

110TH CONGRESS
1ST SESSION

S. 345

To establish a Homeland Security and Neighborhood Safety Trust Fund and refocus Federal priorities toward securing the Homeland, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2007

Mr. REID (for Mr. BIDEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish a Homeland Security and Neighborhood Safety Trust Fund and refocus Federal priorities toward securing the Homeland, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Homeland Security
5 Trust Fund Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) In 2002, an independent, bipartisan com-
9 mission, the National Commission on Terrorist At-

1 tacks Upon the United States (in this section re-
2 ferred to as the “Commission”), was established
3 under title VI of Public Law 107–306 to prepare a
4 full and complete account of the circumstances sur-
5 rounding the September 11, 2001, terrorist attacks,
6 including preparedness for and the immediate re-
7 sponse to the attacks.

8 (2) The Commission was also tasked with pro-
9 viding recommendations designed to guard against
10 future attacks against the United States.

11 (3) The Commission held 12 public hearings to
12 offer a public dialogue about the Commission’s goals
13 and priorities, sought to learn about work already
14 completed, and the state of current knowledge, all in
15 order to identify the most important issues and
16 questions requiring further investigation.

17 (4) The Commission was widely praised for its
18 thorough investigation and the bi-partisan nature of
19 its proceedings.

20 (5) On July 22, 2004, the Commission released
21 its final report that set out the events leading to the
22 attacks on September 11th, a chilling minute-by-
23 minute account of that tragic day, and, more impor-
24 tantly, issued 41 recommendations to better prepare

1 the United States to protect against future terrorist
2 attacks.

3 (6) While the Commission was officially dis-
4 solved, the Commissioners stayed together to create
5 the 9/11 Public Discourse Project in order to push
6 for the implementation of those recommendations.

7 (7) On December 5, 2005, the Commissioners
8 released a report card evaluating the progress in im-
9 plementing those recommendations.

10 (8) The Commissioners issued very few A's and
11 B's and issued 12 D's and 5 failing grades.

12 (9) The failures identified by the Commis-
13 sioners' report card were across the board, ranging
14 from transportation security, to infrastructure pro-
15 tection and government reform.

16 (10) Specifically, the Commissioners stated that
17 "few improvements have been made to the existing
18 passenger screening system since right after 9/11.
19 The completion of the testing phase of TSA's pre-
20 screening program for airline passengers has been
21 delayed. A new system, utilizing all names on the
22 consolidated terrorist watch list, is therefore not yet
23 in operation."

24 (11) The Commissioners also found that
25 "... No risk and vulnerability assessments actually

1 made; no national priorities established; no rec-
2 ommendations made on allocation of scarce re-
3 sources. . . . It is time that we stop talking about
4 setting priorities and actually set some.”.

5 (12) The Commission issued a grade of D on
6 checked bag and cargo screening measures, stating
7 that “improvements have not been made by the Con-
8 gress or the administration. Progress on implemen-
9 tation of in-line screening has been slow. The main
10 impediment is inadequate funding.”.

11 (13) With regard to information sharing and
12 technology, the Commission noted that “there has
13 been no systematic diplomatic efforts to share ter-
14 rorist watch lists, nor has Congress taken a leader-
15 ship role in passport security . . .” and that “there
16 remain many complaints about lack of information
17 sharing between federal authorities and state and
18 local level officials.”.

19 (14) The Administration has failed to focus on
20 prevention here at home by abandoning our first line
21 of defense against terrorism—local law enforcement.

22 (15) In the President’s fiscal year 2006 budget
23 request, the President requested a cut of over
24 \$2,000,000,000 in guaranteed assistance to law en-
25 forcement.

1 (16) According to the International Association
2 of Chiefs of Police, this decision represents a fun-
3 damentally flawed view of what is needed to prevent
4 domestic terror attacks.

5 (17) The Council on Foreign Relations released
6 a report entitled, “Emergency First Responders:
7 Drastically Underfunded, Dangerously Unprepared”,
8 in which the Council found that “America’s local
9 emergency responders will always be the first to con-
10 front a terrorist incident and will play the central
11 role in managing its immediate consequences. Their
12 efforts in the first minutes and hours following an
13 attack will be critical to saving lives, establishing
14 order, and preventing mass panic. The United
15 States has both a responsibility and a critical need
16 to provide them with the equipment, training, and
17 other resources necessary to do their jobs safely and
18 effectively.”.

19 (18) The Council further concluded that many
20 State and local emergency responders, including po-
21 lice officers and firefighters, lack the equipment and
22 training needed to respond effectively to a terrorist
23 attack involving weapons of mass destruction.

24 (19) Current first responder funding must be
25 increased to help local agencies create counter-ter-

1 rorism units and assist such agencies to integrate
2 community policing models with counter-terror ef-
3 forts.

4 (20) First responders still do not have adequate
5 spectrum to communicate during an emergency.
6 Congress finally passed legislation forcing the net-
7 works to turn over spectrum, but the date was set
8 for February 2008. This is unacceptable, this spec-
9 trum should be turned over immediately.

10 (21) The Federal Government has a responsi-
11 bility to ensure that the people of the United States
12 are protected to the greatest possible extent against
13 a terrorist attack, especially an attack that utilizes
14 nuclear, chemical, biological, or radiological weapons,
15 and consequently, the Federal Government has a
16 critical responsibility to address the equipment,
17 training, and other needs of State and local first re-
18 sponders.

19 (22) To echo the sentiments of the National
20 Commission on Terrorist Attacks upon the United
21 States, “it is time that we stop talking about setting
22 priorities and actually set some.”.

23 (23) The cost of fully implementing all 41 rec-
24 ommendations put forth by the Commission and the
25 common sense steps to secure the homeland rep-

1 resents less than 1 year of President Bush’s tax cuts
2 for millionaires.

3 (24) By investing 1 year of the tax cuts for mil-
4 lionaires into a trust fund to be invested over the
5 next 5 years, the Federal Government can imple-
6 ment the Commission’s recommendations and make
7 great strides towards making our Nation safer.

8 (25) The Americans making more than
9 \$1,000,000 understand that our country changed
10 after 9/11, yet they have not been asked to sacrifice
11 for the good of the Nation.

12 (26) In this Act, we call on the patriotism of
13 such Americans by revoking 1 year of their tax cut
14 and investing the resulting revenues in the security
15 of our neighbors and families.

16 **SEC. 3. DEFINITIONS.**

17 In this Act—

18 (1) TRUST FUND.—The term “Trust Fund”
19 means the Homeland Security and Neighborhood
20 Safety Trust Fund established under section 4.

21 (2) COMMISSION.—The term “Commission”
22 means the National Commission on Terrorist At-
23 tacks upon the United States, established under title
24 VI of the Intelligence Authorization Act for Fiscal
25 Year 2003 (Pub. Law 107–306; 6 U.S.C. 101 note).

1 **SEC. 4. HOMELAND SECURITY AND NEIGHBORHOOD SAFE-**
2 **TY TRUST FUND.**

3 (a) ESTABLISHMENT OF TRUST FUND.—There is es-
4 tablished in the Treasury of the United States a trust fund
5 to be known as the “Homeland Security and Neighbor-
6 hood Safety Trust Fund”, consisting of such amounts as
7 may be appropriated or credited to the Trust Fund.

8 (b) RULES REGARDING TRANSFERS TO AND MAN-
9 AGEMENT OF TRUST FUND.—For purposes of this sec-
10 tion, rules similar to the rules of sections 9601 and 9602
11 of the Internal Revenue Code of 1986 shall apply.

12 (c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—
13 Amounts in the Trust Fund shall be available, as provided
14 by appropriation Acts, for making expenditures for fiscal
15 years 2007 through 2011 to meet those obligations of the
16 United States incurred which are authorized under section
17 5 of this Act for such fiscal years.

18 (d) SENSE OF THE SENATE.—It is the sense of the
19 Senate that the Committee on Finance of the Senate
20 should report to the Senate not later than 30 days after
21 the date of the enactment of this Act legislation which—

22 (1) increases revenues to the Treasury in the
23 amount of \$53,300,000,000 during taxable years
24 2007 through 2011 by reducing scheduled and exist-
25 ing income tax reductions enacted since taxable year

1 2001 with respect to the taxable incomes of tax-
2 payers in excess of \$1,000,000, and

3 (2) appropriates an amount equal to such reve-
4 nues to the Homeland Security and Neighborhood
5 Safety Trust Fund.

6 **SEC. 5. PREVENTING TERROR ATTACKS ON THE HOME-**
7 **LAND.**

8 (a) **AUTHORIZATION OF APPROPRIATIONS FOR SUP-**
9 **PORTING LAW ENFORCEMENT.**—There are authorized to
10 be appropriated from the Trust Fund—

11 (1) \$1,150,000,000 for fiscal years 2007
12 through 2011 for the Office of Community Oriented
13 Policing Services for grants to State, local, and trib-
14 al law enforcement to hire officers, purchase tech-
15 nology, conduct training, and to develop local
16 counter-terrorism units; and

17 (2) \$900,000,000 for each of the fiscal years
18 2007 through 2011 for the Justice Assistance
19 Grant.

20 (b) **RESPONDING TO TERRORIST ATTACKS AND NAT-**
21 **URAL DISASTERS.**—

22 (1) **AUTHORIZATION OF APPROPRIATIONS.**—
23 There are authorized to be appropriated from the
24 Trust Fund—

1 (A) \$1,000,000,000 for each of fiscal years
2 2007 through 2011 to the Office of Community
3 Oriented Policing Services working with the De-
4 partment of Homeland Security to provide
5 grants to enhance State and local government
6 interoperable communications efforts, including
7 interagency planning and purchasing equip-
8 ment;

9 (B) \$500,000,000 for each of fiscal years
10 2007 through 2011 for the Office of Domestic
11 Preparedness for Fire Act Grants; and

12 (C) \$500,000,000 for each of fiscal years
13 2007 through 2011 for the Office of Domestic
14 Preparedness for SAFER Grants.

15 (2) PREVENTION OF DELAY IN REASSIGNMENT
16 OF 24 MEGAHERTZ FOR PUBLIC SAFETY PUR-
17 POSES.—Section 309(j)(14) of the Communications
18 Act of 1934 (47 20 U.S.C. 309(j)(14)) is amended
19 by adding at the end the following:

20 “(E) Notwithstanding subparagraph (B),
21 the Commission shall not grant any extension
22 under that subparagraph from the limitation of
23 subparagraph (A) with respect to the fre-
24 quencies assigned, under section 337(a)(1), for
25 public safety services. The Commission shall

1 take all actions necessary to complete assign-
2 ment of the electromagnetic spectrum between
3 764 and 776 megahertz, inclusive, and between
4 794 and 806 megahertz, inclusive, for public
5 safety services and to permit operations by pub-
6 lic safety services on those frequencies com-
7 mencing not later than January 1, 2007.”.

8 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR ADDI-**
9 **TIONAL ACTIVITIES FOR HOMELAND SECU-**
10 **RITY.**

11 There are authorized to be appropriated from the
12 Trust Fund such sums as necessary for—

13 (1) the implementation of all the recommenda-
14 tions of the Commission;

15 (2) supporting State and local government law
16 enforcement and first responders, including enhanc-
17 ing communications interoperability and information
18 sharing;

19 (3) ensuring the inspection and scanning of 100
20 percent of cargo containers destined for ports in the
21 United States and to ensure scanning of domestic
22 air cargo;

23 (4) protecting critical infrastructure and other
24 high threat targets such as passenger rail, freight

1 rail, and transit systems, chemical and nuclear
2 plants;

3 (5) enhancing the preparedness of the public
4 health sector to prevent and respond to acts of bio-
5 logical and nuclear terrorism;

6 (6) the development of scanning technologies to
7 detect dangerous substances at United States ports
8 of entry; and

9 (7) other high risk targets of interest, including
10 non-profit organizations.

11 **SEC. 7. HOMELAND SECURITY SPENDING ADVISORY**
12 **BOARD.**

13 (a) ESTABLISHMENT OF BOARD.—There is estab-
14 lished as an independent agency within the Executive
15 branch a Homeland Security Spending Advisory Board
16 (referred to in this section as the “Board”).

17 (b) FUNCTIONS.—

18 (1) IN GENERAL.—The Board shall advise Con-
19 gress and the Department of Homeland Security re-
20 lating to—

21 (A) spending priorities to enhance home-
22 land security, terrorism prevention, and emer-
23 gency response;

24 (B) Federal, State, and local government
25 spending of homeland security funds to ensure

1 that funds are allocated appropriately to best
2 secure the homeland;

3 (C) better procedures for the allocation
4 and distribution of homeland security funds;
5 and

6 (D) potential misuse of homeland security
7 funding; and

8 (E) actions to reduce spending abuse and
9 waste of homeland security funding.

10 (2) REPORTS.—

11 (A) REVIEW AND SUBMISSION.—

12 (i) IN GENERAL.—The Board shall
13 periodically submit, not less than semi-
14 annually, reports to the appropriate con-
15 gressional committees, including the Com-
16 mittees on the Judiciary of the Senate and
17 the House of Representatives, the Com-
18 mittee on Homeland Security and Govern-
19 mental Affairs of the Senate, the Com-
20 mittee on Oversight and Government Re-
21 form of the House of Representatives, the
22 Select Committee on Intelligence of the
23 Senate, and the Permanent Select Com-
24 mittee on Intelligence of the House of Rep-
25 resentatives, the Committee on Homeland

1 Security of the House of Representatives,
2 and to the President.

3 Such reports shall be in unclassified form to the
4 greatest extent possible, with a classified annex
5 where necessary.

6 (ii) CONTENTS.—Not less than 2 re-
7 ports the Board submits each year under
8 clause (i) shall include—

9 (I) a description of the major ac-
10 tivities of the Board during the pre-
11 ceding period;

12 (II) information on the findings,
13 conclusions, and recommendations of
14 the Board resulting from its functions
15 under paragraph (1); and

16 (III) the minority views on any
17 findings, conclusions, and rec-
18 ommendations of the Board resulting
19 from its functions under paragraph
20 (1).

21 (B) INFORMING THE PUBLIC.—The Board
22 shall—

23 (i) make its reports, including its re-
24 ports to Congress, available to the public
25 to the greatest extent that is consistent

1 with the protection of classified informa-
2 tion and applicable law; and

3 (ii) hold public hearings and otherwise
4 inform the public of its activities, as appro-
5 priate and in a manner consistent with the
6 protection of classified information and ap-
7 plicable law.

8 (c) ACCESS TO INFORMATION.—

9 (1) AUTHORIZATION.—If determined by the
10 Board to be necessary to carry out its responsibil-
11 ities under this section, the Board is authorized, to
12 the extent permitted by law, to—

13 (A) have access from any department or
14 agency of the executive branch, or any Federal
15 officer or employee of any such department or
16 agency, to all relevant records, reports, audits,
17 reviews, documents, papers, recommendations,
18 or other relevant material, including classified
19 information consistent with applicable law;

20 (B) interview or take statements from offi-
21 cers of any department or agency of the execu-
22 tive branch;

23 (C) request information or assistance from
24 any State, tribal, or local government; and

1 (D) require, by subpoena issued at the di-
2 rection of a majority of the members of the
3 Board, persons (other than departments, agen-
4 cies, and elements of the executive branch) to
5 produce any relevant information, documents,
6 reports, answers, records, accounts, papers, and
7 other documentary or testimonial evidence.

8 (2) ENFORCEMENT OF SUBPOENA.—In the case
9 of contumacy or failure to obey a subpoena issued
10 under paragraph (1)(D), the United States district
11 court for the judicial district in which the subpoenaed
12 person resides, is served, or may be found may
13 issue an order requiring such person to produce the
14 evidence required by such subpoena.

15 (3) AGENCY COOPERATION.—Whenever infor-
16 mation or assistance requested under subparagraph
17 (A) or (B) of paragraph (1) is, in the judgment of
18 the Board, unreasonably refused or not provided, the
19 Board shall report the circumstances to the head of
20 the department or agency concerned without delay.
21 If the requested information or assistance may be
22 provided to the Board in accordance with applicable
23 law, the head of the department or agency concerned
24 shall ensure compliance with such request.

25 (4) EXCEPTIONS FOR NATIONAL SECURITY.—

1 (A) IN GENERAL.—If the National Intel-
2 ligence Director, in consultation with the Attor-
3 ney General, determines that it is necessary to
4 withhold information requested under para-
5 graph (3) to protect the national security inter-
6 ests of the United States, the head of the de-
7 partment or agency concerned shall not furnish
8 such information to the Board.

9 (B) CERTAIN INFORMATION.—If the Attor-
10 ney General determines that it is necessary to
11 withhold information requested under para-
12 graph (3) from disclosure to protect sensitive
13 law enforcement or counterterrorism informa-
14 tion or ongoing operations, the head of the de-
15 partment or agency concerned shall not furnish
16 such information to the Board.

17 (d) MEMBERSHIP.—

18 (1) MEMBERS.—The Board shall be composed
19 of a full-time chairman and 6 additional members,
20 who shall be appointed by the President by not later
21 than 6 months after the date of the enactment of
22 this Act, by and with the advice and consent of the
23 Senate, which shall move expeditiously following
24 each nomination.

25 (2) QUALIFICATIONS.—

1 (A) IN GENERAL.—Members of the Board
2 shall be selected solely on the basis of their pro-
3 fessional qualifications, achievements, public
4 stature, expertise as described under subpara-
5 graph (B), and relevant experience, and without
6 regard to political affiliation, but in no event
7 shall more than 4 members of the Board be
8 members of the same political party. The Presi-
9 dent shall, before appointing an individual who
10 is not a member of the same political party as
11 the President consult with the leadership of
12 that party, if any, in the Senate and House of
13 Representatives.

14 (B) EXPERTISE.—The Board shall be com-
15 posed of 7 members of whom—

16 (i) each shall have expertise in the
17 area of counter-terrorism, emergency re-
18 sponse, or law enforcement;

19 (ii) 2 shall have experience of holding
20 elected or appointed office in State govern-
21 ment;

22 (iii) 2 shall have experience of holding
23 elected or appointed office in local govern-
24 ment;

1 (iv) 2 shall have experience of holding
2 elected or appointed office in State or local
3 government (which may include a member
4 who meets the requirements of clause (i)
5 or (ii)) who has expertise in law enforce-
6 ment or terrorism prevention.

7 (3) INCOMPATIBLE OFFICE.—An individual ap-
8 pointed to the Board may not, while serving on the
9 Board, be an elected official, officer, or employee of
10 the Federal Government, other than in the capacity
11 as a member of the Board.

12 (4) TERM.—Each member of the Board shall
13 serve a term of 6 years, except that—

14 (A) a member appointed to a term of office
15 after the commencement of such term may
16 serve under such appointment only for the re-
17 mainder of such term;

18 (B) upon the expiration of the term of of-
19 fice of a member, the member shall continue to
20 serve until the member's successor has been ap-
21 pointed and qualified, except that no member
22 may serve under this subparagraph—

23 (i) for more than 60 days when Con-
24 gress is in session unless a nomination to

1 fill the vacancy shall have been submitted
2 to the Senate; or

3 (ii) after the adjournment sine die of
4 the session of the Senate in which such
5 nomination is submitted; and

6 (C) the members initially appointed under
7 this subsection shall serve terms of 2, 3, 4, 5,
8 and 6 years, respectively, from the date of en-
9 actment of this Act, with the term of each such
10 member to be designated by the President.

11 (5) QUORUM AND MEETINGS.—The Board shall
12 meet upon the call of the chairman or a majority of
13 its members. Three members of the Board shall con-
14 stitute a quorum.

15 (e) COMPENSATION AND TRAVEL EXPENSES.—

16 (1) COMPENSATION.—

17 (A) CHAIRMAN ON FULL-TIME BASIS.—If
18 the chairman serves on a full-time basis, the
19 rate of pay for the chairman shall be the annual
20 rate of basic pay in effect for a position at level
21 III of the Executive Schedule under section
22 5314 of title 5, United States Code.

23 (B) CHAIRMAN AND VICE CHAIRMAN ON
24 PART-TIME BASIS.—The chairman, if serving on
25 a part-time basis, and the vice chairman shall

1 be compensated at a rate equal to the daily
2 equivalent of the annual rate of basic pay in ef-
3 fect for a position at level III of the Executive
4 Schedule under section 5314 of title 5, United
5 States Code, for each day during which such of-
6 ficial is engaged in the actual performance of
7 the duties of the Board.

8 (C) MEMBERS.—Each member of the
9 Board shall be compensated at a rate equal to
10 the daily equivalent of the annual rate of basic
11 pay in effect for a position at level IV of the
12 Executive Schedule under section 5315 of title
13 5, United States Code, for each day during
14 which that member is engaged in the actual
15 performance of the duties of the Board.

16 (2) TRAVEL EXPENSES.—Members of the
17 Board shall be allowed travel expenses, including per
18 diem in lieu of subsistence, at rates authorized for
19 persons employed intermittently by the Federal Gov-
20 ernment under section 5703(b) of title 5, United
21 States Code, while away from their homes or regular
22 places of business in the performance of services for
23 the Board.

24 (f) STAFF.—

1 (1) APPOINTMENT AND COMPENSATION.—The
2 chairman, in accordance with rules agreed upon by
3 the Board, shall appoint and fix the compensation of
4 an executive director and such other personnel as
5 may be necessary to enable the Board to carry out
6 its functions, without regard to the provisions of
7 title 5, United States Code, governing appointments
8 in the competitive service, and without regard to the
9 provisions of chapter 51 and subchapter III of chap-
10 ter 53 of such title relating to classification and
11 General Schedule pay rates, except that no rate of
12 pay fixed under this subsection may exceed the
13 equivalent of that payable for a position at level V
14 of the Executive Schedule under section 5316 of title
15 5, United States Code.

16 (2) DETAILEES.—Federal employees may be
17 detailed to the Board without reimbursement from
18 the Board, and such detailee shall retain the rights,
19 status, and privileges of the detailee's regular em-
20 ployment without interruption.

21 (3) CONSULTANT SERVICES.—The Board may
22 procure the temporary or intermittent services of ex-
23 perts and consultants in accordance with section
24 3109 of title 5, United States Code, at rates that do
25 not exceed the daily rate paid a person occupying a

1 position at level IV of the Executive Schedule under
2 section 5315 of such title.

3 (g) SECURITY CLEARANCES.—The appropriate de-
4 partments and agencies of the executive branch shall co-
5 operate with the Board to expeditiously provide Board
6 members and staff with appropriate security clearances to
7 the extent possible under applicable procedures and re-
8 quirements. Promptly upon commencing its work, the
9 Board shall adopt, after consultation with the Secretary
10 of Defense, the Attorney General, and the National Intel-
11 ligence Director, rules and procedures of the Board for
12 physical, communications, computer, document, personnel,
13 and other security in relation to the work of the Board.

14 (h) APPLICABILITY OF CERTAIN LAWS.—

15 (1) FEDERAL ADVISORY COMMITTEE ACT.—The
16 Federal Advisory Committee Act (5 U.S.C. App.)
17 shall not apply with respect to the Board and its ac-
18 tivities.

19 (2) FREEDOM OF INFORMATION ACT.—For pur-
20 poses of section 552 of title 5, United States Code,
21 (commonly referred to as the Freedom of Informa-
22 tion Act), the Board shall be treated as an agency
23 (as that term is defined in section 551(1) of title 5,
24 United States Code).

1 (i) CONSTRUCTION.—Except as otherwise provided in
2 this section, nothing in this section shall be construed to
3 require any consultation with the Board by any depart-
4 ment or agency of the executive branch or any Federal
5 officer or employee, or any waiting period that is required
6 to be observed by any department or agency of the execu-
7 tive branch or any Federal officer or employee, before de-
8 veloping, proposing, or implementing any legislation, law,
9 regulation, policy, or guideline related to efforts to protect
10 the Nation from terrorism.

11 (j) PRESIDENTIAL RESPONSIBILITY.—The Board
12 shall perform its functions within the executive branch and
13 under the general supervision of the President.

14 (k) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated such sums as may be
16 necessary to carry out this section.

○