirements. See also Sec. 511.
Sec. 735. Prohibition on contracting with corporate expatriates. (a) Prohibits DHS Secretary from entering into any contract with a company incorporated in a tax haven country and for whom the U.S. is the principal market for trading its public stock; (b) Tax haven countries are identified; and (c) Provides waivers in the case of national security.	
	S. 2452, Title V, Subtitle B — Other Matters.
	Sec. 511. Identification of new entrants into the federal marketplace. Agency heads are required to conduct ongoing market research to identify the capabilities of small businesses and new entrants into federal contracting that meet the agency requirements in fighting terrorism.
H.R. 5005, Title VII, Subtitle E — Property.	
Sec. 741. Department Headquarters. The Administrator of GSA shall construct a public building to serve as DHS headquarters. Giving preference to federally-owned land, the administrator shall select the location and construct the facility to his/her standards and specifications. The administrator shall make available that facility and other necessary federal facilities to the Secretary.	

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Such amounts as may be necessary to pay the annual charges for GSA furnished space and services are authorized.	
H.R. 5005, Title VII, Subtitle F—Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 (the SAFETY Act).	
Sec. 751. Short title: “Support Anti-terrorism by Fostering Effective Technologies Act of 2002” or the “SAFETY Act.”	
Sec. 752. Administration. Provides that the Secretary would be responsible for the administration of Subtitle G and may designate anti-terrorism technologies that qualify for the liability limitations under the system of risk management set forth in the subtitle.	
Sec. 753. Litigation management: Creates a federal cause of action, to be brought in an appropriate federal district court, which would preempt state causes of actions, for claims against sellers of qualified anti-terrorism technologies when such technologies have been deployed in defense against an act of terrorism that gives rise to claims for damages. The law of the state in which the act of terrorism occurred would govern unless it were inconsistent with federal law. In an action brought under this section, no punitive damages or interest prior to judgment could be awarded, there would be no joint and several liability for noneconomic damages (this means that each defendant could be held liable for pain and suffering and the like only to the extent to which it was responsible for the plaintiff’s harm), the collateral source rule would not apply (this means that damage awards would be reduced by amounts received from collateral sources, such as insurance benefits), and the government contractor defense would apply in product liability and other suits unless the defendant had acted fraudulently or with willful misconduct in submitting information about its technology to the Secretary (this means that, if the harm was caused by an aspect of the product that had been	

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manufactured in accordance with government contract requirements, the defendant would not be liable). The Secretary would be exclusively responsible for the review and approval of anti-terrorism technology for purposes of establishing a government contractor defense. Nothing in this section would limit any form of recovery from any person, government, or other entity that commits any act of terrorism or participates in a conspiracy to commit any such act.	
Sec. 754. Risk management: Requires sellers of qualified anti-terrorism technology to federal and non-federal government customers (“Seller”), to obtain liability insurance of such types and in such amounts as would be required in accordance with this section and certified by the Secretary. Sellers would be required to enter into a reciprocal waiver of claims with their contractors, subcontractors, suppliers, vendors, and customers, and contractors and subcontractors of their customers, under which each party to the waiver would agree to be responsible for its own losses. Liability for all claims against a seller under section 753 would be limited to the amount of liability insurance required under section 754.	
Sec. 755. Definitions. Define, for purposes of Subtitle F, “qualified anti-terrorism technology,” “act of terrorism,” “insurance carrier,” “liability insurance,” “loss,” and “non-federal government customers.”	
H.R. 5005, Title VII, Subtitle G—Other Provisions.	
Sec. 761. Establishment of Human Resources Management System	
Sec. 761(a)(1). Expressing sense of the Congress that DHS employees be allowed to participate in the creation of new human resources management system.	
Sec. 761(a)(2). Establishment of human resources management system (new §9701(a), (b), (c) in title 5, U.S. Code).	

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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 DHS. The new system shall be flexible and contemporary, and shall not waive, modify or otherwise affect specified provisions of title 5, U.S. Code. The Secretary may waive chapters 51 (pay classification), 53 (pay rates and systems), 71 (labor-management relations) and certain other chapters of title 5, U.S. Code. In particular: Subpart I of part III of Title 5, U.S. Code, is amended by adding a new section: §9701. Establishment of 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.	
Sec. 761(a)(2). Collective bargaining rights for employees under new human resources management system (new §9701(b)(4) in title 5, U.S. Code). The new human resources management system shall ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law or pursuant to the new system for employees engaged in intelligence, counterintelligence, investigative, or security work which directly provides national security.	
Sec. 761(a)(2). Participation of employee representatives in planning of human resources management system (new §9701(e)). With respect to any proposed human resources management system or any adjustment to such system, the Secretary of Homeland Security and	

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Director of OPM must provide a written description of the proposed system or adjustment to each employee representative, must give each representative at least 60 days to review and make recommendations, except in extraordinary circumstances, and must give any recommendations full and fair consideration in deciding whether and how to proceed with the proposal. Before implementation of a proposal, the Secretary and Director must give each employee representative details of the decision to implement the proposal, together with the information upon which the decision was based, must give each representative an opportunity to make recommendations with respect to the proposal, and must give such recommendations full and fair consideration and provide reasons for rejecting any recommendation. If a proposal is implemented, the Secretary and Director shall develop a method for each employee representative to participate in any further planning or development which might become necessary.	
Sec. 761(a)(2). (new §9701(f)). Expressing sense of the Congress that DHS employees are entitled to fair treatment in any appeals that they bring in decisions relating to their employment.	
Sec. 761(b)(1). Effect on personnel. Except as otherwise provided in the Act, the transfer of full-time personnel (except special government employees) and part-time personnel holding permanent positions would not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the department.	
Sec. 762. Labor-Management Relations.	
Sec. 762(a)(1). Exclusion from ability to bargain collectively: transferred agencies. No agency or subdivision of an agency which is transferred to the department shall be excluded from coverage under chapter 71 of title 5, U.S. Code, pursuant to 5 U.S.C. Sec. 7103(b)(1)	Sec. 187(f)(2)(A). Exclusion from ability to bargain collectively: transferred agencies. The DHS, or a subdivision of the DHS, that includes a transferred agency or subdivision thereof or that performs transferred functions shall not be subject to the President's authority to

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(national security exclusion) after June 18, 2002, unless the mission and responsibilities of the agency or subdivision materially change, and a majority of the agency's or subdivision's employees have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.	exclude an agency or subdivision from coverage under chapter 71 of title 5, U.S. Code, pursuant to 5 U.S.C. Sec. 7103(b)(1) (national security exclusion) after July 19, 2002. This section shall not apply to an agency or subdivision of an agency that is transferred to the department and excluded from coverage under chapter 71 of title 5 on July 19, 2002.
Sec. 762(b)(1). Recognition of appropriate bargaining units. Each unit recognized as an appropriate unit under chapter 71 of title 5, U.S. Code, prior to the effective date of the Act shall continue to be recognized as an appropriate unit following transfer to the department, unless the mission and responsibilities of the unit materially change, and a majority of employees within the unit have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.	
Sec. 762(b)(2). Exclusion from appropriate bargaining unit: transferred employees. No position or employee within a unit which continues to be recognized as an appropriate unit following transfer to the department shall be excluded from the unit, unless the primary job duty of the position or employee materially changes and consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.	Sec. 187(f)(2)(B). Exclusion from appropriate bargaining unit: transferred employees. A transferred employee shall not be excluded from an appropriate unit unless the employee's primary job duty has materially changed after the transfer, the employee's new duties consist of intelligence, counterintelligence, or investigative duties directly related to the investigation of terrorism, and it is clearly demonstrated that membership in a unit and coverage under chapter 71 of title 5, U.S. Code, cannot be applied in a manner that would not have a substantial adverse effect on national security. Sec. 187(f)(2)(C). Exclusion from appropriate bargaining unit: transferred functions. An employee of DHS who is primarily engaged in carrying out a function transferred to the department or a function substantially similar to a function so transferred shall not be excluded from an appropriate unit unless the function was performed by an excluded employee prior to the transfer.
Sec. 762(b)(2). Exclusion from appropriate	Sec. 187(f)(2)(D)(ii). Exclusion from appropriate

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bargaining unit: other employees. A position first established on or after the effective date of the Act and any employee first appointed on or after such date shall not be excluded from an appropriate bargaining unit, unless the primary job duty of the position or employee consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation	bargaining unit: other employees. Subject to sections 187(f)(2)(B) and 187(f)(2)(C) of the Act, an employee of DHS shall not be excluded from an appropriate bargaining unit unless the employee's primary job duty consists of intelligence, counterintelligence, or investigative duties directly related to the investigation of terrorism, and it is clearly demonstrated that membership in a unit and coverage under chapter 71 of title 5, U.S. Code, cannot be applied in a manner that would not have a substantial adverse effect on national security. [This provision appears to apply to new employees of the department and not to employees transferred pursuant to the Act.]
Sec. 762(c). President's discretion to exclude agencies from chapter 71 coverage, to deny recognition of units, and to exclude positions or employees from appropriate units. Sections 762(a) and 762(b) shall not apply in circumstances where the President determines in writing that such application would have a substantial adverse impact on the department's ability to protect homeland security.	
Sec. 763. Advisory committees Secretary authorized to establish, appoint members of, and use the services of, advisory committees as he or she deemed necessary. The committees may be exempted by the Secretary from the Federal Advisory Committee Act, but the Secretary must publish notice of their establishment, identifying its purpose and membership.	
Sec. 764. Reorganization; Transfer of Appropriations. Authorizes the Secretary to allocate or reallocate functions among DHS officers and establish, consolidate, alter, or discontinue DHS organizational units, but only pursuant to section 802 or after the expiration of 60 days after having given appropriate congressional committees notice and explanations of the rationale for such action.	Sec. 191. Authorizes the Secretary, with certain limitations, to allocate or reallocate functions among DHS officers and establish, consolidate, alter or discontinue organizational entities within the department. Authorizes the Secretary and DHS officers, with certain limitations, to delegate and authorize redelegation of functions.

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Sec. 764(b). Transfer of Appropriations. Provides the Secretary with the authority to transfer funds between appropriations accounts within the DHS for two years from the date of enactment. A transfer may not exceed 2% of the available appropriation and requires 15 days' notice to the House and Senate Appropriations Committees before it can be made.	
Sec. 765. Miscellaneous Authorities. Authorizes DHS to have a seal, the design of which is subject to presidential approval; the Secretary to have the same authorities regarding gifts, devises, and bequests as the Attorney General has under 28 U.S.C. 524(d); the Secretary to have the same authorities regarding the participation of members of the armed forces as the Secretary of Transportation has under 49 U.S.C. 324; and, unless otherwise provided in the delegation or by law, the redelegation of any function delegated under this act to any subordinate.	Sec. 101. Authorizes the Secretary to procure a proper DHS seal, the design of which is subject to presidential approval, to verify official documents and be given judicial notice.
Sec. 766. Military Activities. Specifies that nothing in this act confers upon the Secretary any authority to engage in warfighting, the military defense of the U.S., or other military activities, nor does this act limit the existing authority of the Department of Defense or the armed forces in these same regard.	
Sec. 767. Regulatory Authority and preemption. (a) Specifies that this act vests no new regulatory authority in the Secretary or any other federal official, transfers to the Secretary or another federal official only such regulatory authority as exists on the date of the enactment of this act, and precludes further exercise of any authority by an official from whom it was transferred by this act. (b) State and local law is not preempted by the statute but any preemption granted to a transferring agency or official will transfer to the department.	
Sec. 768. Provisions Regarding Transfers from Department of Energy. Requires that, to the extent that programs or	

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activities transferred by this act from the Department of Energy to DHS are being carried out through contracts with the operator of a national laboratory, such contracts shall be separate from the contracts of the Department of Energy with such operator. Requires DHS, in the case of an activity carried out by contract with the operator of a national laboratory of the Department of Energy, to reimburse the Department of Energy for costs of such activity through a method under which the Secretary of Energy waives any requirement for DHS to pay administrative charges or personnel costs of the Department of Energy or its contractors in excess of the amount that the Secretary of Energy pays for an activity carried out by such contractor. Requires that any DHS obligation or expenditure of appropriated funds for laboratory directed research and development activities carried out by the Department of Energy support the mission of DHS as provided in section 101. Requires the Secretary of Energy to ensure that any research, development, test, and evaluation activities conducted within the Department of Energy that are directly or indirectly related to homeland security are fully coordinated with the Secretary of Homeland Security to minimize duplication of effort and maximize the effective application of federal budget resources.	
Sec. 769. Counternarcotics Officer. Requires the Secretary to appoint a senior DHS official to assume primary responsibility for coordinating policy and operations within the department and between DHS and other federal departments and agencies regarding interdicting the entry of illegal drugs into the U.S. and tracking and severing connections between illegal drug trafficking and terrorism. Officer is to be a senior official in the department.	
Sec. 770. Office of International Affairs. Establishes within the office of the Secretary an Office of International Affairs, headed by a Director appointed by the Secretary, to promote	Sec. 113 Establishes Director of the Office of International Affairs to be appointed by the Secretary; responsibilities identified in sec. 113(b).

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information and education exchange with nations friendly to the U.S. in order to promote sharing of best practices and technologies relating to homeland security; to identify areas for homeland security information and training exchange where the U.S. has a demonstrated weakness and another friendly nation or nations have a demonstrated expertise; to plan and undertake international conferences, exchange programs, and training activities; and to manage international activities within the department in coordination with other federal officials with responsibility for counter-terrorism matters.	
Sec. 771. Prohibition of the Terrorism Information and Prevention System. Prohibits any and all activities of the federal government to implement the proposed component program of the Citizen Corps known as Operation TIPS.	
Sec. 772. Review of Pay and Benefit Plans. Notwithstanding any other provision of this Act, the Secretary would, in consultation with the OPM Director, review the pay and benefit plans of each agency whose functions are transferred under this Act to the Department and, within 90 days after the enactment date, submit a plan to the President of the Senate and the Speaker of the House and the appropriate committees and subcommittees of the Congress, for ensuring, to the maximum extent practicable, the elimination of disparities in pay and benefits throughout the Department, especially among law enforcement personnel, that are inconsistent with merit system principles at 5 U.S.C. 2301.	
Sec. 773. Role of the District of Columbia. The Secretary or his/her designee shall work in cooperation with the Mayor of DC for the purpose of integrating DC into the planning coordination, and execution of the activities of the federal government for the enhancement of domestic preparedness against the consequences of terrorist attacks.	
Sec. 774. Transfer of the Federal Law	Sec. 131(c)(5). Transfer of the Federal Law

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Enforcement Training Center. Transfers the Federal Law Enforcement Training Center (functions, personnel, assets, and liabilities) from the Secretary of the Treasury to the Attorney General. Sec. 776. Instructs that the transfer of an authority or agency under this bill does not affect training agreements already made with the Federal Law Enforcement Training Center. Requires that all activities of this center be carried out at locations where such activities were carried out before enactment of this bill. See also Sec. 776.	Enforcement Training Center. Transfers the Federal Law Enforcement Training Center to the Directorate of Border and Transportation Protection.
Sec. 775. Requirement to comply with laws protecting equal employment opportunity and providing whistleblower protections. Nothing in the Act shall be construed as exempting the department from requirements applicable to executive agencies to provide equal employment or whistleblower protection for employees of the department.	Sec. 187(f)(4). Whistleblower protection. The President may not exclude any position transferred to the department as a covered position under section 2302(a)(2)(B)(ii) of title 5, U.S. Code (positions not protected from discrimination and whistleblower protection), to the extent that such exclusion subject to that authority was made before the Act's date of enactment. [This section appears to provide protection from discrimination, as well as protection from whistleblower retaliation.] See also Sec. 164 and Sec. 165.
Sec. 776. Federal Law Enforcement Training Center. (a) No transfer under this Act affects law enforcement training agreements already entered into; and (b) All activities of FLETC transferred to DOJ under this Act shall continue to be carried out at the locations such activities were carried out before such transfer.	
Sec. 777. Office for State and local government coordination. Establishes an Office for State and Local Government Coordination responsible for coordinating departmental activities relating to state and local governments, advocating for state and local resources, providing assistance, and developing a system for receiving state and local input on national strategy.	Sec. 137(a). Establishes an Office for State and Local Government Coordination. Sec. 137(b). Responsibilities: coordinating departmental activities relating to state and local governments, advocating for state and local resources, providing assistance, and developing a system for receiving state and local input on national strategy. Sec. 137(c). Requires Secretary of DHS to appoint a Chief Homeland Security Liaison

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	Officer, whose duties include: coordinating federal and state and local priorities, activities, and needs; assessment of federal assistance programs; identification of duplicative federal activities; preparing an annual report addressing stated issues and making recommendations to Congress. The Secretary must also appoint a DHS employee in each state shall have to serve as homeland security liaison officer, responsible for coordinating DHS activities with first responders and relief organizations, among other functions.
Sec. 778. Reporting requirements. Requires DHS to report to Congress every two years on the preparedness of the federal government regarding: resources and requirements of federal agencies for border security and emergency preparedness functions; preparedness of the nation to respond to natural disasters and terrorist attacks; preparedness of each state; an assessment of the department in fulfilling the Act, ensuring core functions are maintained and strengthened, and recommending any necessary changes in law.	
Sec. 779. Joint Interagency Task Force.	
Sec. 780. Sense of Congress Reaffirming the Continued Importance and Applicability of the Posse Comitatus Act. Specifies that Congress finds the Posse Comitatus Act, enacted in 1878 to prohibit the use of the armed forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or statute, has served the nation well in limiting the use of the armed forces to enforce the law. Nevertheless, by its express terms, the act is not a complete barrier to the use of the armed forces for a range of domestic purposes when authorized by law or in fulfillment of the President's obligation to respond promptly in time of war, insurrection, or other serious emergency. Congress reaffirms the continued importance of 18 U.S.C. 1385 and it is the sense of Congress that nothing in this act should be	

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construed to alter the application of such section to any use of the armed forces as a posse comitatus to execute the law.	
Sec. 781. Air Transportation Safety and System Stabilization Act Amendments. Expands the liability exemptions of the Act by defining “air carriers” and their “agents,” for purposes of the provision. Agent is defined to only include persons that have contracted directly with the FAA on or after February 17, 2002, to provide such security or who were not debarred. Since the FAA, under the Aviation and Transportation Security Act, assumed the existing passenger screening contracts from the airlines by that date, this provision would appear to provide these FAA contracted screening companies with protection from liability.	
See Sec. 104.	Sec. 137(d). Federal Interagency Committee on First Responders. Ensures coordination among federal agencies in providing assistance to first responders, identifies first responder needs, recommends new programs, identifies ways to streamline provision of assistance; lists the agencies required to be represented on the Committee. Sec. 137(e). Advisory Council for the Federal Interagency Committee on First Responders. Authorizes council to include representatives of law enforcement, fire and rescue, medical and emergency relief services, and urban and rural communities.
	S. 2452, Title I, Subtitle D — Miscellaneous Provisions.
	Sec. 161. National Bio-weapons Defense Analysis Center. Establishes the center within DOD to conduct R&D on countermeasures and other aspects of chemical and biological weapons.
	Sec. 162. Review of Food Safety. (a) Review of Food Safety Laws and Food Safety Organizational Structure. The Secretary of DHS shall enter into an

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	agreement with and provide funding to the NAS to conduct a detailed, comprehensive study that shall (a) review all federal statutes and regulations affecting the safety and security of the food supply to determine the effectiveness of the statutes and regulations at protecting the food supply from deliberate contamination; and (b) review the organizational structure of federal food safety oversight to determine the efficiency and effectiveness of the structure at protecting the food supply from deliberate contamination. (b) Report. Not later than one year after the date of enactment, the NAS shall prepare and submit to the President, the Secretary, and Congress a report containing the findings and conclusions of the review and specific recommendations for improving the effectiveness and efficiency of federal food safety statutes and regulations and the organizational structure of federal food safety oversight. The report shall also address: the effectiveness with which federal food safety statutes and regulations protect public health and ensure the food supply remains free from contamination; the shortfalls, redundancies, and inconsistencies in food safety statutes and regulations; the application of resources among federal food safety statutes and regulations; the effectiveness and efficiency of the organizational structure of federal food safety oversight; the shortfalls, redundancies, and inconsistencies of the organizational structure of federal food safety oversight; and the merits of a unified, central organizational structure of federal food safety oversight.
	Sec. 163. Exchange of Employees Between Agencies and State or Local Governments. (a) Findings. (1) information sharing between governments is vital to securing the homeland against terrorist attacks; (2) public employees working cooperatively can learn from one another and resolve complex issues; (3) public employees have specialized knowledge that should be consistently shared between and

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	among agencies at all levels of government; and providing training and other support, such as staffing to the appropriate agencies, can enhance the ability of an agency to analyze and assess threats against the homeland, develop appropriate responses, and inform the U.S. public. (b) Exchange of Employees. The Secretary could provide for the exchange of employees of the Department and State and local agencies in accordance with 5 U.S.C. Chapter 33, Subchapter VI. The Secretary would ensure that any assigned employee would have appropriate training or experience to perform the work required by the assignment and any assignment occurs under conditions that appropriately safeguard classified and other sensitive information.
[See Sec. 775. Equal Employment Opportunity and Whistleblower Protection.]	Sec. 164. Whistleblower Protection for Airport Security Screeners. Amends the Aviation and Transportation Security Act to extend whistleblower protection to security screeners. The President may not exclude security screeners from whistleblower protection pursuant to his authority under section 2302(a)(2)(B)(ii) of Title 5, U.S. Code.
	Sec. 165. Whistleblower Protection for Airport Employees. Amends section 42121(a) of Title 49, U.S. Code to provide whistleblower protection to the employees of additional airport employers. An employer of airport screening personnel, other than the federal government, including a state or municipal government, an airport authority, or a contractor of such government or airport authority may not discharge or otherwise discriminate against an employee who engages in protected conduct. Similarly, an employer of private screening personnel may not discharge or otherwise discriminate against an employee who engages in protected conduct.
	Sec. 166. Bioterrorism Preparedness and Response Division. Amends current law to establish this new division within CDC to lead and coordinate CDC

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	counterterrorism activities and to train public health personnel in counterterrorism. Transfers to the division the Bioterrorism Preparedness and Response Program, the Strategic National Stockpile, and other activities as assigned by the Director of the CDC. Requires that the Director of the CDC consult with the Secretary of Health and Human Services and the Secretary of Homeland Security in appointing the division Director. Permits assignment of personnel from DHS to the division and vice versa.
	Sec. 167. Coordination with the Department of Health and Human Services under the Public Health Service Act.
	Sec. 168. Rail Security Enhancements. Authorizes, for two years, for Amtrak: 1) \$375 million to enhance the security and safety of Amtrak passenger service; 2) \$778 million for life safety improvements to 6 Amtrak tunnels in New York, the Baltimore and Potomac tunnel, and the Union Station tunnels in Washington, D.C.; and 3) \$55 million for the emergency repair, and returning to service of Amtrak Passenger cars and locomotives. Amounts Appropriated pursuant to the above are to remain available until expended. Such funds are not to be considered as authorizations under 49 U.S.C., subtitle V part C.
	Sec. 169. Grants for Firefighting Personnel. Authorizes grant funds for firefighting personnel.
Sec. 408. Annual assessment of terrorist-related threats to public transportation Requires the Secretary, in consultation with the heads of other appropriate federal departments and agencies, to conduct an assessment of terrorist-related threats to all forms of public transportation, including gathering places related to public transportation.	Sec. 170. Review of Transportation Security Enhancements. Requires the Comptroller General to conduct a detailed, comprehensive study that shall: review all available intelligence on terrorist threats against aviation, seaport, rail, and transit facilities; review all available information on vulnerabilities at such facilities; and review the steps taken by agencies, since Sept. 11, 2001, to improve aviation, seaport, rail, and transit security to determine their effectiveness at protecting passengers and transportation infrastructure from terrorist attack. The Comptroller General is to submit, not later

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	than 1 year after enactment, a comprehensive report of the findings of the reviews and proposed steps to improve any deficiencies in aviation, seaport, rail, and transit security and, to the extent possible, the cost of implementing the steps. Not later than 90 days after receipt, the Secretary of DHS is to provide Congress and the President with the DHS response to the recommendations; and DHS recommendations to further protect passengers and transportation infrastructure from terrorist attack. See also Sec. 301.
	Sec. 171. Interoperability of Information Systems. Requires the Director of OMB, in consultation with the Secretary of DHS and affected entities, to develop a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; to establish schedules for development and implementation of this enterprise structure; and to coordinate, oversee and evaluate management and acquisition of necessary information technology to accomplish this task. Also mandates that the Director of OMB develop a plan for interoperability between information systems of those agencies and those of state and local agencies with homeland security responsibilities. Requires agency cooperation with the Director in development of the comprehensive enterprise architecture and in management and acquisition of compatible information technology. Sets forth criteria for the enterprise structure, requires consultation by the Director with public and private information systems management experts in development and implementation of the structure and plan, and mandates that the Director report to Congress on this development and implementation. The OMB Director, in consultation with the Secretary, is also charged with responsibility for updating this enterprise structure. Primary responsibility for carrying out the Director's duties under this section is to be vested in a principal officer of OMB designated by the Director with the approval of the President.

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H.R. 5005, Title VII, Subtitle H — Information Sharing.	
Sec. 790. Short Title. The short title of this subtitle is the “Homeland Security Information Sharing Act.”	
Sec. 791. Findings and Sense of Congress. (a) Recognizes federal reliance upon state and local personnel in protecting against terrorist attack and emphasizes the importance of reconciling state and local need for access to relevant homeland security information to combat terrorism with the need to preserve the protected status of such information and to protect the sources and methods used to acquire that information. (b) Expresses the sense of Congress that “Federal, State, and local entities should share homeland security information to the maximum extent practicable with special emphasis on hard-to-reach urban and rural communities.”	
Sec. 792. Facilitating Homeland Security Information Sharing Procedures. (a) The President is directed to prescribe and implement procedures applicable to all federal agencies to share relevant, appropriate homeland security information between federal agencies, including the Department of Homeland Security, and with appropriate state and local personnel; to identify and safeguard sensitive, unclassified homeland security information; to determine whether, how, and to what extent to remove classified homeland security information, as appropriate, and to determine with whom such homeland security information should be shared after such classified information is removed. The procedures shall neither change substantive requirements for classification and safeguarding classified information, nor requirements and authorities for protecting sources and methods.	No parallel provision, but information access, dissemination, and sharing are touched upon to some extent in Sec. 102(b), regarding responsibilities of the Secretary of Homeland Security; Sec. 104, regarding responsibilities of the Under Secretary for Management; Sec. 106(d)(2), regarding access by the Inspector General of DHA to sensitive information; Sec. 113(b)(1), regarding responsibilities of the Director of the Office of International Affairs; Sec. 132, regarding creation, responsibilities, and access to information for the Directorate of Central Intelligence; Sec. 133(b) regarding responsibilities of the Directorate of Critical Infrastructure Protection; Sec. 137(b), regarding responsibilities of the Office for State and Local Government; Sec. 152, regarding national emergency preparedness information and education; Sec. 163, regarding exchange of employees between agencies and state or local governments; Sec. 170, regarding review of transportation security enhancements; Sec. 171, regarding interoperability of information systems developed by the Director of OMB in

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	consultation with the Secretary of DHS and affected entities; Sec. 198, dealing with protection of voluntarily furnished information on vulnerability of and threats to critical infrastructure; Sec. 301, regarding development of a National Strategy for Combatting Terrorism and Homeland Security Response; and Sec. 303(e), regarding access to information from federal agencies for the National Combating Terrorism Strategy Panel.
Sec. 792(b) (1) sets the requirements and parameters for the procedures for sharing of homeland security information together with assessments of credibility of such information. (2) Information sharing systems shall have the capacity to transmit classified and unclassified information; to restrict delivery of information by location, type of organization, position of recipient, and recipient's need to know; to allow efficient and effective sharing of information, and to be accessible to appropriate state and local personnel. (3) The procedures will establish the conditions in which shared information may be used to limit redissemination so that the information is not used for an unauthorized purpose; to ensure its security and confidentiality; to protect constitutional and statutory rights of those who are the subjects of the information; and to provide data integrity. (4) The information sharing procedures, to the greatest extent practicable, are to ensure inclusion of existing information sharing systems. (5) Each appropriate federal agency, as determined by the President, shall have access to each information sharing system and all shared information, as appropriate. (6) Appropriate state and local personnel are authorized to use such information sharing systems, to access the information; and to share appropriately marked homeland security information from their own jurisdictions with others authorized to have access to such systems. (7) Under procedures jointly prescribed by the Attorney General and the Director of Central	

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Intelligence (DCI), each federal agency as determined by the President, shall review and assess shared information and integrate it with existing information.	
Sec. 792(c) Directs the President to prescribe procedures for the sharing of classified information and sensitive but unclassified information with appropriate state and local personnel and expresses the sense of Congress as to some means that may be included in such regulations.	
Sec. 792(d) Requires the head of each affected federal agency to designate an official to administer this Act with respect to each respective agency.	
Sec. 792(e) Mandates that information obtained from a federal agency by a state or local government remain under the control of that federal agency, notwithstanding state or local disclosure laws.	
Sec. 792(f) Defines terms as used in Sec. 792.	
Sec. 792(g) Articulates a rule of construction, that nothing in this Act is to be construed to authorize a federal entity, officer, or employee, to request, receive, or transmit, in violation of statutory confidentiality constraints, information collected solely for statistical purposes to any other federal, state, or local entity or personnel.	
Sec. 793. Report. Requires the President to report on the implementation of Sec. 792 to the House Permanent Select Committee on Intelligence, the House Judiciary Committee, the Senate Select Committee on Intelligence and the Senate Judiciary Committee within 12 months of the date of enactment of the Act.	
Sec. 794. Authorization of Appropriations. Authorizes to be appropriated such sums as are necessary to carry out Sec. 792.	
Sec. 795. Authority to Share Grand Jury Information.	

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Sec. 795(1) Amends Rule 6(e)(2) of the Federal Rules of Criminal Procedure (dealing with grand jury secrecy) to permit a knowing violation of Rule 6 or of guidelines jointly issued by the Attorney General and the DCI pursuant to Rule 6, to be punished as a contempt of court.	
Sec. 795(2) Amends Rule 6(e)(3)(A)(ii) (dealing with exceptions to grand jury secrecy) to permit otherwise prohibited disclosure of matters occurring before the grand jury to personnel of a foreign government as deemed necessary by an attorney for the government to assist an attorney for the government in the performance of such attorney's duty to enforce criminal law. It also amends Rule 6(e)(3)(C)(i)(I) to permit otherwise prohibited disclosure of matters occurring before the grand jury, upon request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation. Rule 6(e)(3)(C)(i)(IV) is amended to permit such otherwise prohibited disclosure when permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of foreign criminal law to an appropriate official of a foreign government. It adds a new subsection (VI) to Rule 6(e)(3)(C)(i), which permits otherwise prohibited disclosure of matters occurring before the grand jury "when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power . . . to any appropriate federal, state, local or foreign government official for the purpose of preventing or responding to such threat." It expands the application of Rule 6(e)(3)(C)(iii), which, in pertinent part, restricts use of grand jury information received pursuant to Rule 6(e)(3)(C)(i)(V) (when matters involve foreign intelligence, counterintelligence, or foreign intelligence information) or (VI). Under the amended language, "any official" receiving such	

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information must use it only in official duties, subject to any limitations on unauthorized disclosure. Requires any official receiving information under subsection (VI) to use the information consistent with guidelines jointly issued by the DCI and the Attorney General.	
Sec. 796. Authority to Share Electronic, Wire, and Oral Interception Information. Amends 18 U.S.C. § 2517 (authorization for disclosure and use of wire, oral or electronic communications intercepted for law enforcement purposes) to add two new subsections. New subsection 2517(7) permits any investigative or law enforcement officer or other federal official obtaining such information as part of his or her official duties to disclose the contents of the wire, oral or electronic communication or evidence derived therefrom to any foreign investigative or law enforcement officer to the extent appropriate to the proper performance of the official duties of the officer disclosing or receiving the disclosure. It also authorizes the foreign investigative or law enforcement officers to use or disclose such contents or derivative evidence as is appropriate to the proper performance of their official duties. New subsection 2517(8) similarly authorizes disclosure of contents or derivative evidence to any appropriate federal, state, local, or foreign official to the extent that the information disclosed reveals threat of actual or potential attack or other grave hostile act by a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by a foreign power or an agent of a foreign power to prevent or respond to such a threat. Information so disclosed may only be used for official duties, subject to any limitations on its unauthorized disclosure, and state, local or foreign officials may only use it consistent with such guidelines at the DCI and the Attorney General jointly shall issue.	
Sec. 797. Foreign Intelligence Information. (a) Amends 50 U.S.C. § 403-5d (Section	

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203(d)(1) of the USA PATRIOT Act, P.L. 107-56), consistent with the responsibility of the DCI to protect intelligence sources and methods and of the Attorney General to protect sensitive law enforcement information, to permit disclosure of information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence activities of a foreign power or agent of a foreign power obtained as a part of a criminal investigation to be disclosed to appropriate federal state, local or foreign government officials to prevent or respond to that threat. Those receiving such information must use it for official duties, subject to any limitations on unauthorized disclosure and any state, local or foreign official receiving such information must use it in a manner consistent with any guidelines that the DCI and the Attorney General shall jointly issue. (b) Makes conforming amendments to Section 203(c) of the USA PATRIOT Act, which directs the Attorney General to establish procedures for disclosure of certain information that identifies U.S. persons.	
Sec. 798. Information Acquired from an Electronic Surveillance. Amends the Foreign Intelligence Surveillance Act (FISA), Section 106(k)(1), 50 U.S.C. §1806(k)(1), to permit federal officers conducting electronic surveillance under FISA to consult with federal, state, or local law enforcement personnel (including the chief executive officer of that state or political subdivision with authority to appoint the chief law enforcement officer of that state or political subdivision) to coordinate efforts to investigate or protect against actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power; sabotage or international terrorism by a foreign power or an agent of a foreign power; or clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.	

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Sec. 799. Information Acquired from a Physical Search. Amends section 305(k)(1) of FISA, 50 U.S.C. §1825(k)(1), to permit federal officers conducting physical searches under FISA to consult with federal, state, or local law enforcement personnel (including the chief executive officer of that state or political subdivision with authority to appoint or direct the chief law enforcement officer of that state or political subdivision) to coordinate efforts to investigate or protect against actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power; sabotage or international terrorism by a foreign power or an agent of a foreign power; or clandestine intelligence activities by an intelligence service or network of a foreign power or agent of a foreign power.	

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H.R. 5005, Title VIII – Transition H.R. 5005, Title VIII, Subtitle A – Reorganization Plan.	S. 2452, Title I, Subtitle E – Transition Provisions.
Sec. 801. Definitions: <i>agency</i> —includes any entity, organizational unit, program, or function <i>transition period</i> —means the 12-month period beginning on the effective date of this Act.	Sec. 181. Definitions: <i>agency</i> —includes any entity, organizational unit, or function transferred or to be transferred under this title <i>transition period</i> —means the 1-year period beginning on the effective date of the Act
Sec. 802. Reorganization Plan. Requires the President, not later than 60 days after the date of the enactment of this act, to transmit to the appropriate congressional committees a reorganization plan regarding the transfer of agencies, personnel, assets, and obligations to DHS pursuant to this act; any consolidation, reorganization, or streamlining of agencies transferred to DHS pursuant to this act; and containing, in addition to such elements as the President deems appropriate, certain details required by this act. The President, in consultation with appropriate congressional committees, may modify or revise any part of the plan prior to it becoming effective, which shall occur for an agency on the date specified in the plan or the end of the transition period, whichever is earlier.	
	Sec. 182. Transfer of Agencies. Specifies that the transfer of an agency to DHS, as authorized by this title, shall occur when the President so directs, but in no event later than the end of the transition period.
H.R. 5005, Title VIII, Subtitle B—Transitional Provisions.	
Sec. 811. Transitional authorities	Sec. 183. Transitional Authorities
Sec. 811(a) Provision of Assistance by Officials. 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	Sec. 183(a) Provision of Assistance by Officials. Until an agency is transferred to the Department, any official having authority over, or functions relating to, the agency immediately before the effective date of this division would provide to the Secretary such assistance, including the use of

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personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.	personnel and assets, as the Secretary may reasonably request in preparing for the transfer and integration of the agency into the Department.
Sec. 811(b) Services and Personnel. During the transition period, upon the request of the Secretary, the head of any executive agency could, on a reimbursable basis, provide services or detail personnel to assist with the transition	Sec. 183(b) Services and Personnel. During the transition period, upon the request of the Secretary, the head of any agency being transferred shall provide assistance described in (a). Other agency heads may, on a reimbursable basis, provide services and detail personnel to assist with the transition.
Sec. 811(c). Transfer of Funds. Authorizes the President to transfer to the Secretary a portion of an agency's appropriations during the period before the agency is transferred to the DHS, subject to 15 days' notice being given to the House and Senate Appropriations Committees. A transfer for administrative expenses related to establishing the DHS may not exceed 2% of the available appropriation (enacted before October 1, 2002), and a transfer for purposes for which the funds originally were provided may not exceed 3% of the available appropriation.	
Sec. 811(d) Acting Officials. The Secretary may appoint an officer, already confirmed, to serve in an office requiring confirmation, pending confirmation of an appointee. The person may be paid at the higher rate of the office held or the office in which he/she is acting. 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.	Sec. 183(c) Acting Officials. Authorizes the President to designate a confirmed officer of an agency transferred by this act as an acting official of the transferred agency. The person may be paid at the higher rate of the office held or the office in which he/she is acting. 5 U.S.C. 3346 governs the time period for such service. Sec. 183(d) Exception to Advice and Consent Requirements. Specifies that nothing in the 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 confirmed officer whose agency is transferred to the department and whose duties following such transfer are equivalent to those performed before such transfer.
Sec. 811(e). Transfer of Personnel, Assets,	Sec. 186. Transfer and Allocation.

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Obligations, and Functions. Sec. 811(e)(1). Transfers the personnel, assets (including appropriations), and obligations of an agency upon the agency's transfer to the DHS. Any such transfer of appropriations (except for those transferred under Section 763(b)) and related items is subject to approval by the OMB Director and the requirement in 31 U.S.C. 1531(a)(2) that the appropriation be used only for the purpose for which it originally was made. [Note: assets (including appropriations) and related items for specific entities not part of the DHS are transferred in other provisions of the act.]	Provides for the transfer to the Secretary of personnel, assets (including appropriations), and related items associated with functions and entities transferred to the DHS, subject to the approval of the OMB Director and the requirements of 31 U.S.C. 1531. Further states that unexpended funds transferred under this authority shall be used only for the purposes for which the funds were originally "authorized and appropriated." Sec. 189. Use of Appropriated Funds. Provides that balances of appropriations and any other funds or assets transferred under this act shall be used only for the purposes for which they were originally made available, shall remain subject to the original conditions and limitations of use, and shall not be used to fund any new position, except as provided for in an annual appropriations act. Requires 15 days' notification by the President to the House and Senate Appropriations Committees before a transfer of funds can be made. Transferred funds may be used for other purposes only to the extent specifically provided for in annual appropriations act. In exercising the authority to dispose of property under this act, the Secretary must comply with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) and deposit the proceeds therefrom into the Treasury in accordance with 31 U.S.C. 3302(b). Gifts may only be accepted or used as provided for in annual appropriations acts. The President is directed to submit a detailed budget request for DHS in his FY2004 budget. [Note: assets (including appropriations) and related items for specific entities not part of the DHS are transferred in other provisions of the act.]
Sec. 811(e)(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 any other law.	

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Sec. 811(f) Prohibits any funds derived from any of four designated transportation trust funds (Highway Trust Fund, Airport and Airway Trust Fund, Inland Waterway Trust Fund, or Harbor Maintenance Trust Fund) to be transferred to, made available to, or obligated by the Secretary or any other official of the Department of Homeland Security. Exempts from the prohibition security-related funds provided to the FAA for fiscal years prior to FY2003 for the operations, facilities & equipment, or research, engineering & development accounts. (AIP funds are not exempted.)	
Sec. 812. Savings provisions.	Sec. 187. Savings provisions.
Sec. 812(a). Completed Administrative Actions. An agency's personnel actions, agreements, and contracts shall not be affected by the enactment of the Homeland Security Act of 2002 or by the transfer of such agency to the Department of Homeland Security, but shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States, a court of competent jurisdiction, or by operation of law.	Sec. 187(a). Continuing Effect of Legal Documents. Continues in effect all orders, determinations, rules, regulations, permits, agreements, grants, contracts, recognitions of labor organizations, collective bargaining agreements, certificates, licenses, registrations, privileges, and other administrative actions 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 transferred by this title and which are in effect at the time this division takes effect or were final before the effective date of this division and are to become effective on or after the effective date of this division, until modified, terminated, superseded, set aside or revoked by law. All recognitions of labor organizations and collective bargaining agreements in effect at the time Division A of the Act takes effect shall continue to be enforced in accordance with their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, Secretary of DHS, other authorized official, court of competent jurisdiction, or by operation of law.
Sec. 812(b) Pending Proceedings. Specifies that pending proceedings, and orders issued and appeals therefrom, shall continue unless discontinued or modified under the same	Sec. 187(b) Proceedings Not Affected. Specifies that the provisions of this title shall not affect any proceedings pending before an agency at the time this title takes effect, with respect to

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terms and conditions and to the same extent that such discontinuance could have occurred if the enactment of this act or the transfer of the agency to DHS had not occurred.	functions transferred by this title.
Sec. 812(c) Pending Civil Actions. Specifies that, in pending civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if the enactment of this act or the transfer of the agency to DHS had not occurred.	Sec. 187(c) Suits Not Affected. Specifies that, in pending civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if this title had not been enacted.
Sec. 812(d) References. Specifies that references to an agency that is transferred to DHS in legal instruments that precede such transfer or the effective date of this act shall be deemed to refer to DHS, or its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements continue to apply if they refer to the agency by name.	
	Sec. 187(d) Nonabatement of Actions. Specifies that no suit, action, or other proceeding commenced by or against an agency, or by or against an officer of an agency, shall abate by reason of enactment of this title.
	Sec. 187(e) Administrative Actions Relating to Promulgation of Regulations. Specifies that 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 DHS with the same effect as if this title had not been enacted
Sec. 812(e) Employment Provisions	Sec. 187(f) Employment and Personnel
Sec. 812(e)(1). Adoption of existing rules, procedures, terms, and conditions. The Secretary of Homeland Security 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 the Homeland Security Act	

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of 2002, relating to employment in any agency transferred to the Department of Homeland Security pursuant to the Act.	
	Sec. 187(f)(1) Employee rights. (A) Transferred agencies will retain their coverage under chapter 71 of title 5 and shall not be excluded as a result of any order issued under 5 U.S.C. 7103(b)(1), after July 19, 2002. (B) Transferred employees shall not be excluded from chapter 71 coverage except if the duties are materially changed and the job duty has significant relationship to national security. (C) Persons performing transferred functions shall not be excluded unless, prior to the transfer, the function was being carried out by an employees who was excluded.
.	Sec. 187(f)(1)(D) Other Agencies, Employees, and Functions. (i). Exclusion from ability to bargain collectively: other agencies. A subdivision of the DHS shall not be excluded from coverage under chapter 71 of title 5, U.S. Code, unless the subdivision has a primary function of intelligence, counterintelligence, or investigative duties directly related to terrorism investigation, and the provisions of chapter 71 cannot be applied in a manner consistent with national security. [This provision appears to apply to new subdivisions created by the Act and not to agencies transferred to the new department.]
	Sec. 187(f)(1)(E) Prior Exclusion Subsections (A) through (D) do not apply to any part of any organization transferred, which had been excluded prior to July 19, 2002.
Sec. 812(e)(2). Terms and conditions of employment. Except as otherwise provided in the Act, the transfer of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.	Sec. 187(f)(2). Terms and conditions of employment. The transfer of an employee to the department shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.
	Sec. 187(f)(3) Conditions and Criteria for Appointment

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	Any qualifications, conditions, or criteria required by law for appointments to a position in an agency, or subdivision thereof, transferred to the department under this title, including a requirement that an appointment be made by the President, by and with the advice and consent of the Senate, shall continue to apply with respect to any appointment to the position made after such transfer to the department has occurred.
[Sec. 775. Requirement to comply with laws protecting equal employment opportunity and providing whistleblower protections. Nothing in the Act shall be construed as exempting the department from requirements applicable to executive agencies to provide equal employment or whistleblower protection for employees of the department.]	Sec. 187(f)(4). Whistleblower protection. The President may not exclude any position transferred to the department as a covered position under section 2302(a)(2)(B)(ii) of title 5, U.S. Code (positions not protected from discrimination and whistleblower protection), to the extent that such exclusion subject to that authority was made before the Act's date of enactment. [This section appears to provide protection from discrimination, as well as protection from whistleblower retaliation.]
Sec. 813. 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 Executive Schedule level II, III, IV, or V, shall terminate.	
	Sec. 184. Incidental Transfers. Sec. 184(a). Instructs the OMB Director, in consultation with the Secretary, to make such "additional incidental dispositions" of personnel, assets (including appropriations), and liabilities associated with functions transferred under this title, as he may determine necessary to accomplish the purposes of this title.
	Sec. 184(b) At time of transfer President may also transfer any related agency established to carry out or support adjudicatory or review functions in relation to the transferred agency. The Executive Office of Immigration Review is expressly excepted from this transfer authority

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Sec. 814. Specifies that nothing in this act shall be construed to authorize the development of a national identification system or card.	
Sec. 815. Continuity of Inspector General Oversight. Notwithstanding the transfer of an agency to the DHS pursuant to this Act, the IG that exercised oversight of the agency prior to the transfer of the agency to the Department of Homeland Security shall continue to exercise oversight of such agency during the period of time, if any, between the transfer of the agency to the Department and the appointment of the IG of the Department of Homeland Security in accordance with Sec. 103(b) of this Act.	
Sec. 816. Reference Specifies that, with respect to any function transferred by or under this act and exercised on or after the effective date of this act, reference in any other federal law to any department, commission, or agency, or any officer or office so transferred to DHS shall be deemed to refer to the Secretary, other official, or component of DHS to which such function is so transferred.	
	Sec. 185. Implementation progress reports and legislative recommendations. Requires the Secretary, in consultation with the President, to prepare implementation progress reports to be submitted to the President of the Senate and the Speaker of the House for referral to appropriate committees and to the Comptroller General on an initial, semiannual, and final basis, the last occurring when all transfers to DHS have been completed. Each report shall indicate the progress made in implementing this division, including fulfillment of the functions transferred under this title and certain information specified for inclusion. Requires the Secretary, after consultation with the appropriate congressional committees, to also include in the report recommendations for legislation that the Secretary determines would, among other considerations, facilitate the integration of transferred entities and functions

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	into the department and otherwise further the mission of DHS.
	Sec. 188. Transition plan Requires the President, by September 15, 2002, to send Congress a transition plan which includes a detailed plan for the transition to DHS and implementation of titles I, II, and III and division B. It must also include a proposal for the financing of those operations and needs of DHS that do not represent solely the continuation of functions for which appropriations already are available. The financing proposal may consist of any combination of specific appropriations transfers, specific reprogrammings, and new specific appropriations as the President considers advisable.

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H.R. 5005, Title IX–Conforming and Technical Amendments	
Sec. 901. Inspector General Act of 1978 Inserts the department in the listing of subject agencies having an inspector general.	Sec. 106(b). Inspector General Act of 1978 Inserts the department in the listing of subject agencies having an inspector general.
Sec. 902 Provides that appointed officials will be compensated on the Executive Schedule as follows: Secretary: Level I Deputy Secretary: Level II Under Secretaries: Level III Assistant Secretaries, General Counsel, Chief Financial Officer, Chief Information Officer, and Inspector General: Level IV	Sec. 114 Provides that Secretary will be compensated at Executive Schedule Level I, the Deputy at Level II, the Under Secretary of Management at Level III, and the Assistant Secretaries of Homeland Security, the Inspector General, the Chief Financial Officer, the Chief Information Officer, and the General Counsel at Level IV. Sec. 140 Provides that each Under Secretary except the Under Secretary for Management will be compensated at Level III of the Executive Schedule. Sec. 1103 Provides that the “‘Under Secretary of Immigration Affairs, Department of Justice’” will be compensated at Executive Schedule Level III. [No provision for the creation of this position.]
Sec. 903. United States Secret Service Amends statutes to place the service in DHS instead of Treasury. The amendments take effect on the date of the transfer.	
Sec. 904. Coast Guard. This section includes a series of technical amendments generally substituting the Department of Homeland Security in U.S. Code references pertaining to the Coast Guard which currently name the Department of Transportation.	
Sec. 905. Strategic National Stockpile and smallpox vaccine development Amends the Bioterrorism Preparedness and Response Act of 2002 to conform with transfers made under Sec. 502(6).	
Sec. 906. Transfer of Certain Security and Law Enforcement Functions and Authorities.	

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Sec. 906(a) repeals Sec. 210(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(a)(2)). Sec. 906(b) provides that the Act of 1948 (40 U.S.C. §§ 318-318d) is amended and that the Act may be cited as the “Protection of Public Property Act.” Under the new section 2(b) “Law Enforcement Authority of Secretary of Homeland Security for Protection of Public Property” of this amended Act, the bill provides that the Secretary of DHS may designate employees of the DHS, including employees transferred to the DHS, as officers and agents for duty in connection with the protection of property owned or occupied by the federal government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property. While engaged in the performance of official duties, an officer or agent designated under this subsection may: - enforce federal laws and regulations for the protection of person and property; - carry firearms; - make arrests without warrant for any offense against the U.S. committed in the presence of the officer or agent or for any felony cognizable under the laws of the U.S. if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; - serve warrants and subpoenas issued under the authority of the U.S.; - S conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the federal government or persons on the property; - carry out other activities for the promotion of homeland security as the Secretary may prescribe.	
Sec. 907. Transportation security regulations. Modifies the review by the Transportation	

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Security Oversight Board of regulations imposed under emergency procedures, by specifying that any security directive or regulation issued under these procedures shall remain effective only for 30 days unless ratified or disapproved by the board or rescinded by the Under Secretary.	
Sec. 908. Railroad Security Laws. This provision adds security to existing railroad safety activities carried out by the states under annual federal certification. The Secretary of Homeland Security is to join the Secretary of Transportation in prescribing the investigative and surveillance activities necessary to enforce the safety regulations (which now include security) prescribed and orders issued by the Secretary of Transportation or the Secretary of Homeland Security, that apply to railroad equipment, facilities, rolling stock, and operations within a state.	
Sec. 909. Office of Science and Technology Policy. Conforming and technical amendments to the National Science and Technology Policy Organization, and Priorities Act of 1976.	
Sec. 910. National Oceanographic Partnership Program. Adds the Under Secretary for Science and Technology, and any other federal officials designated by the council, to the National Ocean Research Leadership Council.	
Sec. 911. Chief Financial Officer Conforming and technical amendment to Sec. 901(b)(1) of 31U.S.C. to add DHS to the list of agencies covered by the CFO Act of 1990.	
Sec. 912. Chief Information Officer. Conforming and technical amendments to the Clinger-Cohen Act and to title 44 of the U.S. Code.	

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H.R. 5005, Title X - National Homeland Security Council	
Sec. 1001. National Homeland Security Council. Establishes within the Executive Office of the President a council to be known as the Homeland Security Council (HSC).	
Sec. 1002. Function. Specifies that the function of HSC shall be to advise the President on homeland security matters.	
Sec. 1003. Membership. Specifies that the members of HSC shall be the President, Vice President, Secretary of Homeland Security, Attorney General, Secretary of Health and Human Services, Director of Central Intelligence, Secretary of Defense, Secretary of the Treasury, Secretary of State, Secretary of Energy, Secretary of Agriculture, and such other individuals as may be designated by the President.	
Sec. 1004. Other Functions and Activities. Specifies that, for the purpose of more effectively coordinating the policies and functions of the federal government relating to homeland security, HSC shall assess the objectives, commitments, and risks of the U.S. in the interest of homeland security and make resulting recommendations to the President; oversee and review homeland security policies of the federal government and make resulting recommendations to the President; and perform such other functions as the President may direct.	
Sec. 1005. Homeland Security Budget. Requires the Director of the Office of Management and Budget to prepare a federal homeland security budget as part of the President's annual budget submission to Congress.	
Sec. 1006. Staff Composition. Specifies that HSC shall have a staff, the head of	

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which shall be a civilian Executive Secretary, who shall be appointed by the President. Authorizes the President to fix the pay of the executive Secretary at a rate not to exceed the rate of pay payable to the Executive Secretary of the National Security Council.	
Sec. 1007. Relation to the National Security Council Authorizes the President to convene joint meetings of HSC and the National Security Council with participation by members of either council or as the President may otherwise direct.	

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H.R. 5005, Title XI — Information Security	
Sec. 1101. Information Security.	
Section 1101(a) Short Title. Federal Information Security Management Act of 2002	
Section 1101(b) Information Security. Rewrites subchapter II of chapter 35 of title 44 USC as follows:	(There is no comparable provision in the Senate bill. However, S. 803, Title III, repeals the expiration date [September 30, 2002] of subchapter II chapter 35 title 44 USC., which the House version rewrites)
§3531 Purposes. Lists the purposes of the subchapter: provide comprehensive framework for securing federal information resources; provide effective governmentwide management and oversight of related security risks, involving coordination of security efforts in the civilian, national security, and law enforcement communities; provide for minimum security controls; improve oversight of federal agency information security programs; acknowledge commercially developed security products; and, recognize that individual agencies should select specific technical solutions from commercially available products.	
§3532 Definitions.	
§3532(a) In General. Except as provided in section (b), definitions in section 3502 shall apply	
§3532 (b) Additional definitions: <i>information security; national security system; information technology; and information system</i>	
§3533 Authority and Functions of the Director.	
§3533(a) Director [OMB] shall oversee agency information security policies and practices by: promulgating information security standards under 15 U.S.C. 278g-3 with agencies operating or controlling national security systems;	

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overseeing implementation; requiring agencies to provide security commensurate with risks; coordinating development of standards; overseeing agency compliance with this subchapter; reviewing at least annually and approve or disapprove agency security programs; coordinating security policy with other information resource management policy; and, reporting to Congress annually on agency compliance with this subchapter.	
§3533(b) Except for coordinating development of security standards and coordinating security policies with other information resource management policy, the authorities in this section shall not apply to national security systems.	
§3534 Federal Agency Responsibilities.	
§3534(a) Agency heads shall: provide information security protections commensurate with risks, comply with requirements of this subchapter, and ensure information security is integrated with agency strategic and operational plans; ensure senior agency officials assess the risks, determine the appropriate level of security, implement policies cost effectively to reduce risk to an acceptable level, and periodically test security controls for effectiveness; delegate authority to ensure agency compliance to agency Chief Information Officer (CIO) or comparable official in agencies without CIOs; ensure agency has sufficient trained security personnel; and, ensure CIO reports annually to agency head on effectiveness of agency information security program, including progress in remedial actions.	
§3534(b) Each agency shall develop, document, and implement an agencywide information security program approved by the Director under Sec. 3533(a)(5). Program shall include: periodic risk assessments; policies and procedures that cost effectively reduce risk to acceptable levels, and address security throughout the life cycle of each information system; security awareness training; periodic testing and evaluation of the effectiveness of information security program at	

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least annually; process for remedial actions; procedures for detecting and reporting security incidents; plans for ensuring continuity of operations.	
§3534(c) Each agency shall: report annually to the Director [OMB], selected Congressional committees, and the Comptroller General on the adequacy and effectiveness of security programs and compliance with this subchapter; address security issues in annual agency budgets, information resources management, among others; and, report any security program deficiencies in reporting requirements pursuant to 31 U.S.C. 3512 and the note to that section.	
§3534(d) In addition each agency shall: include the time and resources needed to implement its information security program in its annual performance plan and notify the public of any changes in information security policy that affect communications with the public.	
§3535 Annual Independent Evaluation.	
§3535(a) Each year each agency shall have performed an independent evaluation of the agency's information security program.	
§3535(b) For each agency with an Inspector General appointed under the 1978 Act, the annual evaluation shall be performed by the Inspector General or by an independent external auditor as determined by the Inspector General. For agencies without an Inspector General appointed under the 1978 Act, the head of the agency shall engage an independent external auditor.	
§3535(c) For agencies operating or controlling national security systems, the annual evaluation of those systems shall be performed only by an entity designated by the agency head in a manner to protect the system in accordance with applicable laws.	
§3535(d) The evaluation shall conform with accepted auditing standards.	
§3535(e) Each year the agency head shall submit	

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to the Director [OMB] the results of the evaluation.	
§3535(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information that, if disclosed, may adversely affect information security.	
§3535(g) The Director [OMB] shall summarize the results of the evaluations in a report to Congress.	
§3535(h) The Comptroller General shall periodically evaluate and report to Congress on the adequacy and effectiveness of agency information security programs and compliance with this subchapter.	
§3536 National Security Systems. Agency heads responsible for national security systems shall provide information security commensurate with the risk, implement security programs as required by standards issued in accordance with law and as directed by the President.	
§3537 Authorization of Appropriations. There are authorized to be appropriated to carry out the provisions of this subchapter sums such as may be necessary for each of fiscal year 2003 through 2007.	
§3538 Effect on Existing Law.	
Sec. 1102 Management of Information Technology. Amends Section 5131 of the Clinger-Cohen Act (40 USC 1441) as follows:	(There is no comparable provision in the Senate bill.)
§5131. Responsibilities for Federal Information Systems Standards.	
§5131(a) The Director [OMB] shall, on the basis of standards developed by the National Institute of Standards and Technology (LIST), and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to federal information systems. These standards shall be compulsory and binding. Standards and guidelines for national security systems shall be developed,	

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promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.	
§5131(b) The head of an agency may employ information security standards that are more stringent, if such standards contain, at a minimum, those standards made compulsory by the Director [OMB] and are otherwise consistent with the guidelines issued in section 3533 of title 44 USC (as amended above).	
§5131(c) Director [OMB] shall make a decision regarding promulgating any standard not later than 6 months after submission of the standard to the Director [OMB] by NIST. The Director [OMB] shall make a decision to significantly modify or to not promulgate a proposed standard only after opportunity for public comment.	
Sec.1103 National Institute of Standards and Technology. Rewrites section 20 of the National Institute of Standards and Technology Act (15 USC 278g-3) as follows:	(There is no comparable provision in the Senate bill.)
§20(a) The Institute shall: have the mission to develop standards and guidelines for information systems; develop minimum requirements for information systems used by or for federal agencies other than national security systems; develop standards and guidelines for information security, except for national security systems; and, carry out the information security standards and guidelines mission through the Computer Security Division [of the Information Technology Laboratory].	
§20(b) The standards required in (a) shall include: standards by which all agencies categorize all information and information systems according to a range of risk levels; guidelines for recommending the type of information and information systems to be included in each such category; minimum security requirements for each category; guidelines for detection and handling of security incidents; and, guidelines, developed in coordination with the National Security Agency,	

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for identifying an information systems as a national security system.	
§20(c) In developing the standards in (a) and (b), NIST shall: consult with other named agencies (including the Department of Homeland Security) to avoid unnecessary duplication and to ensure they complement standards for national security systems; provide the public an opportunity to comment on proposed standards and guidelines; submit standards to the Director [OMB] for promulgation; issue guidelines no later than 18 months after enactment; ensure that standards and guidelines do not require specific technologies or products; ensure standards and guidelines allow sufficient flexibility to permit alternative solutions; and, use flexible performance-based standards and guidelines.	
§20(d) NIST shall submit standards to Director [OMB] with recommendations regarding the extent to which they should be compulsory and binding; assist agencies in complying with standards, detecting and handling security incidents; conduct research as needed to determine information security vulnerabilities and technologies for providing cost effective security; develop and periodically revise performance indicators for agency security programs; evaluate private sector security programs and commercially available security technologies; evaluate security policies and practices developed for national security systems for potential applicability to strengthen agencies' information security; periodically assess effectiveness of standards and guidelines developed under this section and undertake needed revision; solicit and consider the recommendations of the Information Security and Privacy Board and provide such recommendations to OMB; and, prepare an annual report on implementation of this section.	
§20(e) Refers to terms defined elsewhere in statute.	
Sec. 1104. Information Security and Privacy Advisory Board.	

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Amends section 21 of the National Institute of Standards and Technology Act (15 USC 278g-4). Renames Computer Systems Security and Privacy Board to Information Security and Privacy. Board to advise NIST and the Director [OMB] on information security. Changes the Board provisions as they relate to functions, meetings, and reports.	
Sec.1105. Technical and Conforming Amendments. Reflects changes to the Computer Security Act; the Floyd D. Spence National Defense Authorization Act, FY2001; and the Paperwork Reduction Act.	
Sec.1106. Construction. Nothing in this Act, or amendments made by it, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 20(a) of the National Institute of Standards and Technology Act.	
	S. 2452, Title I, Subtitle F – Administrative Provisions.
See Sec. 802	Sec. 191. Reorganizations and Delegations. Authorizes the Secretary, with certain limitations, to allocate or reallocate functions among DHS officers and establish, consolidate, alter or discontinue organizational entities within the department. Authorizes the Secretary and DHS officers, with certain limitations, to delegate and authorize redelegations of functions.
	Sec. 192. Reporting requirements. The Comptroller General is required to monitor and evaluate the implementation of this division, and submit a report to Congress not later than 15 months after the effective date of this division, and every year thereafter for the succeeding five years, containing an evaluation of the progress reports of the Secretary prepared pursuant to Sec. 175, finding and conclusions resulting from the

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	Comptroller monitoring and evaluation of DHS success in meeting its missions, and recommendations for legislative or administrative action that the Comptroller considers appropriate. The Secretary is required to submit to Congress, every two years, a report assessing the resources and requirements of executive agencies relating to border security and emergency preparedness issues, and a report certifying the preparedness of the U.S. to prevent, protect against, and respond to natural disasters, cyber attacks, and incidents involving weapons of mass destruction. The Secretary is required to submit to Congress, not later than one year after the effective date of this division, a report outlining proposed steps to consolidate management authority for federal operations at key points of entry into the U.S. The Secretary and the Director of the National Office for Combating Terrorism, in consultation with the head of each department or agency affected by this division, are required to submit to Congress, not later than 270 days after the date of the enactment of this act, on the development of definitions of the terms “combating terrorism” and “homeland security,” with consideration of such definitions in determining the mission of DHS and the National Office for Combating Terrorism.
No comparable provisions. However, absent provision for a statutory exemption (as granted to the Central Intelligence Agency), the DHS might be subject to reporting requirements of the Government Performance and Results Act (P.L. 103-62, known as GPRA), as an executive branch agency with an annual budget over \$20 million.	Sec. 192(e) Results-Based Management (1) Strategic Plan- Requires Secretary to prepare and submit to OMB a strategic plan, covering at least five years and to be revised at least every three years, describing all program activities of the Department. (Provisions akin to GPRA requirements for other agencies in 5 U.S.C. 306.) (2) Performance Plan- Requires Secretary to prepare an annual performance plan covering each program activity in the Department’s budget. (Provisions akin to GPRA requirements for other agencies in 31 U.S.C. 1115.) (3) Performance Report- Requires Secretary to prepare and submit to the President and Congress

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	an annual report on program performance for the previous fiscal year. (Provisions akin to GPRA requirements for other agencies in 31 U.S.C. 1116.)
	Sec. 193. Environmental protection, safety, and health requirements. Requires the Secretary to ensure that DHS complies with all applicable environmental, safety, and health statutes and requirements, and develops procedures for meeting such requirements.
	Sec. 194. Labor standards. All laborers and mechanics employed by contractors or subcontractors to work on DHS projects shall be paid in accordance with the Davis Bacon Act. The authority of the Secretary of Labor is set out.
Sec. 732. Personal Services. The Secretary could procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with 5 U.S.C. 3109; and could, whenever necessary due to an urgent homeland security need, procure temporary (not to exceed one year) or intermittent personnel services, including the services of experts or consultants (or organizations thereof) without regard to the pay limitations of 5 U.S.C. 3109.	Sec. 195. Procurement of temporary and intermittent services. (1) Authorizes the Secretary to bring on experts and consultants under 5 U.S.C. 3109; and (2) Due to urgent homeland security needs, may for a period of not more than one year, compensate them at a rate higher than the referenced section allows.
	Sec. 196. Preserving non-homeland security mission performance. Specifies that, for each entity transferred into the department that has non-homeland security functions, the respective Under Secretary in charge, in conjunction with the head of the entity, shall annually report, for the five years following the transfer of the entity to the department, to the Secretary, the Comptroller General, and the appropriate committees of Congress certain details concerning the performance of the entity in all of its missions, with a particular emphasis on examining the continued level of performance of the non-homeland security missions.
	Sec. 197. Future Years Homeland Security

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	Program. Specifies that, effective with the preparation and submission of the FY2005 budget requests for the department and the National Terrorism Prevention and Response Program and any subsequent fiscal year, such budget requests shall be accompanied by a Future Years Homeland Security Program, which shall be modeled after the Future Years Defense Program submitted to Congress pursuant to 10 U.S.C. 221.
Sec. 724. (no change)	Sec. 198. Protection of voluntarily furnished confidential information. Specifies that critical infrastructure information voluntarily furnished to the department shall not be made available under the Freedom of Information Act (5 U.S.C. 552) (FOIA) if the provider would not customarily make the record available to the public and the record is designated and certified, according to department specification, as confidential and not customarily available to the public. Any agency in receipt of such record voluntarily furnished to the department shall, upon receipt of a FOIA request for same, not make the record available and refer such request to the department. Providers of such voluntarily furnished records may at any time withdraw the confidential designation in a manner specified by the department. The Secretary is required to prescribe regulations for the management of such information. There is no preemption or modification of state or local law. No later than 18 months after the enactment of this act, the Comptroller General is required to submit a report to specified committees of Congress on the implementation of this section.
	Sec. 199. Authorization of Appropriations. Authorizes to be appropriated such sums as may be necessary to enable the Secretary to administer and manage DHS and carry out the functions of the department other than those transferred to DHS under this title.

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	S. 2452, Title II – National Office for Combating Terrorism
	Sec. 201. National Office for Combating Terrorism
	Sec. 201(a) Establishment. Establishes within the Executive Office of the President the National Office for Combating Terrorism
	Sec. 201(b) Officers; Director. Specifies that NOCT shall be headed by a Director, appointed by the President with the advice and consent of the Senate and compensated, by amendment of 5 U.S.C. 5312, at Executive Schedule Level I. The President is authorized to assign to NOCT such other officers as the President, in consultation with the Director, considers appropriate for the discharge of the responsibilities of the office.
	Sec. 201(c) Responsibilities. Specifies the responsibilities of NOCT, including developing national objectives and policies for combating terrorism; directing and reviewing the development of a comprehensive national assessment of terrorist threats and vulnerabilities to those threats; developing with the Secretary of Homeland Security the national strategy under title III of this act; coordinating, overseeing, and evaluating the implementation and execution of the national strategy by federal agencies with responsibilities for combating terrorism under the strategy, particularly those involving military, intelligence, law enforcement, diplomatic, and scientific and technological assets; working with federal agencies to ensure that appropriate actions are taken to address vulnerabilities identified by the DHS Directorate of Critical Infrastructure Protection; coordinating, with the advice of the Secretary of Homeland Security, the development of a comprehensive annual budget for the programs and activities under the national strategy and having the lead responsibility for

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	budget recommendations relating to military, intelligence, law enforcement, diplomatic, and scientific and technological assets in support of the strategy; exercising funding authority for federal terrorism prevention and response agencies in accordance with section 202; serving as an advisor to the National Security Council; and working with the Director of the Federal Bureau of Investigation to ensure the relevant information related to terrorism is received by NOCT, appropriate agencies, and state and local law enforcement officials.
	Sec. 201(d). Resources. Specifies that the President, in consultation with the Director of NOCT, shall assign or allocate to the office such resources, including funds, personnel, and other resources for NOCT to discharge its responsibilities as the President considers appropriate and that are available under appropriations for FY2002 and FY2003 in the Office of Administration or Office of Homeland Security appropriations accounts; transfers or reprogrammings of funds made under this section are subject to the reprogramming procedures of the Treasury and General Government Appropriations Act, 2002..
	Sec. 201(e) Oversight by Congress. Specifies that the establishment of NOCT within the Executive Office of the President shall not be construed as affecting access by Congress, or any committee of Congress, to any information, document, record, or paper in the possession of the office or any study conducted by or at the direction of the Director of the office; or any personnel of NOCT.
	Sec. 202. Funding for Strategy Programs and Activities Note: Provisions following here appear akin to those for the National Drug Control Program budget; see 21 U.S.C. 1703(c).
	Sec. 202(a) Budget Review In consultation with other officials, the Director shall identify programs that contribute to the

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	strategy, and review and advise respective agency heads on funding for programs so identified.
	Sec. 202(b) Submittal of Proposed Budgets to the Director; Sec. 202(c) Review of Proposed Budgets; Sec. 202(d) Agency Response to Review of Proposed Budgets including information submitted to Congress; Sec. 202(e) Submittal of Revised Proposed Budgets including information submitted to Congress; and Sec. 202(f) National Terrorism Prevention and Response Program Budget. In Summary, Sec. 202(b)-(f) Require: (1) the heads of Federal terrorism prevention and response agencies to submit proposed budgets for programs and activities under the strategy to the Director; (2) the Director to notify such agencies whether such budgets are adequate and to specify necessary initiatives to provide for strategy implementation; (3) such agency heads to include such notices and initiatives with proposed annual budget information submitted to the Office of Management and Budget (OMB) and Congress; (4) such agency heads to submit proposed annual budgets to the Director at the same time they are submitted to OMB; (5) the Director to decertify any proposed budget that does not include adequate funding and initiatives and to submit adequate budget recommendations; and (6) the Director to develop and submit to the President and Congress an annual consolidated proposed National Terrorism Prevention and Response Program Budget.
	Sec. 202(g) Reprogramming and Transfer Requests. Prohibits such agency from submitting to Congress any request for the reprogramming or transfer of funds specified in such National Terrorism Budget for agency programs or activities under the strategy, in excess of \$5 million, without the Director's approval, unless approved on appeal by the President.

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	S. 2452, Title III – National Strategy for Combating Terrorism and the Homeland Security Response
	Sec. 301. Strategy
	Sec. 301(a). Requires the Secretary of Homeland Security and the Director of NOCT to develop the national strategy for combating terrorism and the homeland security response for detection, prevention, protection, response, and recovery to counter terrorist threats, including threat, vulnerability, and risk assessment and analysis, and the plans, policies, training exercises, evaluation, and interagency cooperation that addresses each such action relating to such threats.
	Sec. 301(b). Assigns the Secretary 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. Assigns the Director of NOCT overall responsibility for the development of the strategy, and particularly for those portions addressing intelligence, military assets, law enforcement, and diplomacy.
	Sec. 301(c). Specifies the contents of the strategy shall include a comprehensive statement of mission, goals, objectives, desired end-state, priorities and responsibilities; policies and procedures to maximize the collections, 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; plans for countering chemical, biological, radiological, nuclear and explosives, and cyber threats; plans for integrating the capabilities and assets of the U.S. military into all aspects of the strategy; plans

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	for improving the resources of, coordination among, and effectiveness of health and medical sectors for detecting and responding to terrorist attacks on the homeland; specific measures to enhance cooperative efforts between the public and private sectors in protecting against terrorist attacks; a review of measures needed to enhance transportation security with respect to potential terrorist attacks; plans for identifying, prioritizing, and meeting research and development objectives to support homeland security needs; and other critical areas.
	Sec. 301(d). Specifies that, at the request of the Secretary or Director of NOCT, departments and agencies shall provide necessary information or planning documents relating to the strategy.
	Sec. 301(e). Establishes the National Combating Terrorism and Homeland Security Council, cochaired by the Secretary and the Director of NOCT and composed of the heads of federal terrorism prevention and response agencies as designated by the Secretary and the Director, to assist with preparation and implementation of the strategy.
	Sec. 301(f). Specifies that, 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.
	Sec. 301(g). Specifies that, not later than December 1, 2005, and on December 1 of every two years thereafter, the Secretary and the Director shall submit to Congress an updated version of the strategy.
	Sec. 301(h). Specifies that, 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 describes the progress on implementation of the strategy and provides recommendations for improvement of the strategy and its implementation.
	Sec. 302. Management Guidance for Strategy

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	Implementation
	Sec. 302(a). Specifies that the Director of the Office of Management and Budget, in consultation with the Secretary of Homeland Security and the Director of NOCT, shall provide management guidance for federal agencies to successfully implement and execute the strategy.
	Sec. 302(b). Specifies that, not later than 180 days after the date of the submission of the strategy, the Director of the Office of Management and Budget shall submit to Congress a report describing agency progress under section 302(a), and provide a copy of same to the Comptroller General.
	Sec. 302(c). Specifies that, not later than 90 days after receipt of the report required under section 302(b), the Comptroller General shall submit a report to the Senate Committee on Governmental Affairs, the House Committee on Government Reform, and the Appropriations Committees evaluating the management guidance identified under section 302(a) and federal agency performance in implementing and executing the strategy.
	Sec. 303. National Combating Terrorism Strategy Panel.
	Sec. 303(a). Authorizes the Secretary of Homeland Security and the Director of NOCT to establish a nonpartisan, independent panel to be known as the National Combating Terrorism Strategy Panel (NCTSP).
	Sec. 303(b). Specifies that NCTSP shall be composed of a chairperson and eight other individuals appointed by the Secretary and the Director of NOCT, in consultation with the Chairman and Ranking Member of the Senate Committee on Governmental Affairs and the House Committee on Government Reform, from among individuals in the private sector who are recognized experts in matters relating to the homeland security of the U.S. and who shall serve 18-month terms with possible

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	reappointment.
	Sec. 303(c). Specifies that NCTSP shall conduct and submit to the Secretary an assessment of the strategy and conduct an independent, alternative assessment of homeland security measures required under this section.
	Sec. 303(d). Specifies that NCTSP shall submit to the Secretary an independent assessment of the optimal policies and programs to combat terrorism, including homeland security measures, with, to the extent practicable, an estimate of the funding required by fiscal year to achieve these optimal approaches.
	Sec. 303(e). Authorizes NCTSP to secure directly from any federal department or agency such information as the panel considers necessary to carry out this section, but in the case of intelligence information, provision shall be in accordance with procedures established by the Director of Central Intelligence and in accordance with 50 U.S.C. 403-3(d)(3) regarding intelligence sources and methods.
.	Sec. 303(f) Compensation of Members. Each member of the Panel would be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for Executive Schedule level IV for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel.
	Sec. 303(g) Travel Expenses. While performing duties, members shall receive travel expenses and per diem under subchapter I of chapter 57 of title 5, U.S.Code.
	Sec. 303(h) Staff. The chairperson of the Panel could, 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 would be subject to confirmation by the Panel. The chairperson could fix the compensation of

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	the executive Director and other personnel without regard to 5 U.S.C. Chapter 51 and Chapter 53, Subchapter III. The rate of pay for the executive Director and other personnel could not exceed Executive Schedule level V. The executive Director and any personnel of the Panel who are employees would be employees under 5 U.S.C. 2105 for purposes of Chapters 63, 81, 83, 84, 85, 87, 89, and 90 of Title 5. During periods that members are not serving terms on the Panel, the executive Director could reduce the number and hours of employees.
	Section 303(i) Detail of Government Employees. Any federal government employee could be detailed to the Panel without reimbursement, and such detail would be without interruption or loss of civil service status or privilege.
	Sec. 303(j) Administrative Provisions. (1) The Panel may use the U.S. mails and obtain printing and binding services in the same manner and under the same conditions as other agencies. (2) The Secretary shall furnish the Panel any administrative and support services requested by the Panel. (3) The Panel may accept, use, and dispose of gifts or donations of services or property.
	Sec. 303(k) Payment of Panel Expenses. The compensation, travel expenses, and per diem allowances of members and employees of the Panel shall be paid out of funds available to DHS for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of DHS. The other expenses of the panel shall be paid out of funds available to DHS for the payment of similar expenses incurred by DHS.
	Sec. 303(l) Reports. (1) 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 findings and recommendations of the Panel under Sec. 303(d), including any recommendations for legislation that the Panel

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	considers appropriate. No later 30 days after submission of that report, the Secretary and the Director shall submit a copy to the committees referred to under subsection (b), and the Committees on Appropriations of the Senate and the House of Representatives. Comments of the Secretary will be included. (2) Quadrennial reports. Not later than December 1, 2004, and not later than December 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. Not later than 60 days after each such report is submitted, the Secretary shall submit to the committees referred to under subsection (b), and the Committees on Appropriations of the Senate and the House of Representatives. The comments of the Secretary and the Director will be included.

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	S. 2452, Title IV – Law Enforcement Powers of Inspector General Agents
Sec. 906. Transfer of Certain Security and Law Enforcement Functions and Authorities. This section does not specifically mention Inspectors General, however it is conceivable that Sec. 906 section could apply to IGs. See discussion of Sec. 906 above.	Sec. 401. Law Enforcement Powers of Inspector General Agents Section 401(a) In General.— Amends section 6 of the IG Act (adding new section 6(e)) and provides that each IG appointed under section 3 of the IG Act, any Assistant IG for Investigations (AIG), and any special agent supervised by such AIG, may be authorized by the Attorney General to: - carry a firearm while engaged in official duties as authorized under the DHS Act or other statute, or expressly authorized by the Attorney General; - make an arrest without warrant while engaged in official duties as authorized under this Act or another statute, or as expressly authorized by the AG, for any offense against the U.S. committed in the presence of such IG, AIG, or agent, or for any felony cognizable under the laws of the U.S. if the IG, AIG, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and - seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the U.S. upon probable cause to believe that a violation has been committed. Sec. 401 would add new section 6(e)(2) to the IG Act and provides that the Attorney General may authorize exercise of the powers of this subsection only upon an initial determination that: - the affected OIG is significantly hampered in the performance of duties by the DHS Act as a result of the lack of such powers; - available assistance from other law enforcement agencies is insufficient to meet the need of such powers; and - adequate internal safeguards and

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	management procedures exist to ensure proper exercise of such powers. New section 6(e)(3) would provide that the IGs of the Departments of Commerce, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury, Veterans Affairs, Agency for International Development, EPA, FDIC, FEMA, GSA, NASA, NRC, OPM, Railroad Retirement Board, SBA, SSA, and TVA are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General. New section 6(e)(4) would provide that the Attorney General must issue regulations and revise, as appropriate, guidelines which shall govern the exercise of law enforcement powers established under this section. New section 6(e)(5) would provide that the powers authorized for an OIG under this section shall be rescinded or suspended upon a determination by the Attorney General that any of the requirements in paragraph (2) is no longer satisfied or that the exercise of authorized powers by that OIG has not complied with the Attorney General's guidelines. New section 6(e)(6) would provide that a determination by the AG shall not be reviewable by any court. New section 6(e)(7) would provide that to ensure proper exercise of law enforcement powers, the OIGs shall not later than 180 days after enactment, collectively enter into a MOU to establish an external review process for ensuring that internal safeguards and management procedures continue to exist within each OIG and other offices. The review process shall be established in consultation with the AG, who shall be provided a copy of the MOU. The exercise of law enforcement powers by each OIG shall be reviewed periodically by another OIG or a committee of IGs. The results of each review shall be communicated in writing to the applicable IG and the AG. New section 6(e)(8) would provide that no

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	provision in subsection (e) shall limit the exercise of law enforcement powers established under any other statutory authority, including U.S. Marshals Service special deputation.
	Sec. 401(b). Promulgation of Initial Guidelines. The bill defines the term MOU to mean an agreement between the DOJ and the IG offices described in section 6(e)(3) of the IG Act as added by this bill, that are in effect on the date of enactment and that authorize such offices to exercise authority that is the same or similar to the authority in section 6(e)(1) of the IG Act. No later than 180 days after enactment, the AG shall promulgate guidelines under section 6(e)(4) of the IG Act applicable to the IG offices. These guidelines shall include, at a minimum, the operational and training requirements in the MOU. The MOU in effect on the date of enactment of this Act shall remain in effect until the new guidelines take effect.
	Sec. 401(c). Effective Dates. Subsection (a) takes effect 180 days after the date of enactment of this Act. Initial guidelines (subsection (b)) shall take effect on the date of enactment of this Act.
	Sec. 110. Civil Rights Officer. This section includes the provision that the CRO shall be responsible for notifying the IG of any matter that, in the opinion of the CRO, warrants further investigation.
	Sec. 111. Privacy Officer. This section includes the provision that the PO shall be responsible for notifying the IG of any matter that, in the opinion of the PO, warrants further investigation.

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	S. 2452, Division B – Immigration Reform, Accountability, and Security Enhancement Act of 2002
	Sec. 1001. Short title; table of contents. “Immigration Reform, Accountability, and Security Enhancement Act of 2002”
	Sec. 1002. Definitions for Division B: <i>Enforcement Bureau</i> means the Bureau of Enforcement and Border Affairs; <i>function</i> includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; <i>immigration enforcement functions</i> has the meaning given in the term in Sec. 114(b)(2) of the Immigration and Nationality Act (INA) as added by Sec. 1105 of this Act; <i>immigration laws of the United States</i> has the meaning given the term in Sec. 111(e) of the INA, as added by Sec. 1102 of this Act; <i>immigration policy, administration, and inspection functions</i> has the meaning given the term in Sec. 112(b)(3) of the INA, as added by Sec. 1103 of this Act; <i>immigration service functions</i> has the meaning given the term in Sec. 113(b)(2) of the INA, as added by Sec. 1104 of this Act; <i>office</i> includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof; <i>Secretary</i> means the Secretary of Homeland Security; <i>Service Bureau</i> means the Bureau of Immigration Services established in Sec. 113 of the INA, added by Sec. 1104 of this Act; and <i>Under Secretary</i> means Under Secretary of Homeland Security for Immigration Affairs appointed under Sec. 112 of the INA, as added by Sec. 1103 of this Act.

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See also, Title IV–Border and Transportation Security Subtitle B–Immigration and Nationality Functions	S. 2452, Title XI–Directorate of Immigration Affairs
	S. 2452, Title XI, Subtitle A — Organization.
Sec. 441. Abolishes INS.	Sec. 1101. Abolition of INS. In general, the Immigration and Naturalization Service is abolished and Sec. 4 of the Act of February 14, 1903, as amended, is repealed.
	Sec. 1102. Establishment of Directorate of Immigration Affairs Establishes a Directorate of Immigration Affairs within the Department of Homeland Security. Requires the Directorate, under the authority of the Secretary of Homeland Security, to administer immigration policy and perform immigration inspections, enforcement, service and adjudication functions. Defines the principal officers as follows: (1) Under Secretary of Homeland Security for Immigration Affairs, (2) Assistant Secretary of Homeland Security for Immigration Services, and (3) Assistant Secretary of Homeland Security for Enforcement and Border Affairs.
	Sec. 1102 and Sec. 1103. Provides definitions for the following: (1) Under Secretary of Homeland Security for Immigration Affairs, (2) Assistant Secretary of Homeland Security for Immigration Services, (3) Assistant Secretary of Homeland Security for Enforcement and Borders Affairs, (4) immigration laws of the United States, (5) immigration policy, (6) administration, and (7) inspection functions.
	Sec. 1103(a). Under Secretary of Homeland Security for Immigration Affairs. Establishes an Under Secretary of Homeland Security for Immigration Affairs to head the Directorate. Requires the Under Secretary to (1) develop and implement immigration policy and propose, promulgate and issue rules, regulations and

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	statement of policy pertaining to immigration law, (2) administer and enforce the functions of the Bureaus of Immigration Services and Enforcement and Border Affairs; and direct, supervise and coordinate both Bureaus, and (3) administer and enforce immigration laws with regard to inspecting all aliens at U.S. ports of entry. Requires the Under Secretary of Homeland Security for Immigration Affairs to manage resources (including information resources), and personnel and coordinate with the Civil Rights Officer of the DHS all immigration issues that involve civil rights violations.
H.R. 5005 establishes a General Counsel position in the service bureau (see Sec. 421(d))	Sec. 1103(a). Establishes a General Counsel position within the Directorate who shall be appointed by the Secretary of Homeland Security in consultation with the Under Secretary and serve as the chief legal officer for the Directorate. The General Counsel is responsible for providing legal advice, determinations, regulations, and other assistance to the Under Secretary with regard to matters affecting the Directorate.
H.R. 5005 establishes a Chief Budget Officer position in the service bureau (see Sec. 421(e))	Sec. 1103(a). Establishes a Chief Financial Officer position within the Directorate (a career ladder position at the Senior Executive Series level) who would be responsible for the Directorate's budget formulation and implementation. Establishes a Deputy Chief Financial Officer.
H.R. 5005 establishes a Chief of Policy and Strategy position in each bureau (see Sec. 412(b) & 421(c))	Sec. 1103(a). Establishes a Chief of Policy position within the Directorate who would be responsible for (1) establishing U.S. immigration policies and priorities, (2) performing research and analysis on immigration issues, and (3) coordinating policy issues between the Directorate and the Service and Enforcement Bureaus.
H.R. 5005 establishes a Chief of Congressional, Intergovernmental, and Public Affairs position in the service bureau (see Sec. 421(f))	Sec. 1103(a). Establishes a Chief of Congressional, Intergovernmental, and Public Affairs within the Directorate who would be responsible for (1) providing information

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	pertaining to immigration-related issues to Congress, (2) serving as a liaison with other federal agencies on immigration issues, and (3) responding to media and public inquiries with regard to immigration issues.
	Sec. 1103(b) Compensation of the Under Secretary. The Under Secretary will be paid at Level III of the Executive Schedule.
	Sec. 1103(c) Compensation of General Counsel and Chief Financial Officer. The general counsel and CFO will be paid at Level V of the Executive Schedule.
	Sec. 1103(d). Repeals the following: (1) Sec. 7 of the Act of March 3, 1981 pertaining to the establishment of the office of the Commissioner of Immigration and Naturalization; (2) Sec. 201 of the Act of June 20, 1956 pertaining to the compensation of assistant commissioners and district directors; and (3) Sec. 1 of the Act of March 2, 1895 pertaining to special immigrant inspectors.
	Sec. 1103(e). Provides conforming amendments to the INA.
	Sec. 1103(f) References. Any reference in any statute, reorganization plan, Executive Order, regulation, agreement, determination, or other official document or proceeding to the Commission of Immigration and Naturalization shall be deemed to refer to the Under Secretary.
	Sec. 1104. Bureau of Immigration Services.
Sec. 421(a) Establishes a Bureau of Citizenship and Immigration Services in DOJ, to be headed by an Assistant Attorney General for Citizenship and Immigration Services who reports directly to the Deputy Attorney General and has a minimum of 10 years experience in law enforcement. Requires the Assistant Attorney General for Citizenship and Immigration Services (1) to establish and oversee the administration of	Sec. 1104(a) Amends the INA (new §113) by creating a Bureau of Immigration Services within the Directorate, headed by an Assistant Secretary of Homeland Security for Immigration Services who is appointed by the Secretary of Homeland Security. The Assistant Secretary would report directly to the Under Secretary. Charges the Assistant Secretary of the service bureau (under the authority of the Secretary and

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relevant policies, (2) advise the Deputy Attorney General with respect to any policy or operation that may affect the Bureau of Immigration Enforcement in the DHS, (3) meet regularly with the Citizenship and Immigration Services Ombudsman to correct problems and establish procedures that would require a formal response to any recommendations submitted in the Ombudsman's annual report, (4) design, implement and report to Congress on a managerial rotation program, and (5) implement a pilot program that would eliminate (and prevent from recurring) the backlog pertaining to the processing of immigration benefit applications.	the Under Secretary) with administering immigration services and adjudication functions, including the following: (1) adjudications of nonimmigrant and immigrant petitions; (2) adjudications of visas and other entry documents, and change and adjustment of status; (3) adjudications of naturalization applications; (4) adjudications of asylum and refugee applications; (5) determinations with regard to custody, parole, and conditions of parole, as well as the responsibility for the detention of individuals subject to such determination, pertaining to asylum seekers who lack prior non-political criminal records and who have been found to have a credible fear of persecution; (6) adjudications performed at service centers, and (7) all other adjudications under U.S. immigration law.
Sec. 421(e) Establishes a Chief Budget Officer who would be responsible for (1) formulating and executing the bureau's budget, (2) all financial matters of the bureau; (3) the collection of all payments, fines, and other debts for the bureau.	Sec. 1104(a) Establishes a Chief Budget Officer position in the service bureau. The Chief Budget Officer would report to the Chief Financial Officer of the Directorate. The Chief Budget Officer would be responsible for monitoring and supervising all financial matters of the bureau.
	Sec. 1104(a) Establishes an Office of Quality Assurance position within the service bureau. The office would be responsible for ensuring that the Directorate's policies with regard to the service bureau's functions are properly carried out and ensure efficient record management.
	Sec. 1104(a) Establishes an Office of Professional Responsibility position within the service bureau. The office would be responsible for ensuring the professionalism of the bureau and accepting and investigating charges of employee misconduct made by the public.
	Sec. 1104(b) Compensation of Assistant Secretary of Service Bureau. Assistant Secretary will be paid at Level IV of the Executive Schedule.
	Sec. 1104(c) Service Bureau Offices. Charges the Under Secretary (under the direction of the Secretary) acting through the Assistant

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	Secretary for Immigration Services with establishing offices, including sub-offices and satellite offices, throughout the U.S. that are located near the community served and taking into consideration the office's workload with regard to improving the backlog and improving customer service. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the Service Bureau offices adequately serve customer service needs. The Under Secretary shall first consider using existing facilities. That officer shall also explore the location of such offices in new locations.
	Sec. 1105. Bureau of Enforcement and Border Affairs.
Sec. 412 (a) Establishes the Bureau of Border Security, to be headed by an Assistant Secretary who has a minimum of 10 years experience in law enforcement including five years in management. Requires the Assistant Secretary to (1) establish and oversee the administration of relevant policies, (2) advise the Under Secretary for Border and Transportation Security with respect to any policy or operation that may affect the Bureau of Citizenship and Immigration Services in DOJ, (3) administer the program to collect information on foreign students, and (4) design, implement and report to Congress on a managerial rotation program. Requires the Secretary to submit a report to Congress on the implementation of the managerial rotation plan no later than 2 years after the transfer of functions.	Sec. 1105(a) Amends the INA by creating a Bureau of Enforcement and Border Affairs within the Directorate. The bureau would be headed by an Assistant Secretary of Homeland Security for Enforcement and Border Affairs, appointed by the Secretary of Homeland Security (in consultation with the Under Secretary). Charges the Assistant Secretary of Homeland Security for Enforcement and Border Affairs (under the authority of the Under Secretary) with administering immigration enforcement functions, including the following functions: (1) border patrol function, (2) immigration detention function, (3) removal function, (4) intelligence function, (5) investigation function.
Sec. 412(d), for a similar purpose, was omitted in the reported version	Sec. 1105(a) Establishes a Chief Budget Officer position in the enforcement bureau. The Chief Budget Officer would report to the Chief Financial Officer of the Directorate. The Chief Budget Officer would be responsible for monitoring and supervising all financial matters of the bureau.
Sec. 413. Makes the Under Secretary for Border and Transportation Security responsible for: (1)	Sec. 1105(a) Establishes an Office of Professional Responsibility position within the

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conducting investigations of employees of the bureau with regard to allegations involving noncriminal misconduct, corruption and fraud that is not subject to investigation by the Inspector General; (2) inspecting the operations of the bureau and providing assessments with regard to the quality of operations; and (3) providing an analysis of the management of the Bureau.	enforcement bureau. The office would be responsible for ensuring the professionalism of the bureau and accepting and investigating charges of employee misconduct made by the public.
.	Sec. 1105(a) Establishes an Office of Quality Assurance position within the enforcement bureau. The office would be responsible for ensuring that the Directorate's policies with regard to the enforcement bureau's functions are properly carried out, and ensuring efficient record management.
	Sec. 1105(b) Compensation of Assistant Secretary of Enforcement Bureau. Officer to be paid at Level IV of the Executive Schedule.
.	Sec. 1105(c) Enforcement Bureau Offices. Sec. 1105. Charges the Under Secretary (under the direction of the Secretary) acting through the Assistant Secretary for Immigration Enforcement with establishing offices, including sub-offices and satellite offices, throughout the U.S. that are in line with trends of unlawful entry and national security concerns. Requires the Under Secretary to conduct periodic reviews of the offices and their locations to determine their appropriateness.
	Sec. 1106. Office of the Ombudsman Within the Directorate.
Sec. 422 Establishes an Ombudsman position in the service bureau.	Sec. 1106(a). Amends the INA (new Sec.115 in the INA) creating an Office of the Ombudsman. The Ombudsman is appointed by the Secretary of Homeland Security, after consultation with the Under Secretary. Requires the Ombudsman to report to the Under Secretary and be compensated under the Senior Executive Series. Gives the Ombudsman the following functions: (1)assist individuals with resolving problems (2)

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	identify persistent problems experienced by the public in dealing with the Directorate, (3) propose potential administrative, regulatory, and statutory changes to minimize the problems, and (4) monitor the coverage and geographic distribution of local offices.
Sec. 422 Establishes an Ombudsman position in the service bureau.	Sec. 1106(a) Requires the Ombudsman to report annually to Congress on the objectives of the office for the upcoming fiscal year. Requires the report to be submitted to Congress without prior review or comment from other officials. Requires the report to have analysis, statistical information, and the following: (1) description of initiatives the Directorate has taken with regard to improving services and the responsiveness of the bureau; (2) a summary of the “most pervasive and serious problems” experienced by individuals and employers; (3) an inventory of the aforementioned items for which action has been taken; (4) an inventory of the aforementioned items for which action is still needed; (5) an inventory of the aforementioned items for which no action has been taken; (6) recommendations for administrative and legislative action, if necessary, to resolve problems experienced by individuals and employers; (7) recommendations to resolve problems caused by inadequate funding or staffing, and (8) any other information the Ombudsman deems necessary.
	Sec. 1107. Office of Immigration Statistics Within the Directorate.
Sec. 425. Amends the Omnibus Crime Control and Safe Streets Act of 1968 (creating Sec.305) by creating an Office of Immigration Statistics within the Bureau of Justice Statistics, headed by a Director who would be appointed by the Attorney General and would report to the Director of Justice Statistics. Charges the Director with the following functions: (1) maintain all immigration-related statistics of the newly created office and the existing Executive Office for Immigration Review (EOIR). Require the statistics to include	Sec. 1107. Similar. Creates an Office of Immigration Statistics within the Directorate, headed by a Director. Charges the Director of the Office with the following functions: (1) maintain all immigration-related statistics of the newly created agency and the existing Executive Office for Immigration Review (EOIR); (2) establish reliability and validity standards with regard to the aforementioned statistics; and (3) ensure the interoperability of the agency and EOIR databases.

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information and statistics currently found in the “<i>Statistical Yearbook of the INS</i>”; (2) establish reliability and validity standards with regard to the aforementioned statistics; (3) require the Bureau of Citizenship and Immigration Services and the Executive Office of Immigration Review to provide statistics to the Office of Immigration Statistics, and (4) collect, compile, analyze, publish, and disseminate statistics and information pertaining to immigration in the U.S. and the functions of the agency. Transfers the functions of the Statistics Branch of the Office of Policy and Planning of INS to the newly created office. Title VI, Sec. 601(b) assigns the Under Secretary of Management Responsibility for enforcement statistics.	Transfers the functions of the Statistics Branch of the Office of Policy and Planning of the INS to the newly created office.
	Sec. 1108. Clerical Amendments. Makes changes to the INA table of contents.
	S. 2452, Title XI, Subtitle B—Transition Provisions.
Sec. 428(a). With regard to INS service functions transferred, the act requires the transfer of any reference in any other federal law, executive order, rule, regulation, delegation of authority, or any document or component of government to the Assistant Attorney General for Citizenship and Immigration Services.	Sec. 1111. Transfer of Functions. Requires the transfer of all immigration functions under U.S. immigration laws vested by statute or exercised by the Attorney General to the Secretary before the effective date of the enactment of this title. Requires the transfer of all immigration functions under U.S. immigration laws vested by statute or performed by the INS Commissioner to the Directorate of Immigration Affairs before the effective date of the enactment of this Title.
Sec. 428(a). Would require the transfer (including additional incidental transfer) and allocation of personnel, assets, liabilities, contracts, property, records, unexpended balance of appropriations, authorizations, allocations, and other relevant funds from DOJ (with respect to immigration service functions) to the Assistant Attorney General for Citizenship and Immigration Services for allocation to the appropriate component of DOJ.	Sec. 1112. Transfer of Personnel and Other Resources. Requires the transfer and allocation of personnel, assets, liabilities, contracts, property, records, unexpended balance of appropriations, authorizations, allocations, and other relevant funds from DOJ to the Under Secretary for allocation to the appropriate component.

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Sec. 428(a). Requires that unexpended funds in place prior to the transfer be used for their original purpose.	Sec. 1113. Determinations with Respect to Functions and Resources. The Under Secretary shall determine the allocation of resources. This act requires that unexpended funds in place prior to the transfer be used for their original purpose.
Sec. 428(a). Gives the Attorney General discretion to realign staff and funds for up to 2 years after the enactment of this act.	Sec. 1114. Requires the Under Secretary, under the direction of the Secretary, to delegate immigration functions to the Assistant Secretaries of the service and enforcement bureaus
	Sec. 1115. Allocation of Personnel and Other Resources. Relates to the authority of the Under Secretary in this regard; the authority to terminate affairs of INS; and the treatment of shared resources.
	Sec. 1116. Savings Provisions. Covers the disposition of legal documents; pending proceedings, orders, discontinuance or modification; suits; nonabatement of actions; continuance of suit with substitution of parties; and administrative procedure and judicial review.
	Sec. 1117. Interim Service of the Commissioner of Immigration and Naturalization. Permits the INS Commissioner to serve as Under Secretary until one is appointed.
	Sec. 1118. Executive Office for Immigration Review Authorities not Affected. Prohibits the contents of this act to be construed to authorize or require the transfer of the Executive Office of Immigration Review.
	Sec. 1119. Other Authorities Not Affected. Prohibits the contents of this act to be construed to authorize or require the transfer or delegation of any functions vested in or exercised by the Secretary of State with respect to passport or visa issuance or use, the Secretary of Labor with respect to labor certifications and other authorities or, unless specified in this division, other federal officials under U.S. immigration laws.
Sec. 411. Transfer of Functions to Under	Sec. 1120. Transitional Funding.

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Secretary for Border and Transportation Security. Transfers from the INS Commissioner to the Under Secretary for Border and Transportation Security immediately before the transfer occurs all personnel, assets and liabilities pertaining to the following functions: (1) border patrol, (2) detention and removal, (3) intelligence, (4) investigations and (5) inspections.	Authorizes appropriations of such sums as may be necessary to abolish INS; to establish the Directorate of Immigration Affairs, its components and its Bureaus; and to transfer relevant functions to the Directorate and the Bureaus. Support the following activities: (1) planning for the transfer, (2) acquiring, dividing or disposing of property, and (3) other expenditures necessary to effect the transfer. Requires the amount appropriated to remain available until expended. Establishes a transition account for the transfer and would require the Secretary to report to Congress, no later than 90 days after the effective date of this division, the availability of funds to cover the transition cost.
	S. 2452, Title XI, Subtitle C—Miscellaneous Provisions.
Sec. 431. Maintains INA provision that fees for adjudication and naturalization services be deposited into the Immigration Examinations Fee Account. No longer funds refugee and asylum processing from fees collected for adjudication and naturalization services. Authorize appropriations of “such sums as may be necessary” for refugee and asylum adjudications to be deposited into the Immigration Examinations Fee Account. Amends the Immigration Services and Infrastructure Improvements Act of 2000 by extending the deadline for eliminating the adjudication backlog to 1 year from the date of enactment of this act.	Sec. 1121. Funding Adjudication and Naturalization Services. Similar provision except requires fees collected for service programs to be used for that purpose (and refugee and asylum processing if insufficient funds are appropriated) and would also require separate accounts to be established in the Treasury of the U.S. for service and enforcement bureaus. Requires amounts appropriated to be made available until expended.
Sec. 435. Requires the Attorney General, in consultation with the Technology Advisory Committee, to establish an Internet-based system to check status of benefit applications, no later than 1 year after the enactment of this act. Also requires the Attorney General to conduct a study to determine the feasibility of on-line filing, and submit a report to Congress with the findings of the study.	Sec. 1122. Application of Internet-Based Technologies. Similar provision, except gives the Under Secretary 2 years to establish the system and conduct the study.

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Establishes an advisory committee to assist with establishing the internet-based tracking system.	
	Sec. 1123. Alternatives to Detention of Asylum Seekers. Assigns asylum officers to major ports of entry to assist in the inspection of asylum seekers; would also amend INA to require the Under Secretary to develop alternatives to the mandatory detention of asylum applicants and specifies that the alternatives considered should include: parole; parole with assistance from nonprofit voluntary agencies; non-secure shelters and group homes operated by nonprofit voluntary agencies; and noninstitutional settings for minors operated by nonprofit voluntary agencies.
	S. 2452, Title XI, Subtitle D—Effective Date.
	Sec. 1131. Effective Date. Title XI and the amendments made by it shall take effect one year after the effective date of Division A of this Act.

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	S. 2452, Title XII– Unaccompanied Alien Child Protection
	Sec. 1201. Short Title. “Unaccompanied Alien Child Protection Act of 2002.”
Sec. 436(g). Defines placement as placing an unaccompanied minor in a detention facility or an alternative facility; and unaccompanied alien child as having no lawful immigration status in the U.S., being under the age of 18, having no parent or legal guardian in the U.S., and having no parent or legal guardian in the U.S. available to provide care and physical custody for the minor.	Sec. 1202. Provides definitions for (1) Director, (2) Office, (3) Service, (4) unaccompanied alien child, and (5) voluntary agency. Also provides definition for unaccompanied refugee children.
	S. 2452, Title XII, Subtitle A — Structural Changes.
Sec. 436 (a). Transfer functions with regard to the care of unaccompanied minors to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services (DHHS). Sec. 436 (b) Charges the Director with the following responsibilities: (1) coordinating and implementing law and policy pertaining to unaccompanied alien minors; (2) assuring that the unaccompanied minors’ interests are considered in all decisions pertaining to his/her care and custody; (3) making placement determinations on all unaccompanied minors in custody; (4) implementing all placement decisions made by the Office; (5) implementing policies with regard to unaccompanied minors’ care and placement; (6) identifying adequate and qualified individuals, entities, and facilities to house unaccompanied minors; (7) overseeing facilities and personnel that house and care for unaccompanied minors; (8) reuniting unaccompanied minors with their parents abroad when appropriate; (9) compiling, updating, and publishing on an annual basis a list of professionals or entities qualified by states to	Sec. 1211. Responsibilities of the Office of Refugee Resettlement (ORR) with respect to Unaccompanied Alien Children. Similar provision. Additionally charges the Director with the following: (1) convene, in the absence of the Assistant Secretary of the Administration for Children and Families of DHHS, an interagency task force on unaccompanied minors, and (2) identify a sufficient number of persons, entities and facilities to ensure the compliance with family reunification provision (see Sections 1222 and 1223) and (3) oversee such persons, entities and facilities to ensure their compliance with provisions.

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provide guardian ad litem and attorney representation services; (10) maintaining statistics and other data on unaccompanied minors including biographical information, the date the minor came into custody, placement, removal, or release information and an explanation for all detention and release cases, and information on dispositions pertaining to unaccompanied minors; (11) collecting and compiling statistics from DOJ, DHS and DOS on each Department's actions relating to unaccompanied alien minors; and (12) conducting investigations and inspections of facilities that house unaccompanied minors. Also would encourage use of refugee foster care system already in place.	
	Sec. 1212. Establishment of Interagency Task Force on Unaccompanied Alien Children. Establishes an interagency task force on unaccompanied alien children with representatives from DHHS, DHS, and DOS and other agencies designated by the President; the DHHS Assistant Secretary for Children and Families would chair the interagency task force.
Sec. 436 (d). Requires the transfer of all matters pertaining to the care of unaccompanied alien children to the Director of the Office of Refugee Resettlement (ORR) of DHHS.	Sec. 1213. Transition Provisions. Provides for the transfer of all functions, personnel, appropriations, and legal documents from INS to DHHS; would ensure that proceedings would continue.
	Sec. 1214. Effective Date. This subtitle shall take effect one year after the effective date of Division A of this Act.
	S. 2452, Title XII, Subtitle B—Custody, Release, Family Reunification, and Detention.
	Sec. 1221. Procedures When Encountering Unaccompanied Alien Children. Establishes procedures to handle unaccompanied alien children at the border, or at ports of entry. Allows for removal of child if deemed inadmissible under the INA, unless the child is a national of a country contiguous to the U.S. and who fears persecution or would be harmed if

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	returned to that country. Rights of consultation of such child are stated Places custody of all unaccompanied alien children found in the interior of the United States under the jurisdiction of the ORR, with exception of children who have committed crimes and/or threaten national security who remain in custody of INS (Directorate of Immigration Affairs).
	Sec. 1222. Family Reunification for Unaccompanied Alien Children with Relatives in the United States. Encourages family reunification by requiring ORR to place an unaccompanied alien child with one of the following in order of preference: 1) a parent; 2) a legal guardian; 3) an adult relative; 4) an entity designated by the parent or legal guardian; 5) a state-licensed juvenile shelter or group home; or 6) other qualified adults or entities.
	Sec. 1223. Appropriate Conditions for Detention of Unaccompanied Alien Children. An unaccompanied alien child shall not be placed in an adult detention facility or one housing delinquent children; children exhibiting violent or criminal behavior may be placed in an appropriate facility. Requires ORR to promulgate regulations establishing appropriate standards and conditions for the detention of unaccompanied alien children, providing appropriate educational services, medical care, mental health care, access to telephones, access to legal services, access to interpreters, supervision by professionals trained in the care of children, recreational programs and activities, spiritual and religious needs, and dietary needs. Prohibits shackling, handcuffing, or other restraints; solitary confinement; or pat or strip searches of children.
	Sec. 1224. Repatriated Unaccompanied Alien Children. States a sense of Congress that the United States should undertake efforts to ensure that it does not repatriate children in its custody into

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	settings that would threaten the life and safety of the child. Requires ORR to assess conditions of countries to which alien children may be repatriated; would require ORR to submit a report to Congress providing information on efforts to repatriate unaccompanied children.
	Sec. 1225. Establishing the Age of an Unaccompanied Alien Child. Requires ORR to establish procedures for determining age of children.
	Sec. 1226. Effective Date. Takes effect one year after the effective date of Division A of this Act.
	S. 2452, Title XII, Subtitle C – Access by Unaccompanied Alien Children to Guardians Ad Litem and Counsel.
	Sec. 1231. Right of Unaccompanied Alien Children to Guardians Ad Litem. Requires ORR, no later than 72 hours after it assumes custody of an unaccompanied alien child, to appoint a guardian ad litem to look after the child’s best interests. Establishes qualifications, duties, and powers of the guardian ad litem.
	Sec. 1232. Right of Unaccompanied Alien Children to Counsel. Requires ORR to ensure that, with certain exceptions, all unaccompanied alien children have competent legal counsel appointed to represent them in immigration proceedings. Encourages ORR to utilize pro bono attorneys; otherwise, the ORR would appoint government-funded counsel. Specifies details of government funded representation.
	Sec. 1233. Effective Date; Applicability. Sets effective date as one year after effective date of enactment of Division A. Applies to all such children in federal custody on, before, or after the effective date of the subtitle.

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	S. 2452, Title XII, Subtitle D — Strengthening Policies for Permanent Protection of Alien Children.
	Sec. 1241. Special Immigrant Juvenile Visa. Amends the special immigrant provisions in §101(a) (27)(J) of INA to enable abused, neglected and abandoned alien youths who become wards of the court to adjust to legal permanent resident status. (Denies any rights or status from this provision to the parents of such youth.)
	Sec. 1242. Training for Officials and Certain Private Parties Who Come into Contact with Unaccompanied Alien Children. DHHS and DHS jointly shall offer training to state and local officials involved in dependency proceedings, social service providers, as well as DHS immigration personnel who come into contact with unaccompanied alien children.
	Sec. 1243. Effective Date. The amendment made by Sec. 1241 applies to all eligible children who were in the U.S. before, on, or after the date of enactment of this Act.
	S. 2452, Title XII, Subtitle E — Children Refugee and Asylum Seekers.
	Sec 1251. Guidelines for Children’s Asylum Claims. Expresses a sense of Congress commending the INS for the issuance of its Guidelines for Children’s Asylum Claims and requires the Secretary of Homeland Security to provide training to asylum officers, immigration judges, members of the Board of Immigration Appeals and immigration officers on these guidelines.
	Sec 1252. Unaccompanied Refugee Children. Requires an analysis of the situation faced by unaccompanied refugee children around the world and require training on the needs of these children.

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	S. 2452, Title XII, Subtitle F– Authorization of Appropriations.
	Sec 1261. Authorization of Appropriations. Authorizes such sums as may be necessary to carry out this title of the Act. Amounts appropriated would remain available until expended.

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	S. 2452, Title XIII–Agency for Immigration Hearings and Appeals
	S. 2452, Title XIII, Subtitle A–Structure and Function.
	Sec. 1301. Establishment Establishes within the DOJ an agency for immigration hearings and appeals; abolishes the Executive Office for Immigration Review
	Sec. 1302. Director of the Agency. Head of the the Agency to be a Director appointed by the President with the advice and consent of the Senate. The Director appoints other necessary officials.
	Sec. 1303. Board of Immigration Appeals. Provides statutory authority for the Board of Immigration Appeals, with a chair and not less than 14 other immigration appeals judges. Describes jurisdiction and functions of the Board.
	Sec. 1304. Chief Immigration Judge. Provides statutory authority for a chief immigration judge and immigration courts.
	Sec. 1305. Chief Administrative Hearing Officer. Provides statutory authority for a chief administrative hearing officer.
	Sec. 1306. Removal of Judges. Provides that the Director may remove judges only for good cause (including malfeasance and neglect of duty) in consultation with Chief judge in case of judges and Board Chair in cases of Board members
	Sec. 1307. Authorization of Appropriations. Provides for such sums as may be necessary.
	S. 2452, Title XIII, Subtitle B–Transfer of Functions and Savings Provisions.
	Sec. 1311. Transition Provisions. Transfers EOIR’s functions, allocation of

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	appropriations, personnel and legal documents to a newly created agency in DOJ; all EOIR decisions, orders, and proceedings would continue in new agency
	S. 2452, Title XIII, Subtitle C—Effective Date.
	Sec. 1321. Effective Date. Takes effect one year after the effective date of Division A of this Act.

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	S. 2452, Division C — Federal Workforce Improvement
	S. 2452, Title XXI - Chief Human Capital Officers
	Sec. 2101. Short Title: “Chief Human Capital Officers Act of 2002”
	Sec. 2102. Agency Chief Human Capital Officers. Amends Part II of Title 5 United States Code by adding a new Chapter 14 - Agency Chief Human Capital Officers. §1401. Establishment of agency Chief Human Capital Officers (CHCOs). Provides that the head of each agency (referred to under 31 U.S.C. 901(b)(1)(2)) would appoint or designate a CHCO who would advise and assist the agency head and other agency officials in carrying out the agency’s responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles; and implement the rules and regulations of the President and the Office of Personnel Management (OPM) and the laws governing the civil service within the agency; and carry out such functions as his or her primary duty. §1402. Authority and functions of agency Chief Human Capital Officers. Specifies six functions for the CHCO, including (1) setting the workforce development strategy of the agency; (2) assessing workforce characteristics and future needs based on the agency’s mission and strategic plan; (3) aligning the agency’s human resources policies and programs with organization mission, strategic goals, and performance outcomes; (4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities; (5) identifying best practices and benchmarking studies; and (6) applying methods for measuring intellectual capital and identifying

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	links of that capital to organizational performance and growth. Provides that CHCOs would have access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials that are the property of the agency or are available to the agency; and relate to programs and operations with respect to which the CHCO has responsibilities. The CHCO could request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by Chapter 14 from any federal, state, or local governmental entity.
	Sec. 2103. Chief Human Capital Officers Council. Establishes a CHCO Council consisting of the OPM Director who would be chairperson; the OMB deputy Director of management who would be vice chairperson; and CHCOs of executive departments and any other members designated by the OPM Director. The council would meet periodically to advise and coordinate the activities of the member agencies on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations. The CHCO Council would ensure that representatives of federal employee labor organizations are present at a minimum of one meeting of the council each year. The representatives would not be members of the council. Each year the CHCO Council would submit a report to Congress on its activities.
	Sec. 2104. Strategic Human Capital Management. Amends 5 U.S.C. 1103 by adding: (c) OPM would design a set of systems, including appropriate metrics, for assessing the management of human capital by federal agencies. The systems would be defined in OPM regulations and include standards for (A) aligning agency human capital strategies with their

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	missions, goals, and organizational objectives and integrating those strategies into agency budget and strategic plans; (B) closing skill gaps in mission critical occupations; (C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans; (D) sustaining a culture that cultivates and develops a high performing workforce; (E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and (F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.
	Sec. 2105. Effective date. Title XXI would become effective 180 days after the enactment of Division C.

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	S. 2452, Title XXII - Reforms Relating to Federal Human Capital Management
	Sec. 2201. Inclusion of Agency Human Capital Strategic Planning in Performance Plans and Program Performance Reports. Sec. 2201(a) amends 31 U.S.C. 1115(a)(3) to read: “provide a description of how the performance goals and objectives are to be achieved, including the operational processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.” Redesignates 31 U.S.C. 1115(f) and inserts a new (f) providing that with respect to each agency with a CHCO, the CHCO would prepare that portion of the annual performance plan described under (a)(3) above.
	Sec. 2201(b) amends 31 U.S.C. 1116(d) by adding a new paragraph (5) (old (5) redesignated) to require agencies to include a review of the performance goals and evaluation of the performance plan relative to the agency’s strategic human capital management in program performance reports.
	Sec. 2202. Reform of the Competitive Service Hiring Process. Sec. 2202(a)(1) amends 5 U.S.C. 3304(a) by adding a new paragraph (3) providing authority for agencies to appoint, without regard to 5 U.S.C. 3309 through 3318, candidates directly to positions for which public notice has been given and OPM has determined that there exists a severe shortage of candidates or there is a critical hiring need. OPM regulations would prescribe criteria for identifying such positions and may delegate authority to make determinations under such criteria.
	Sec. 2202 (a)(2) provides for a new Title 5, Sec. 3319. Alternative ranking and selection

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	procedures. §3319(a) provides that OPM or an agency which has been delegated examining authority may establish category rating systems for evaluating applicants for positions in the competitive service. Applicants would be evaluated under two or more quality categories, consistent with OPM regulations, rather than be assigned individual numerical ratings. §3319(b) provides that within each quality category, applicants who are eligible for veterans' preference would be listed ahead of applicants who are not eligible for preference. Except for applicants for scientific and professional positions at GS-9 (equivalent or higher), each applicant who is a disabled veteran with a compensable service-connected disability of 10% or more would be listed in the highest quality category. §3319(c)(1) provides that an appointing official could select any applicant in the highest quality category, or, if fewer than three candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories. §3319(c)(2) provides that an appointing official could not pass over a preference eligible in the same category from which selection is made, unless the requirements of 5 U.S.C. 3317(b) or 3318(b), as applicable, are satisfied. §3319(d) provides that each agency that establishes a category rating system would submit in each of the three years following that establishment, a report to Congress on the system that would include information on the number of employees hired under the system; the system's impact on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islander; and the way in which managers were trained in the administration of the system. §3319(e) provides that OPM could prescribe regulations to carry out the provisions.
Section 442. Voluntary separation incentive payments.	Section 2203. Permanent extension, revision, and expansion of authorities for use of voluntary

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Allows the Attorney General or the Secretary to offer voluntary separation incentive payments (VSIPs) not to exceed \$25,000 to eligible employees of the Immigration and Naturalization Service, Bureau of Border Security, and the Bureau of Citizenship and Immigration Services. VSIPs would be paid from funds appropriated for the employees' basic pay. Require the Attorney General and/or the Secretary to submit a strategic restructuring plan the appropriate committees of Congress before obligating funds for VSIPs. Requires agencies to make an additional payment to the Civil Service Retirement and Disability Fund (CSRDF) in each fiscal year that it makes one or more VSIPs to eligible employees. The payment to the CSRDF must be equal to the greater of (1) the amount necessary to offset any additional costs to the CSRDF resulting from the separation of employees who receive VSIPs or (2) 45% of the final basic pay of each employee who receives a VSIP. Does not require agencies making VSIPs to reduce the number of full-time equivalent positions within the agencies. Permits agencies to move the positions opened through VSIPs to other occupations or locations.	separation incentive pay and voluntary early retirement. Defines "agency" and "employee" for the purposes of this section. Requires agency heads to submit a plan to OPM for approval prior to committing resources for voluntary separation incentive payments (VSIPs). Delegates to the Office of Personnel Management (OPM) – in consultation with the Director of the Office of Management and Budget (OMB) – authority to review, modify, and approve requests from federal departments and agencies to offer VSIPs not to exceed \$25,000 to retiring or resigning employees in particular occupational groups, organizational units, or specific geographic locations or based on skills, knowledge, or other factors related to a position. Requires VSIPs to be paid from funds or appropriations for the employees' basic pay. Places limitations on subsequent employment with the Government for those receiving VSIPs. Permits agencies with authority to offer VSIP on the day of enactment to continue to exercise that authority until it expires. Allows the Administrative Office of the United States Courts to offer VSIPs similar to those in the executive branch. Would not require agencies making VSIPs to reduce the number of full-time equivalent positions within the agencies. Allows agencies undergoing substantial restructuring, reorganization, or reduction in force to offer voluntary early retirement with a reduced annuity to employees who are at least age 50 with 20 years of service or of any age with at least 25 years of service. States sense of the Congress that these provisions are intended to reshape the federal workforce not downsize the federal workforce.
	Sec. 2204. Student Volunteer Transit Subsidy. Sec. 2204(a) amends 5 U.S.C. 7905(a)(1) to provide that a student who provides voluntary services would be eligible for a transit subsidy. Sec. 2204(b) makes a conforming amendment at 5 U.S.C. 3111(c)(1).

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	S. 2452, Title XXIII, Reforms Relating to the Senior Executive Service
	Sec. 2301. Repeal of Recertification Requirements of Senior Executives. Repeals 5 U.S.C. 3393a for members of the Senior Executive Service. Also provides technical corrections to eliminate language in current sections that refer to a failure to be recertified: 5 U.S.C. 3592a, 3593(a), 3594(b), 7701(c)(1)(a), 8336(h)(1), 8339(h), 8414(a)(1), and 8421(a)(2).
	Sec. 2302. Adjustment of Limitation on Total Annual Compensation. Adds a new paragraph, 5 U.S.C. 5307(a)(3), that changes, for certain staff, the cap on total annual compensation to the Vice President's salary. The proposal applies specifically to federal employees covered by 5 U.S.C. 5376 (personnel in scientific and professional positions or "positions classified above GS-15" usually referred to as senior level), as well as to members of the Senior Executive Service under 5 U.S.C. 5383. Also contains language which authorizes OPM, when developing regulations under 5 U.S.C. 5307, to apply the new cap to "other equivalent categories of employees."

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	S. 2452, Title XXIV - Academic Training
	Sec. 2401. Academic Training. Amends 5 U.S.C. 4107 as follows: §4107. Academic degree training. §4107(a) renames the section as “Academic degree training” and provides that an agency could select and assign an employee to academic degree training and could pay or reimburse the costs of the training from appropriated or other available funds. The training would have to contribute significantly to meeting an identified agency training need, to resolving an identified agency staffing problem, or to accomplishing goals in the agency’s strategic plan; be part of a planned, systematic, and coordinated agency employee development program linked to accomplishing the agency’s strategic goals; and be accredited and provided by a college or university that is accredited by a nationally recognized body. §4107(b) provides that in exercising the authority, an agency would, consistent with the merit system principles at 5 U.S.C. 2301(b)(2) and (7), consider the need to maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in government service and provide employees effective education and training to improve organizational and individual performance. The agency also would assure that the training is not for the sole purpose of providing an employee with an opportunity to obtain an academic degree or to qualify for appointment to a particular position for which the degree is a basic requirement; and assure that no authority is exercised on behalf of any employee occupying or seeking to qualify for a noncareer appointment in the Senior Executive Service; or appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policy-making, or policy-advocating character. The agency would to the

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	greatest extent practicable, facilitate the use of online degree training.
	Sec. 2402. Modifications to National Security Education Program. Modifies current law to provide that citizens who receive National Security Education Program scholarships or fellowships but can demonstrate that no national security positions are available may fulfill their responsibilities by working in other federal positions in agencies without national security responsibilities, or in the field of higher education in a discipline related to the field of study for which the scholarship or fellowship was awarded.
	Sec. 2403. Compensatory Time Off For Travel. Amends 5 U.S.C. Subchapter V, Chapter 55 by adding: §5550b. Compensatory time off for travel. An employee would receive one hour of compensatory time off for each hour spent by the employee in travel status away from his or her official duty station, to the extent that the time spent in travel status is not otherwise compensable. OPM would prescribe regulations not later than 30 days after this section's enactment.

Appendix A

Positions Created and Compensation

H.R. 5005, as passed July 26, 2002	S. 2452, Lieberman Substitute agreed to by Committee, July 25, 2002
Sec. 102. Secretary; Functions.	Sec. 102. Secretary of Homeland Security.
Sec. 102(a) Establishes position of Secretary, appointed by President subject to Senate confirmation (PAS), at the head of DHS. Vests functions of all subordinate employees and units in the Secretary. Responsibilities and authority identified in other parts of sec. 102 and elsewhere.	Sec. 102(a) Establishes position of Secretary, appointed by President subject to Senate confirmation (PAS), at the head of DHS. [Vesting of all authority, functions, and ability to delegate not specified.] Responsibilities identified in other parts of sec. 102 and elsewhere.
Sec. 102(f) Establishes Special Assistant to the Secretary to be appointed by the Secretary. Responsible for serving as a liaison with the private sector as discussed in the same section.	
Sec. 103 Other Officers	Sec. 103 Deputy Secretary of Homeland Security
Sec. 103(a) Establishes Deputy Secretary and under secretaries as PAS positions; Deputy will be first assistant.	Sec. 103(a) Establishes Deputy Secretary of Homeland Security as PAS position. Sec. 103(b) Directs Deputy to assist in administration and operations; take on responsibilities delegated by the Secretary, act as Secretary in the event of his or her absence, disability, or vacancy.
Sec. 103(a)(2) Establishes Under Secretary for Information Analysis and Infrastructure Protection as PAS position (responsibilities identified in Title II).	Sec. 132(a)(2) Establishes Under Secretary for Intelligence as PAS position with responsibilities described in sec. 132(b). Sec. 133(a)(2) Establishes Under Secretary for Critical Infrastructure Protection as PAS position with responsibilities identified at sec. 133(b).
Sec. 103(a)(3) Establishes Under Secretary for Science and Technology as PAS position (responsibilities, see Title III).	Sec. 135(c)(2) Establishes Under Secretary for Science and Technology as PAS position and identifies responsibilities of that position.
Sec. 103(a)(4) Establishes Under Secretary for Border and Transportation Security as PAS position (responsibilities, see Title IV).	Sec. 131(a)(2) Establishes Under Secretary of Border and Transportation Protection as a PAS position with responsibilities identified in sec. 131(b).

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Sec. 103(a)(5) Establishes Under Secretary for Emergency Preparedness and Response as PAS position (responsibilities, see Title V).	Sec. 134(a)(2) Establishes Under Secretary of Emergency Preparedness and Response as a PAS position with responsibilities described in sec. 134(b). Sec. 134(c) The Federal Emergency Management Administration (FEMA) is maintained as a “distinct entity within the department. Sec. 134(d) Allows one individual to serve as both Under Secretary of Emergency and Response and Director of FEMA if nominated and confirmed to each office.
Sec. 103 (a)(6) Establishes Under Secretary for Management as PAS position (responsibilities, see Title VI).	Sec. 104. Establishes Under Secretary for Management as PAS position. Directs Under Secretary to take on management and administration-related functions including those related to budget, appropriations, expenditures of funds, accounting, finance, procurement, human resources and personnel, information technology and communications systems, facilities, property, equipment, and other material resources, security for personnel and material resources, identification and tracking of performance measures relating to responsibilities of the department.
Sec. 103(a)(7) Establishes not to exceed (nte) four assistant secretaries as PAS positions. Sec. 103(d)(2) Establishes nte eight assistant secretaries, appointed by President and not subject to confirmation (PA). Sec.412(a)(2) Establishes Assistant Secretary of the Bureau of Border Security reporting to the Under Secretary [Not clear if this is one of those specified in 103(a)(7), 103(d)(2), or neither.]	Sec. 105. Establishes assistant secretaries, nte five (not including two assistant secretaries identified below), as PAS positions. General responsibilities will be described by President when submitting nomination; functions will then be assigned as Secretary determines appropriate. Sec. 1104 (a) Establishes Assistant Secretary for Immigration Affairs within the Bureau of Immigration Services, appointed by Secretary in consultation with the Under Secretary of Immigration Affairs and reporting to the Under Secretary, to be compensated at Level IV of the Executive Schedule. Responsibilities identified under the same section. Sec. 1105 (a) Establishes Assistant Secretary for Enforcement and Border Affairs within the Bureau of Enforcement and Border Affairs,

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	appointed by Secretary in consultation with the Under Secretary of Immigration Affairs and reporting to the Under Secretary, to be compensated at Level IV of the Executive Schedule. Responsibilities identified under the same section.
Sec. 103(a)(8) Chief Financial Officer position created as PAS position. Procedure for appointment of CFO akin to that for existing positions under the CFO Act of 1990 (see adjacent entry). Sec. 103(e) Performance of specific functions. [CFO included] “shall perform the functions specified by law for the official’s office or prescribed by the Secretary.” [CFO apparently to be position created de novo, not formally under Chapter 9 of Title 31.] Sec. 421(e) Establishes Chief Budget Officer for the Bureau of Citizenship and Immigration Services in the Department of Justice. Responsibilities are identified in the same section.	Sec. 107(a) Chief Financial Officer position created, to be appointed or designated as prescribed in sec. 901(a)(1) of 31 U.S.C. (as for existing CFOs in cabinet departments: CFO to be nominated by President and confirmed by Senate, or designated from among agency officials so appointed.) Sec. 107(b) Chief Financial Officer in DHS. Technical and conforming amendment to bring position fully under Chapter 9 of 31 USC, with same authority and functions as for other agency CFOs, and with creation of a Deputy Chief Financial Officer in DHS. Sec. 1103 Establishes a Chief Financial Officer for the Directorate of Immigration Affairs as a career-reserved Senior Executive Service (SES) position, with authorities and functions prescribed in 31 U.S.C. 901(a)(1), reporting to the Under Secretary of the Directorate, and with responsibilities identified in the same section. Although established as an SES position, the position is to be compensated at Level V of the Executive Schedule. Also establishes Deputy Chief Financial Officer under 31 U.S.C. 903. Sec. 1104 Establishes a Chief Budget Officer for the Bureau of Immigration Services, under the authority of the Chief Financial Officer of the Directorate, with responsibility for monitoring and supervising all financial activities of the bureau. Sec. 1105 Establishes a Chief Budget Officer for the Bureau of Enforcement and Border Affairs, under the authority of the Chief Financial Officer of the Directorate, with responsibility for monitoring and supervising all financial activities of the bureau.

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Sec. 103(b) Establishes Inspector General (IG) – appointed under provisions of IG Act of 1978 (PAS position). Sec. 701 Gives Secretary greater authority, direction, and control over the IG in certain areas; allows the Secretary to prohibit certain investigations under certain circumstances; requires the Secretary notify the IG and the IG transmit that notification, with comment, to the President of the Senate, the Speaker of the House, and appropriate committees and subcommittees of Congress; provides that the Secretary’s prohibition authority does not limit the right of Congress or congressional committees to information; and specifically provides for IG oversight of internal investigations by the office of Internal Affairs of the U.S. Customs Service and the Office of Inspections of the U.S. Secret Service. Sec. 815 Provides for continuity between prior IG and new department IG. Sec. 901 Provides conforming and technical amendments for the Inspector General Act of 1978.	Sec. 106. Establishes Inspector General (IG) as PAS position under the provisions of Inspector General Act of 1978, as amended by this Act. Directs IG to designate an official to review information and receive complaints regarding alleged civil rights and civil liberties abuses by the department, to publicize such a process, and to report to Congress semi-annually on implementation of this function, findings and expenditures. Gives Secretary greater authority, direction, and control over the IG in certain areas; allows Secretary to prohibit certain investigations under certain circumstances; and requires Secretary notify the IG and the IG transmit that notification, with comment, to the President of the Senate, the Speaker of the House, the Senate Governmental Affairs Committee, the House Committee on Government Reform and other appropriate committees and subcommittees of Congress. Provides for the interaction between IG and other offices performing internal investigation and auditing functions, including assignment to the IG of oversight responsibility for internal investigations and audits by any other office in the department; communication of the activities of other offices to the IG; authority of the IG to initiate other audits and investigations; provision of notice of such investigations to other offices; and provisions for informing Congress.
Sec. 103(c) Establishes Commandant of the Coast Guard, appointed as provided in 14 U.S.C. 44 (PAS position), with duties specified in 14 U.S.C. 2.. Reports directly to the Secretary. Sec. 402(2) Stipulates Coast Guard will be a distinct entity.	Sec. 131(c)(2) Stipulates Coast Guard will be a distinct entity. Sec. 131(e)(6) Provides that the Commandant will report directly to the Secretary.
Sec. 103(d)(1) Establishes General Counsel as PA position and as chief legal officer of the department. Sec. 421(d) Establishes a General Counsel for the Bureau of Citizenship and Immigration Services in the Department of Justice. Responsibilities are identified in the same section.	Sec. 109. Establishes General Counsel as a PAS position. Directs General Counsel to serve as the chief legal officer of the department; provide legal assistance to the Secretary concerning the programs and policies of the department; and advise and assist the Secretary in carrying out the responsibilities his or her responsibilities. Sec. 1103 Establishes General Counsel for the Directorate of Immigration Affairs, appointed by

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	the Secretary in consultation with the Under Secretary with responsibilities identified in the same section. To be compensated at Executive Schedule Level V.
Sec. 103(d)(3) Establishes Director of Secret Service as PA position. Sec. 711 Maintains the U.S. Secret Service as a “distinct entity” with the department.	Sec. 138 Maintains U.S. Secret Service as a “distinct entity” within the department.
Sec. 103(d)(4) Establishes Chief Information Officer (CIO) as a PA position. Sec. 603. CIO reports to Secretary or other department officer as Secretary may direct.	Sec. 108. Chief Information Officer, designated as prescribed under 44 U.S.C. 3506(a)(2)(A)
Sec. 205 Provides that the Secretary will appoint a “senior official as Privacy Officer, with responsibilities identified in Sec. 205.	Sec. 111 Establishes Privacy Officer, to be appointed by the Secretary, with responsibilities identified in sec. 111(b).
Sec. 412(b) Establishes Chief of Policy and Strategy for the Bureau of Border Security. Responsibilities identified in the same section. Sec. 421(c) Establishes a Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services in the Department of Justice. Responsibilities are identified in the same section.	Sec. 1103 Establishes Chief of Policy of the Directorate of Immigration Affairs as a Senior Executive Service Position under 5 U.S.C. 5382 with responsibilities identified under the same section.
Sec. 412(c) Establishes Citizenship and Immigration Services Liaison for the Bureau of Border Security. Responsibilities identified in the same section.	
Sec. 421(a) Establishes an Assistant Attorney General for the Bureau of Citizenship and Immigration Services in the Department of Justice. Responsibilities are identified in the same section. Additional responsibilities are identified in secs. 423 and 424.	Sec. 1103 Establishes Under Secretary for Immigration Affairs to be appointed in accordance with sec. 103(c) of the Immigration and Nationality Act with responsibilities described in the same section.
Sec. 421(f) Establishes a Chief of Congressional, Intergovernmental, and Public Affairs for the Bureau of Citizenship and Immigration Services in the Department of Justice. Responsibilities are identified in the same section.	Sec. 1103 Establishes Chief of Congressional, Intergovernmental, and Public Affairs of the Directorate of Immigration Affairs as a Senior Executive Service Position under 5 U.S.C. 5382 with responsibilities identified under the same

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	section.
Sec. 421(g) Establishes a Border Security Liaison for the Bureau of Citizenship and Immigration Services in the Department of Justice. Responsibilities are identified in the same section.	
Sec. 421(h) Establishes a Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services in the Department of Justice. Responsibilities are identified in the same section.	
Sec. 422 Establishes a Citizenship and Immigration Services Ombudsman in the Department of Justice. Responsibilities are identified in the same section.	Sec. 1106 Establishes Ombudsman for the Directorate of Immigration Affairs, appointed by the Secretary in consultation with the Under Secretary and reporting to the Under Secretary, with responsibilities identified in the same section. To be compensated at the same rate as the highest rate of basic pay under the SES or at a rate set by the Secretary in accordance with 5 U.S.C. 9503.
Sec. 425 Establishes Director of the Office of Immigration Statistics in the Bureau of Justice Statistics at the Justice Department, appointed by the Attorney General. Responsibilities are identified in the same section.	Sec. 1107 Establishes Director of the Office of Immigration Statistics for the Directorate of Immigration Affairs, appointed by the Secretary in consultation with the Under Secretary, with responsibilities identified in the same section.
Sec. 451 (b) Establishes Commissioner of Customs as PAS position, to be compensated at Level III of the Executive Schedule. Responsibilities are identified in the succeeding sections.	Sec. 131(c)(1) Places the Customs Service in the Directorate of Border and Transportation Protection as a “distinct entity.”
Sec. 604 Establishes Director of the Office of Civil Rights and Civil Liberties. Responsibilities identified in the same section.	Sec. 110. Establishes Civil Rights Officer as a PAS position, with responsibilities identified in sec. 110(b).
Sec. 769 Establishes Counternarcotics Officer, appointed as “a senior official” by the Secretary. Responsibilities identified in the same section.	
Sec. 770 Establishes Director of the Office of International Affairs to be appointed by the Secretary; responsibilities identified in same section.	Sec. 113 Establishes Director of the Office of International Affairs to be appointed by the Secretary; responsibilities identified in sec. 113(b).

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Sec. 777 Establishes Office for State and Local Government Coordination within the Office of the Secretary.	Sec. 137(c)(1)(A) Establishes Chief Homeland Security Liaison Officer, appointed by the Secretary, to coordinate activities of Homeland Security Liaison Officers and prepare annual report as specified in sec. 137(c)(1)(B). (Liaisons to state and local governments.)
Sec. 1006 Establishes Executive Secretary of Homeland Security Council as PA position to be compensated at a rate nte the rate for the Executive Secretary of the National Security Council.	
	Sec. 112. Chief Human Capital Officer. The Secretary would appoint or designate a Chief Human Capital Officer (CHCO) who would advise and assist the Secretary and department officers in ensuring that the workforce of the department has the necessary skills and training, and that the recruitment and retention policies of the department allow it to attract and retain a highly qualified workforce, in accordance with all applicable laws and requirements, to enable the department to achieve its missions. Seven additional CHCO responsibilities are identified in sec. 112(b).
	Sec. 152(a) Establishes Director of the National Clearinghouse on Emergency Preparedness, with responsibilities identified in Sec. 152(c).
	Sec. 166 Establishes Director of the Bioterrorism Preparedness and Response Division of the Centers for Disease Control, to be appointed by the Director of the Centers for Disease Control in consultation with the Secretaries of Health and Human Services and Homeland Security.
	Sec. 171(i) Instructs the Director of the Office of Management and Budget to designate, with the President's approval, a "principal officer" to carry out duties related to the interoperability of information systems, as described in other subsections of sec. 171.
	Sec. 183(c) During the transition, pending the confirmation process, the President may designate any PAS position-holder to continue

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	until the office is filled. Compensation is also specified. Vacancy Act provisions are applicable (5 U.S.C. 3346).
	Sec. 183(d) Under this act, present office holders do not necessarily need to be reconfirmed if their new positions are equivalent to the old ones.
	Sec. 201 Establishes Director of the National Office for Combating Terrorism as PAS position, in the Executive Office of the President, to be compensated at Executive Schedule Level I, with responsibilities identified in sec. 201 (c).
	Sec. 1302 Establishes Director of the Agency for Immigration Hearings and Appeals within the Department of Justice (DOJ) as a PAS position, with authority and responsibilities identified in the same section. Included is the power to appoint inferior officers.
	Sec. 1103 Establishes Under Secretary for Immigration Affairs to be appointed in accordance with sec. 103(c) of the Immigration and Nationality Act with responsibilities described in the same section.
	Sect. 1304 Establishes Chief Immigration Judge in the Agency for Immigration Hearings and Appeals in DOJ, appointed by the Director, with qualifications, duties, authority, and jurisdiction identified in the same section.
	Sec. 1305 Establishes Chief Administrative Hearing Officer in the Agency for Immigration Hearings and Appeals in DOJ, with duties identified in the same section.
	Sec. 2102(a) Creates, for each federal agency in 31 U.S.C. 901(b)(1) and (2), a Chief Human Capital Officer, appointed by the head of the agency, with responsibilities, authorities, and functions identified in the same section. (Pay level is not identified.)

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Compensation	
Sec. 902 Provides that appointed officials will be compensated on the Executive Schedule as follows: Secretary: Level I Deputy Secretary: Level II Under Secretaries: Level III Assistant Secretaries, General Counsel, Chief Financial Officer, Chief Information Officer, and Inspector General: Level IV	Sec. 114 Provides that Secretary will be compensated at Executive Schedule Level I, the Deputy at Level II, the Under Secretary of Management at Level III, and the Assistant Secretaries of Homeland Security, the Inspector General, the Chief Financial Officer, the Chief Information Officer, and the General Counsel at Level IV. Sec. 140 Provides that each Under Secretary except the Under Secretary for Management will be compensated at Level III of the Executive Schedule. Sec. 1103 Provides that the “Under Secretary of Immigration Affairs, Department of Justice” will be compensated at Executive Schedule Level III. [No provision for the creation of this position.]

Appendix B

Creating a Department of Homeland Security: CRS Experts

Areas of Expertise

Government Organization

- Departmental Structure and Administration
Administrative Structure

Mission and Operations

- Border and Transportation Security
 - Border Patrol and Surveillance
 - Foreign Cooperation
 - Immigration and Foreign Visitors
 - Operational Assets
 - Trade/Imports
 - Transportation Systems
- Catastrophic Terrorism Preparedness and Response
 - Catastrophic Terrorist Threats
 - Coordination with Other Federal Departments
 - Establishing Guidelines for State and Local Efforts
 - Public Health Counter Measures
- Emergency Preparedness and Response
 - Preparedness (state, local and federal
 - Response, Federal
 - Recovery Assistance
- Information Analysis and Infrastructure Protection
 - Threat Assessment
 - Assessing Terrorist Threat Information
 - Analyzing Information: DHS Processes
 - Coordinating and Information Sharing, by Agency
 - Disseminating Information and Warnings about Terrorist Threats
 - Limiting Use of Intelligence Information
 - Critical Infrastructure Security
 - Specific Sectors: Assessing Vulnerabilities, Planning and Implementation
 - Operational Assets
- Additional operations
 - Secret Service

Budget

Budget and Appropriations

Congressional Organization and Procedure

- Legislative Organization and Procedure
- Budget Procedure

Departmental Structure and Administration

Overall structure and organization

Harold Relyea
Specialist in American National Government
7-8679

Fred Kaiser
Specialist in American National Government
7-8682

Administrative structure

Sharon Gressle
Specialist in American National Government
7-8677

• Administrative law judges

Diane Duffy
Legislative Attorney
7-2431

• Advisory bodies

Stephanie Smith
Analyst in American National Government
7-8674

• Financial management

Virginia McMurtry
Specialist in American National Government
7-8678

• Information management

Jeffrey Seifert
Analyst in Information Science and Technology
7-0781

• Inspectors general

Fred Kaiser
Specialist in American National Government
7-8682

Diane Duffy
Legislative Attorney
7-2431

• Personnel, human resource management

Barbara Schwemle
Analyst in American National Government
7-8655

• Collective bargaining

Gail McCallion
Specialist in Social Legislation
7-7758

Jon Shimabukuro
Legislative Attorney
7-7990

- Procurement

Stephanie Smith
Analyst in American National Government
7-8674

Border and Transportation Security

Mission: scope, magnitude, relationship to departmental mission; functions and their interrelationships

Bill Robinson
Senior Specialist in Social Legislation
7-2092

Bill Krouse
Analyst in Social Legislation
7-2225

Border surveillance

- Airports

Bob Kirk
Economic Analyst, Transportation
7-7769

- Airspace

Christopher Bolkcom
Analyst in National Defense
7-2577

- Land borders

Lisa Seghetti
Analyst in Social Legislation
7-4669

Bill Krouse
Analyst in Social Legislation
7-2225

- Seaports

Martin Lee
Specialist in Environmental Policy
7-7260

John Frittelli
Analyst in Transportation
7-7033

- Waterways

Martin Lee
Specialist in Environmental Policy
7-7260

John Frittelli
Analyst in Transportation
7-7033

- Foreign cooperation:

- Canada

Carl Ek
Specialist in International Relations
7-7286

- Mexico

Larry Storrs
Specialist in Latin American Affairs
7-7672

- Other

Francis Miko
Specialist in International Relations
7-7670

Immigration and foreign visitors

- Immigration

Ruth Wasem
Specialist in Social Legislation
7-7342

Lisa Seghetti
Analyst in Social Legislation
7-4669

- Border “look out” systems

Bill Krouse
Analyst in Social Legislation
7-2225

- Illegal entry

Ruth Wasem
Specialist in Social Legislation
7-7342

Lisa Seghetti
Analyst in Social Legislation
7-4669

- Issuing visas

Ruth Wasem
Specialist in Social Legislation
7-7342

- Tracking aliens

Ruth Wasem
Specialist in Social Legislation
7-7342

Lisa Seghetti
Analyst in Social Legislation
7-4669

Operational assets

- Animal and Plant Health Inspection Service
Jean Rawson
Specialist in Agriculture and Food Policy
7-7283
- Coast Guard
Martin Lee
Specialist in Environmental Policy
7-7260
- Customs Service
Bill Krouse
Analyst in Social Legislation
7-2225
- Federal Protective Service
Stephanie Smith
Analyst in American National Government
7-8674
- Immigration and Naturalization Service
Ruth Wasem
Specialist in Social Legislation
7-7342
- State Department, Consular Affairs
Lisa Seghetti
Analyst in Social Legislation
7-4669
- State Department, Consular Affairs
Susan Epstein
Specialist in Foreign Policy and Trade
7-6678
- Transportation Security Administration
Bob Kirk
Economic Analyst, Transportation
7-7769

Trade/Imports

- Agricultural commodity and food inspection
Jean Rawson
Specialist in Agriculture and Food Policy
7-7283
- Customs
Bill Krouse
Analyst in Social Legislation
7-2225

Transportation systems

- Air
Bob Kirk
Economic Analyst, Transportation
7-7769

- Land

Bob Kirk
Economic Analyst, Transportation
7-7769

- Sea

John Frittelli
Analyst in Transportation
7-7033

Catastrophic Terrorism Preparedness and Response

Mission: magnitude, importance, relationship to
departmental mission

P. Royal Shipp
Senior Specialist in Social Legislation
7-1421

Developing a national counter terrorism policy

Eric Fischer
Senior Specialist in Science and Technology
7-7071

Research and development

Jean Knezo
Specialist in Science and Technology Policy
7-6610

Mike Davey
Specialist in Science and Technology
7-7074

Catastrophic terrorist threats

- Biological

Steve Redhead
Specialist in Life Sciences
7-2261

Steve Bowman
Specialist in National Defense
7-7613

Frank Gottron
Analyst in Science and Technology
7-5854

- Chemical

Steve Bowman
Specialist in National Defense
7-7613

Frank Gottron
Analyst in Science and Technology
7-5854

- Drug Safety

Diane Duffy
Legislative Attorney
7-2431

Donna Vogt
Specialist in Life Sciences
7-7285

- Food Safety

Donna Vogt
Specialist in Life Sciences
7-7285

- Nuclear/Radiological

Dan Morgan
Analyst in Science and Technology
7-5849

Jon Medalia
Specialist in National Defense
7-7632

Coordinating with other federal departments

- Dept. of Defense

Steve Bowman
Specialist in National Defense
7-7613

- Dept. of Energy

Dan Morgan
Analyst in Science and Technology
7-5849

- Dept. of Health and Human Services

Richard Price
Specialist in Social Legislation
7-7370

- Dept. of Veterans Affairs

Denny Snook
Specialist in Social Legislation
7-7314

Establishing guidelines for state and local efforts

Denny Snook
Specialist in Social Legislation
7-7314

Public health counter measures

- Biological and biomedical research

Eric Fischer
Senior Specialist in Science and Technology
7-7071

Steve Redhead
Specialist in Life Sciences
7-2261

- Infectious disease (including vaccines) R&D

Judy Johnson
Specialist in Life Sciences
7-7077

- Quarantine and isolation authority

Angie Welborn
Legislative Attorney
7-0831

- Public Health Service

Richard Price
Specialist in Social Legislation
7-7370

Pam Smith
Analyst in Life Sciences
7-7048

Emergency Preparedness and Response

Mission, overview of functions/structures

Keith Bea
Specialist in American National Government
7-8672

Linda-Jo Schierow

Specialist in Environmental Policy
7-7279

Challenges/risk assessment

Rob Buschmann
Analyst in American National Government
7-8849

Government finance

Steve Maguire
Economic Analyst, Public Finance
7-7841

Preparedness (state, local and federal)

- Preparedness training and training evaluation

Ben Canada
Analyst in American National Government
7-0632

- Grant programs for first responders, consolidating federal authority

Ben Canada
Analyst in American National Government
7-0632

- Firefighters

Len Kruger
Specialist in Science and Technology
7-7070
- Police

Bill Ellis
Senior Specialist in American National Government and Public Administration
7-6928
- Public health personnel

Pam Smith
Analyst in Life Sciences
7-7048
- Communications, interoperability

Steve Redhead
Specialist in Life Sciences
7-2261
- Federal entities, preparedness, dismissals and evacuations

Linda Moore
Analyst in Telecommunications and Technology Policy
7-5853
- District of Columbia preparedness

Elaine Halchin
Analyst in American National Government
7-0646
- District of Columbia preparedness

Eugene Boyd
Analyst in American National Government
7-8689

Response, federal

- Disaster Emergency Support Teams

Keith Bea
Specialist in American National Government
7-8672
- Metropolitan Medical Response System

Bill Krouse
Analyst in Social Legislation
7-2225
- Metropolitan Medical Response System

Pam Smith
Analyst in Life Sciences
7-7048
- National Disaster Medical System

Steve Redhead
Specialist in Life Sciences
7-2261
- Strategic National Stockpile (National Pharmaceutical Stockpile)

Pam Smith
Analyst in Life Sciences
7-7048
- Coordinating other federal response assets

- HHS public health assets
Pam Smith
Analyst in Life Sciences
7-7048

Steve Redhead
Specialist in Life Sciences
7-2261
- National Guard
Bob Goldich
Specialist in National Defense
7-7633
- National Guard WMD Civil Support Teams
Steven Bowman
Specialist in National Defense
7-7613
- Nuclear emergency response [NIRT]
Jon Medalia
Specialist in Energy Policy
7-7632

Recovery assistance

Ben Canada
Analyst in American National Government
7-0632

- Insurance protection
Rawle King
Analyst in Industrial Economics
7-5975

Roy Woodall²
Consultant
7-6103
- Victim assistance
Bill Ellis
Senior Specialist in American National Government and Public Administration
7-6928

Information Analysis and Infrastructure Protection Threat Assessment

Mission: magnitude, importance, relationship to departmental mission

Dick Best
Specialist in National Defense
7-7607

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Elizabeth Bazan
Legislative Attorney
7-6190

Bill Krouse
Analyst in Social Legislation
7-2225

Accessing terrorist threat information

- From intelligence agencies

Dick Best
Specialist in National Defense
7-7607

- From law enforcement agencies

Bill Krouse
Analyst in Social Legislation
7-2225

Analyzing information: DHS processes

Dick Best
Specialist in National Defense
7-7607

Limiting use of intelligence information

- Establishing rules, role of CIA

Dick Best
Specialist in National Defense
7-7607

- Use of “raw intelligence” in DHS

Dick Best
Specialist in National Defense
7-7607

- Use in judicial proceedings

Elizabeth Bazan
Legislative Attorney
7-6190

Disseminating information and warnings about terrorist threats

Bill Krouse
Analyst in Social Legislation
7-2225

Coordinating and information sharing, by agency

- CIA

Dick Best
Specialist in National Defense
7-7607

- FBI

Bill Krouse
Analyst in Social Legislation
7-2225

Elizabeth Bazan
Legislative Attorney
7-6190

- NSA

Dick Best
Specialist in National Defense
7-7607

- State and local law enforcement agencies

David Cavanagh³
Consultant
7-4896

Information Analysis and Infrastructure Protection Critical Infrastructure Security

Mission: magnitude, importance, relationship to departmental mission

Michael Davey
Specialist in Science and Technology
7-7074

Jack Moteff
Specialist in Science and Technology
7-1435

Policy, organization, and operations - across all infrastructures

Michael Davey
Specialist in Science and Technology
7-7074

Jack Moteff
Specialist in Science and Technology
7-1435

Specific sectors: assessing vulnerabilities, planning and implementation

- Agriculture

Jean Jones
Specialist in Agriculture and Food Policy
7-7331

- Banking and finance

Barbara Miles
Specialist in Financial Institutions
7-7804

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- Chemical
Linda-Jo Schierow
Specialist in Environmental Policy
7-7279
- Defense industry
Daniel Else
Analyst in National Defense
7-4996
- Emergency systems
Linda Moore
Analyst in Telecommunications and Technology Policy
7-5853
- Energy
Carl Behrens
Specialist in Energy Policy
7-8303
- Food
Jean Jones
Specialist in Agriculture and Food Policy
7-7331
- Health services
Paul Irwin
Specialist in Social Legislation
7-7573
- Information networks and telecommunications
Jack Moteff
Specialist in Science and Technology
7-1435
- E-government
Jeff Seifert
Analyst in Information Science and Technology
7-0781
- National monuments and icons
Carol Hardy-Vincent
Specialist in Natural Resources Policy
7-8651
- Postal and shipping
Nye Stevens
Specialist in American National Government
7-0208
- Transportation
John Fischer
Specialist in Transportation
7-7766
- Airports
Bob Kirk
Economic Analyst, Transportation
7-7769

Dan Morgan
Analyst in Science and Technology
7-5849

- Amtrak/Transit
Randy Peterman
Analyst in Transportation
7-3267

- Pipeline
Paul Rothberg
Specialist in Science and Technology
7-7012

- Ports/Waterways
John Frittelli
Analyst in Transportation
7-7033

- Railroads (freight)
John Frittelli
Analyst in Transportation
7-7033

- Water
Claudia Copeland
Specialist in Resources and Environmental Policy
7-7227

- Drinking
Mary Tiemann
Specialist in Environmental Policy
7-5937

- Resources
Betsy Cody
Specialist in Natural Resources Policy
7-7229

Operational assets

- Critical Infrastructure Assurance Office (from Department of Commerce)
- Computer Security Division (from NIST)
- Federal Computer Incident Response Center (from GSA)
- National Communications System (from Department of Defense)
- National Infrastructure Protection Center (from the FBI)
- National Infrastructure Simulation and Analysis Center (from Department of Energy)

Jack Moteff
Specialist in Science and Technology
7-1435

Secret Service

Fred Kaiser
Specialist in American National Government
7-8682

Budget and Appropriations

Homeland Security	Paul Irwin Specialist in Social Legislation 7-7573
Agriculture	Ralph Chite Specialist in Agricultural Policy 7-7296
Commerce, Justice, State, and the Judiciary	Susan Epstein Specialist in Foreign Policy and Trade 7-6678
Defense	Stephen Daggett Specialist in National Defense 7-7642
	Amy Belasco ⁴ Consultant 7-7627
District of Columbia	Eugene Boyd Analyst in American National Government 7-8689
Energy and Water	Carl Behrens Specialist in Energy Policy 7-8303
	Marc Humphries Analyst in Energy Policy 7-7264
Foreign Operations	Larry Nowels Specialist in Foreign Affairs 7-7645
Interior	Carol Hardy Vincent Specialist in Natural Resources Policy 7-8651

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Susan Boren
Specialist in Social Legislation
7-6899

Labor, HHS, and Education

Paul Irwin
Specialist in Social Legislation
7-7573

Legislative Branch

Paul Dwyer
Specialist in American National Government
7-8668

Military Construction

Daniel H. Else
Analyst in National Defense
7-4996

Transportation

Randy Peterman
Analyst in Transportation
7-3267

John Frittelli
Analyst in Transportation
7-7033

Treasury, Postal Service, Executive Office of the President, and General Government

Sharon Gressle
Specialist in American National Government
7-8677

VA, HUD, and Independent Agencies

Richard Bourdon
Analyst in Housing
7-7806

Denny Snook
Specialist in Social Legislation
7-7314

Congressional Organization and Procedure

Legislative organization and procedure

Judy Schneider
Specialist in American National Government
7-8664

Budget procedure

Bob Keith
Specialist in American National Government
7-8659