

DEPARTMENT OF HOMELAND SECURITY CBRNE DEFENSE  
ACT OF 2015

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NOVEMBER 16, 2015.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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Mr. McCAUL, from the Committee on Homeland Security,  
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3875]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3875) to amend the Homeland Security Act of 2002 to establish within the Department of Homeland Security a Chemical, Biological, Radiological, Nuclear, and Explosives Office, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary .....	11
Background and Need for Legislation .....	11
Hearings .....	11
Committee Consideration .....	12
Committee Votes .....	13
Committee Oversight Findings .....	13
New Budget Authority, Entitlement Authority, and Tax Expenditures .....	13
Congressional Budget Office Estimate .....	13
Statement of General Performance Goals and Objectives .....	13
Duplicative Federal Programs .....	13
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	14
Federal Mandates Statement .....	14
Preemption Clarification .....	14
Disclosure of Directed Rule Makings .....	14
Advisory Committee Statement .....	14
Applicability to Legislative Branch .....	14
Section-by-Section Analysis of the Legislation .....	14

Changes in Existing Law Made by the Bill, as Reported .....	21
Additional Views .....	47

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Department of Homeland Security CBRNE Defense Act of 2015”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; Table of contents.  
 Sec. 2. CBRNE Office.  
 Sec. 3. Chemical Division.  
 Sec. 4. Biological Division.  
 Sec. 5. Nuclear Division.  
 Sec. 6. Explosives Division.  
 Sec. 7. Savings provision.  
 Sec. 8. Clerical amendments.

**SEC. 2. CBRNE OFFICE.**

(a) **IN GENERAL.**—The Homeland Security Act of 2002 is amended by adding at the end the following new title:

**“TITLE XXII—CBRNE OFFICE**

**“Subtitle A—Chemical, Biological, Radiological,  
 Nuclear, and Explosives Office**

**“SEC. 2201. CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND EXPLOSIVES OFFICE.**

“(a) **ESTABLISHMENT.**—There is established in the Department a Chemical, Biological, Radiological, Nuclear, and Explosives Office (referred to in this title as the ‘CBRNE Office’). The CBRNE Office shall be comprised of the Chemical Division, the Biological Division, the Nuclear Division, and the Explosives Division. The CBRNE Office may include a Health Division.

“(b) **MISSION OF OFFICE.**—The mission of the CBRNE Office is to coordinate, strengthen, and provide chemical, biological, radiological, nuclear, and explosives (CBRNE) capabilities in support of homeland security.

“(c) **ASSISTANT SECRETARY.**—The Office shall be headed by an Assistant Secretary for the Chemical, Biological, Radiological, Nuclear, and Explosives Office (referred to in this title as the ‘Assistant Secretary’), who shall be appointed by the President by and with the advice and consent of the Senate.

“(d) **RESPONSIBILITIES.**—The Assistant Secretary shall—

“(1) develop, coordinate, and maintain overall CBRNE strategy and policy for the Department;

“(2) develop, coordinate, and maintain for the Department periodic CBRNE risk assessments;

“(3) serve as the primary Department representative for coordinating CBRNE activities with other Federal departments and agencies;

“(4) provide oversight for the Department’s preparedness for CBRNE threats;

“(5) provide support for operations during CBRNE threats or incidents; and

“(6) carry out such other responsibilities as the Secretary determines appropriate, consistent with this title.

“(e) **OTHER OFFICERS.**—The Director of the Chemical Division, the Director of the Biological Division, the Director of the Nuclear Division, and the Director of the Explosives Division shall report directly to the Assistant Secretary.

**“SEC. 2202. COMPOSITION OF THE CBRNE OFFICE.**

“The Secretary shall transfer to the CBRNE Office, the functions, personnel, budget authority, and assets of the following:

“(1) The Office of Health Affairs as in existence on the day before the date of the enactment of this title, including the Chief Medical Officer authorized under section 516, and the National Biosurveillance Integration Center authorized under section 316.

“(2) The Domestic Nuclear Detection Office authorized under title XIX, as in existence on the date before the date of the enactment of this title (and redesignated as the Nuclear Division).

“(3) CBRNE threat awareness and risk assessment activities of the Science and Technology Directorate.

“(4) The CBRNE functions of the Office of Policy and the Office of Operations Coordination.

“(5) The Office for Bombing Prevention of the National Protection and Programs Directorate, as in existence on the day before the date of the enactment of this title.

**“SEC. 2203. HIRING AUTHORITY.**

“In hiring personnel for the CBRNE Office, the Secretary shall have the hiring and management authorities provided in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261), except that the term of appointments for employees under subsection (c)(1) of such section may not exceed five years before granting any extension under subsection (c)(2) of such section.

**“SEC. 2204. GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS AND CONTRACTS.**

“The Assistant Secretary, in carrying out the responsibilities under this title, may distribute funds through grants, cooperative agreements, and other transactions and contracts.

**“SEC. 2205. TERRORISM RISK ASSESSMENTS.**

“(a) TERRORISM RISK ASSESSMENTS.—

“(1) IN GENERAL.—The Assistant Secretary shall, in coordination with relevant Department components and other appropriate Federal departments and agencies, develop, coordinate, and update periodically terrorism risk assessments of chemical, biological, radiological, and nuclear threats.

“(2) COMPARISON.—The Assistant Secretary shall develop, coordinate, and update periodically an integrated terrorism risk assessment that assesses all of the threats referred to in paragraph (1) and, as appropriate, explosives threats, and compares each such threat against one another according to their relative risk.

“(3) INCLUSION IN ASSESSMENT.—Each terrorism risk assessment under this subsection shall include a description of the methodology used for each such assessment.

“(4) UPDATES.—Each terrorism risk assessment under this subsection shall be updated not less often than once every two years.

“(5) PROVISION TO CONGRESS.—The Assistant Secretary shall provide a copy of each risk assessment under this subsection to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate not later than 30 days after completion of each such assessment.

“(b) METHODOLOGY.—In developing the terrorism risk assessments under subsection (a), the Assistant Secretary, in consultation with appropriate Federal departments and agencies, shall—

“(1) assess the proposed methodology to be used for such assessments; and

“(2) consider the evolving threat to the United States as indicated by the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))).

“(c) USAGE.—The terrorism risk assessments required under subsection (a) shall be used to inform and guide allocation of resources for chemical, biological, radiological, and nuclear threat activities of the Department.

“(d) INPUT AND SHARING.—The Assistant Secretary shall, for each terrorism risk assessment under subsection (a)—

“(1) seek input from national stakeholders and other Federal, State, local, tribal, and territorial officials involved in efforts to counter chemical, biological, radiological, and nuclear threats;

“(2) ensure that written procedures are in place to guide the development of such assessments, including for input, review, and implementation purposes, among relevant Federal partners;

“(3) share such assessments with Federal, State, local, tribal, and territorial officials with appropriate security clearances and a need for the information in the classified versions of such assessments; and

“(4) to the maximum extent practicable, make available an unclassified version of such assessments for Federal, State, local, tribal, and territorial officials involved in prevention and preparedness for chemical, biological, radiological, and nuclear events.

**“SEC. 2206. CBRNE COMMUNICATIONS AND PUBLIC MESSAGING.**

“(a) IN GENERAL.—The Secretary, in coordination with the Assistant Secretary, shall develop an overarching risk communication strategy for terrorist attacks and

other high consequence events utilizing chemical, biological, radiological, or nuclear agents or explosives that pose a high risk to homeland security, and shall—

“(1) develop threat-specific risk communication plans, in coordination with appropriate Federal departments and agencies;

“(2) develop risk communication messages, including pre-scripted messaging to the extent practicable;

“(3) develop clearly defined interagency processes and protocols to assure coordinated risk and incident communications and information sharing during incident response;

“(4) engage private and nongovernmental entities in communications planning, as appropriate;

“(5) identify ways to educate and engage the public about CBRNE threats and consequences;

“(6) develop strategies for communicating using social and new media; and

“(7) provide guidance on risk and incident communications for CBRNE events to State, local, tribal, and territorial governments, and other stakeholders, as appropriate.

“(b) **COMMUNICATION DURING RESPONSE.**—The Secretary shall provide appropriate timely, accurate information to the public, governmental partners, the private sector, and other appropriate stakeholders in the event of a suspected or confirmed terrorist attack or other high consequence event utilizing chemical, biological, radiological, or nuclear agents or explosives that pose a high risk to homeland security.

“(c) **REPORTS.**—

“(1) **DEVELOPMENT EFFORTS.**—Not later than 120 days after the date of the enactment of this title, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on current and future efforts of the Department to develop the communication strategy required under subsection (a).

“(2) **FINALIZATION.**—Not later than two years after the date the report required under paragraph (1) is submitted, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate the communication strategy required under subsection (a).

**SEC. 2207. CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND EXPLOSIVES INTELLIGENCE AND INFORMATION SHARING.**

“(a) **IN GENERAL.**—The Under Secretary of Intelligence and Analysis of the Department shall—

“(1) support homeland security-focused intelligence analysis of terrorist actors, their claims, and their plans to conduct attacks involving chemical, biological, radiological, or nuclear materials or explosives against the United States;

“(2) support homeland security-focused intelligence analysis of global infectious diseases, public health, food, agricultural, and veterinary issues;

“(3) support homeland security-focused risk analysis and risk assessments of the homeland security hazards described in paragraphs (1) and (2) by providing relevant quantitative and nonquantitative threat information;

“(4) leverage existing and emerging homeland security intelligence capabilities and structures to enhance prevention, protection, response, and recovery efforts with respect to a chemical, biological, radiological, nuclear, or explosives attack;

“(5) share appropriate information regarding such threats to appropriate State, local, tribal, and territorial authorities, as well as other national biosecurity and biodefense stakeholders; and

“(6) perform other responsibilities, as assigned by the Secretary.

“(b) **COORDINATION.**—Where appropriate, the Under Secretary of Intelligence and Analysis shall coordinate with the heads of other relevant Department components, including the Assistant Secretary, members of the intelligence community, including the National Counter Proliferation Center and the National Counterterrorism Center, and other Federal, State, local, tribal, and territorial authorities, including officials from high-threat areas, to enable such entities to provide recommendations on optimal information sharing mechanisms, including expeditious sharing of classified information, and on how such entities can provide information to the Department.

“(c) **REPORT.**—

“(1) **IN GENERAL.**—Not later than one year after the date of the enactment of this section and annually thereafter, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on—

“(A) the intelligence and information sharing activities under subsections (a) and (b) and of all relevant entities within the Department to prevent, protect against, prepare for, respond to, mitigate, and recover from terrorist attacks and other high consequence events utilizing chemical, biological, radiological, or nuclear agents or explosives that pose a high risk to homeland security; and

“(B) the Department’s activities in accordance with relevant intelligence strategies.

“(2) ASSESSMENT OF IMPLEMENTATION.—Each report required under paragraph (1) shall also include—

“(A) a description of methods established to assess progress of the Office of Intelligence and Analysis in implementing this section; and

“(B) such assessment of such progress.

“(d) DEFINITIONS.—In this section:

“(1) INTELLIGENCE COMMUNITY.—The term ‘intelligence community’ has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

“(2) NATIONAL BIOSECURITY AND BIODEFENSE STAKEHOLDERS.—The term ‘national biosecurity and biodefense stakeholders’ means officials from Federal, State, local, tribal, and territorial authorities and individuals from the private sector who are involved in efforts to prevent, protect against, prepare for, respond to, mitigate, and recover from a biological attack or other phenomena that may have serious health consequences for the United States, including infectious disease outbreaks.”

(b) AFTER ACTION AND EFFICIENCIES REVIEW.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security, acting through the Assistant Secretary for the Chemical, Biological, Radiological, Nuclear, and Explosives Office of the Department of Homeland Security (established pursuant to section 2201 of the Homeland Security Act of 2002, as added by subsection (a) of this section), shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that—

(1) reviews the functions and responsibilities of the Chemical, Biological, Radiological, Nuclear, and Explosives Office of the Department (established pursuant to section 2201 of the Homeland Security Act of 2002, as added by subsection (a) of this section) to identify and eliminate areas of unnecessary duplication;

(2) provides a detailed accounting of the management and administrative expenditures and activities of the Office, including expenditures related to the establishment of the CBRNE Office, such as expenditures associated with the utilization of the Secretary’s authority to award retention bonuses pursuant to Federal law;

(3) identifies any potential cost savings and efficiencies within the CBRNE Office or its divisions; and

(4) identifies opportunities to enhance the effectiveness of the management and administration of the CBRNE Office to improve operational impact and enhance efficiencies.

(c) CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR AND EXPLOSIVES RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Homeland Security shall assess the organizational structure of the management and execution of the Department of Homeland Security’s chemical, biological, radiological, nuclear, and explosives research and development activities, and shall develop and submit to the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate at the time the President submits the budget under section 1105 of title 31, United States Code, for the fiscal year that follows the issuance of the Comptroller General review required pursuant to subsection (d) a proposed organizational structure for the management and execution of such chemical, biological, radiological, nuclear, and explosives research and development activities.

(2) ORGANIZATIONAL JUSTIFICATION.—The Secretary of Homeland Security shall include in the assessment required under paragraph (1) a thorough justification and rationalization for the proposed organizational structure for management and execution of chemical, biological, radiological, nuclear, and explosives research and development activities, including the following:

(A) A discussion of the methodology for determining such proposed organizational structure.

(B) A comprehensive inventory of chemical, biological, radiological, nuclear, and explosives research and development activities of the Department of Homeland Security and where each such activity will be located within or outside such proposed organizational structure.

(C) Information relating to how such proposed organizational structure will facilitate and promote coordination and requirements generation with customers.

(D) Information relating to how such proposed organizational structure will support the development of chemical, biological, radiological, nuclear, and explosives research and development priorities across the Department.

(E) If the chemical, biological, radiological, nuclear, and explosives research and development activities of the Department are not co-located in such proposed organizational structure, a justification for such separation.

(F) The strategy for coordination between the Under Secretary for Science and Technology and the Assistant Secretary for the Chemical, Biological, Radiological, Nuclear, and Explosives Office on chemical, biological, radiological, nuclear, and explosives research and development activities.

(G) Recommendations for necessary statutory changes.

(3) LIMITATION ON ACTION.—The Secretary of Homeland Security may not take any action to reorganize the structure referred to in paragraph (1) unless the Secretary receives prior authorization from the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate permitting any such action.

(d) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND EXPLOSIVES RESEARCH AND DEVELOPMENT ACTIVITIES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the organizational structure of the Department of Homeland Security's management and execution of chemical, biological, radiological, nuclear, and explosives research and development activities.

(2) SCOPE.—The review required under paragraph (1) shall include the following:

(A) An assessment of the organizational structure for the management and execution of chemical, biological, radiological, nuclear, and explosives research and development activities of the Department of Homeland Security, including identification of any overlap or duplication of effort.

(B) Recommendations to streamline and improve the organizational structure of the Department's management and execution of chemical, biological, radiological, nuclear, and explosives research and development activities.

(3) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the review required under this subsection.

(e) DISSEMINATION OF INFORMATION ANALYZED BY THE DEPARTMENT OF HOMELAND SECURITY TO STATE, LOCAL, TRIBAL, AND PRIVATE ENTITIES WITH RESPONSIBILITIES RELATING TO HOMELAND SECURITY.—Paragraph (8) of section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended by striking “and to agencies of State” and all that follows through the period at the end and inserting “to State, local, tribal, territorial, and appropriate private entities with such responsibilities, and, as appropriate, to the public, in order to assist in preventing, protecting against, preparing for, responding to, mitigating, and recovering from terrorist attacks against the United States.”

(f) TECHNICAL AND CONFORMING AMENDMENTS.—The Homeland Security Act of 2002 is amended—

(1) in paragraph (2) of section 103(a) (6 U.S.C. 113(a)), by striking “Assistant Secretary for Health Affairs, the Assistant Secretary for Legislative Affairs, or the Assistant Secretary for Public Affairs,” and inserting “Assistant Secretary for Legislative Affairs or the Assistant Secretary for Public Affairs,”;

(2) in section 302 (6 U.S.C. 182)—

(A) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(B) by inserting after paragraph (12) the following new paragraph:

“(13) collaborating with the Assistant Secretary for the Chemical, Biological, Radiological, Nuclear, and Explosives Office on all chemical, biological, and explosives research and development activities.”;

(3) in subsection (b) of section 307 (6 U.S.C. 187), by adding at the end the following new paragraph:

“(8) CBRNE DEFENSE.—The Director shall coordinate with the Assistant Secretary for the Chemical, Biological, Radiological, Nuclear, and Explosives Office

on all chemical, biological, and explosives research and development activities.”; and

(4) in subsection (c) of section 516 (6 U.S.C. 321e)—

(A) in the matter preceding paragraph (1), by inserting “, including the health impacts of chemical, biological, radiological, and nuclear agents and explosives” after “natural disasters”;

(B) by amending paragraph (2) to read as follows:

“(2) coordinating the Department’s policy, strategy, and preparedness for pandemics and emerging infectious diseases;”;

(C) in paragraph (6), by striking “Under Secretary for Science and Technology” and inserting “Assistant Secretary for the Chemical, Biological, Radiological, Nuclear, and Explosives Office”.

### SEC. 3. CHEMICAL DIVISION.

(a) IN GENERAL.—Title XXII of the Homeland Security Act of 2002, as added by section 2 of this Act, is amended by adding at the end the following new subtitle:

## “Subtitle B—Chemical Division

### “SEC. 2211. CHEMICAL DIVISION.

“(a) ESTABLISHMENT.—There is established in the CBRNE Office a Chemical Division, headed by a Director of the Chemical Division (in this subtitle referred to as the ‘Director’).

“(b) MISSION AND RESPONSIBILITIES.—The Director shall be responsible for coordinating departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing chemical agents that pose a high risk to homeland security, including the following:

“(1) Developing and maintaining the Department’s strategy against chemical threats.

“(2) Serving as the Department representative for chemical threats and related activities with other Federal departments and agencies.

“(3) Providing oversight of the Department’s preparedness, including operational requirements, for chemical threats.

“(4) Enhancing the capabilities of Federal, State, local, tribal, and territorial governments, and private entities as appropriate, against chemical threats.

“(5) Evaluating and providing guidance to Federal, State, local, tribal, and territorial governments, and private entities as appropriate, on detection and communication technology that could be effective in terrorist attacks and other high-consequence events utilizing chemical agents.

“(6) Supporting and enhancing the effective sharing and use of appropriate information generated by the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))), law enforcement agencies, other Federal, State, local tribal, and territorial governments, and foreign governments, on chemical threats.

### “SEC. 2212. DEMONSTRATION PROJECTS.

“(a) IN GENERAL.—The Director may, subject to the availability of appropriations for such purpose, partner with high-risk urban areas or facilities to conduct demonstration projects to enhance, through Federal, State, local, tribal, and territorial governments, and private entities, capabilities of the United States to counter terrorist attacks and other high-consequence events utilizing chemical agents that pose a high risk to homeland security.

“(b) GOALS.—The Director may provide guidance and evaluations for all situations and venues at risk of terrorist attacks and other high-consequence events utilizing chemical agents, such as at ports, areas of mass gathering, and transit facilities, and may—

“(1) ensure all high-risk situations and venues are studied; and

“(2) ensure key findings and best practices are made available to State, local, tribal, and territorial governments and the private sector.

“(c) CONGRESSIONAL NOTIFICATION.—The Director shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate not later than 30 days before initiating a new demonstration project.”.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an assessment of the Department of Homeland Security’s programs and activities related to terrorist attacks and

other high-consequence events utilizing chemical agents that pose a high risk to homeland security.

**SEC. 4. BIOLOGICAL DIVISION.**

Title XXII of the Homeland Security Act of 2002, as added by section 2 of this Act and as amended by section 3 of this Act, is further amended by adding at the end the following new subtitle:

**“Subtitle C—Biological Division**

**“SEC. 2221. BIOLOGICAL DIVISION.**

“(a) ESTABLISHMENT.—There is established in the CBRNE Office a Biological Division, headed by a Director of the Biological Division (in this subtitle referred to as the ‘Director’).

“(b) MISSION AND RESPONSIBILITIES.—The Office shall be responsible for coordinating departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing biological agents that pose a high risk to homeland security, including the following:

“(1) Developing and maintaining the Department’s strategy against biological threats.

“(2) Serving as the Department representative for biological threats and related activities with other Federal departments and agencies.

“(3) Providing oversight for the Department’s preparedness, including operational requirements, for biological threats.

“(4) Enhancing the capabilities of Federal, State, local, tribal, and territorial governments, and private entities as appropriate, against biological threats.

“(5) Supporting and enhancing the effective sharing and use of appropriate information generated by the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))), law enforcement agencies, other Federal, State, local, tribal, and territorial governments, and foreign governments, on biological threats.

“(6) Achieving a biological detection program.

“(7) Maintaining the National Biosurveillance Integration Center, authorized under section 316.”.

**SEC. 5. NUCLEAR DIVISION.**

(a) IN GENERAL.—Title XXII of the Homeland Security Act of 2002, as added by section 2 of this Act and as amended by sections 3 and 4 of this Act, is further amended by adding at the end the following new subtitle:

**“Subtitle D—Nuclear Division**

**“SEC. 2231. NUCLEAR DIVISION.**

“(a) ESTABLISHMENT.—The Secretary shall include within the CBRNE Office the Nuclear Division under title XIX, headed by the Director of the Nuclear Division (in this subtitle referred to as the ‘Director’) pursuant to section 1901.

“(b) MISSION AND RESPONSIBILITIES.—In addition to the responsibilities specified in title XIX, the Director shall also be responsible for coordinating departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing nuclear or other radiological materials, and for coordinating Federal efforts to detect and protect against the unauthorized importation, possession, storage, transportation, development, or use of a nuclear explosive device, fissile material, or radiological material in the United States, and to protect against an attack using such devices or materials against the people, territory, or interests of the United States, in accordance with title XIX.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Title XIX of the Homeland Security Act of 2002 is amended—

(1) in the title heading, by striking “**DOMESTIC NUCLEAR DETECTION OFFICE**” and inserting “**NUCLEAR DIVISION**”;

(2) in section 1901 (6 U.S.C. 591)—

(A) in the heading, by striking “**DOMESTIC NUCLEAR DETECTION OFFICE**” and inserting “**NUCLEAR DIVISION**”;

(B) in subsection (a), by striking “There shall be established in the Department a Domestic Nuclear Detection Office” and inserting “There is in the Department a Nuclear Division, located in the CBRNE Office”; and

- (C) in subsection (b), by striking “Director for Domestic Nuclear Detection, who shall be appointed by the President” and inserting “Director of the Nuclear Division”;
- (3) in subsection (a) of section 1902 (6 U.S.C. 592)—
- (A) in the matter preceding paragraph (1)—
- (i) by inserting after “responsible for” the following: “coordinating departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing nuclear or other radiological materials, and for”; and
- (ii) by striking “to protect” and inserting “protecting”; and
- (B) in paragraph (11), in the matter preceding subparagraph (A), by striking “Domestic Nuclear Detection Office” and inserting “Nuclear Division”;
- (4) by repealing section 1903 (6 U.S.C. 593);
- (5) in section 1906 (6 U.S.C. 596)—
- (A) in the matter preceding paragraph (1)—
- (i) by striking “Domestic Nuclear Detection” and inserting “the Nuclear Division”; and
- (ii) by striking “paragraphs (6) and (7) of”; and
- (B) in paragraph (2), by striking “paragraphs (6) and (7) of”;
- (6) in section 1907 (6 U.S.C. 596a)—
- (A) by striking “Annual” each place it appears and inserting “Biennial”;
- (B) by striking “each year” each place it appears and inserting “every two years”;
- (C) by striking “previous year” each place it appears and inserting “previous two years”;
- (D) in the heading of subsection (a), by striking “ANNUAL” and inserting “BIENNIAL”; and
- (E) subsection (b)—
- (i) in the heading, by striking “ANNUAL” and inserting “BIENNIAL”;
- (ii) in paragraph (1), by inserting “odd-numbered” after “each”; and
- (iii) in paragraph (2), by striking “annual” and inserting “biennial”;
- and
- (7) by adding at the end the following new section:

**“SEC. 1908. DOMESTIC IMPLEMENTATION OF THE GLOBAL NUCLEAR DETECTION ARCHITECTURE.**

“In carrying out the mission of the Office under subparagraph (A) of section 1902(a)(4), the Director of the Nuclear Division shall provide support for planning, organization, equipment, training, exercises, and operational assessments to Federal, State, local, tribal, and territorial governments to assist such governments in implementing radiological and nuclear detection capabilities in the event of terrorist attacks or other high-consequence events utilizing nuclear or other radiological materials that pose a high risk to homeland security. Such capabilities shall be integrated into the enhanced global nuclear detection architecture referred to in such section 1902(a)(4), and shall inform and be guided by architecture studies, technology needs, and research activities of the Office.”

(c) SAVINGS PROVISION.—The individual serving as of the date of the enactment of this Act as the Director for Domestic Nuclear Detection of the Department of Homeland Security may continue to serve as the Director of the Nuclear Division of the Department on and after such date.

(d) REFERENCE.—Any reference in any law, regulation, or rule to the Domestic Nuclear Detection Office or the Director for Domestic Nuclear Detection of the Department of Homeland Security shall be deemed to be a reference to the Nuclear Division or the Director of the Nuclear Division, respectively, of the Department.

**SEC. 6. EXPLOSIVES DIVISION.**

Title XXII of the Homeland Security Act of 2002, as added by section 2 of this Act and as amended by sections 3, 4, and 5 of this Act, is further amended by adding at the end the following new subtitle:

**“Subtitle E—Explosives Division**

**“SEC. 2241. EXPLOSIVES DIVISION.**

“(a) ESTABLISHMENT.—There is established within the CBRNE Office an Explosives Division, headed by a Director of the Explosives Division (in this subtitle referred to as the ‘Director’).

“(b) MISSION AND RESPONSIBILITIES.—The Director shall be responsible for coordinating departmental strategy and policy relating to terrorist attacks and other high-

consequence events utilizing explosives that pose a high risk to homeland security, including the following:

“(1) Developing and maintaining the Department’s strategy against explosives threats.

“(2) Serving as the Department representative for explosives threats and related activities with other Federal departments and agencies.

“(3) Providing oversight of the Department’s preparedness, including operational requirements, for explosives threats.

“(4) Enhancing the capabilities of Federal, State, local, tribal, and territorial governments, and private entities as appropriate, to counter terrorist attacks and other high-consequence events utilizing explosives.

“(5) Evaluating and providing guidance to Federal, State, local, tribal, and territorial governments and appropriate private entities on detection and communication technology that could be effective during terrorist attacks or other high-consequence events utilizing explosives.

“(6) Supporting and enhancing the effective sharing and use of appropriate information generated by the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))), law enforcement agencies, other Federal, State, local, tribal, and territorial government agencies, and foreign governments, on explosives threats.”.

#### SEC. 7. SAVINGS PROVISIONS.

Nothing in this Act shall change the authority of the Administrator of the Federal Emergency Management Agency to lead the emergency management system of the United States. Nothing in this Act shall alter the responsibility of the Chief Medical Officer of the Department of Homeland Security to serve as the principal advisor to the Secretary of Homeland Security and the Administrator of the Federal Emergency Management Agency on medical and public health issues pursuant to paragraph (1) of section 516(c) of the Homeland Security Act of 2002 (6 U.S.C. 321e(c)).

#### SEC. 8. CLERICAL AMENDMENTS.

The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended—

(1) by striking the item relating to title XIX and inserting the following new item:

“TITLE XIX—NUCLEAR DIVISION”;

(2) by striking the item relating to section 1901 and inserting the following new item:

“Sec. 1901. Nuclear Division.”;

(3) by striking the item relating to section 1903;

(4) by adding after the item relating to section 1907 the following new item:

“Sec. 1908. Domestic Implementation of the global nuclear detection architecture.”; and

(5) by adding at the end the following:

“TITLE XXII—CBRNE OFFICE

“Subtitle A—Chemical, Biological, Radiological, Nuclear, and Explosives Office

“Sec. 2201. Chemical, Biological, Radiological, Nuclear, and Explosives Office.

“Sec. 2202. Composition of the CBRNE Office.

“Sec. 2203. Hiring authority.

“Sec. 2204. Grants, cooperative agreements, and other transactions and contracts.

“Sec. 2205. Terrorism risk assessments.

“Sec. 2206. CBRNE communications and public messaging.

“Sec. 2207. Chemical, biological, radiological, nuclear, and explosives intelligence and information sharing.”.

“Subtitle B—Chemical Division

“Sec. 2211. Chemical Division.

“Sec. 2212. Demonstration projects.”.

“Subtitle C—Biological Division

“Sec. 2221. Biological Division.”.

“Subtitle D—Nuclear Division

“Sec. 2231. Nuclear Division.”.

“Subtitle E—Explosives Division

“Sec. 2241. Explosives Division.”.

## PURPOSE AND SUMMARY

H.R. 3875 amends the Homeland Security Act of 2002 to establish within the Department of Homeland Security a Chemical, Biological, Radiological, Nuclear, and Explosives Office.

## BACKGROUND AND NEED FOR LEGISLATION

The “Department of Homeland Security CBRNE Defense Act of 2015” authorizes a Chemical, Biological, Radiological, Nuclear, and Explosives (CBRNE) Office within the Department of Homeland Security (DHS or Department).

Departments and agencies across the U.S. government have centralized their weapons of mass destruction (WMD) defense programs to provide clear focal points for dealing with this threat. However, DHS responsibilities in the CBRNE areas continue to be spread across many offices in the Department with varying authorities and functions, affecting strategic direction as well as interdepartmental and interagency coordination.

Congress directed the Department to conduct a review of its WMD defense functions, including specific statutory, organizational, administrative, and funding recommendations and changes to streamline and improve overall DHS WMD defense activities. DHS provided its proposal for consolidation of CBRNE activities to the Committee in June. The Subcommittee on Emergency Preparedness, Response, and Communications and the Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies held a joint hearing in July on the Department’s proposal.

This bill is the result of many years of oversight by the Committee on Homeland Security on the Department’s management of CBRNE activities. It authorizes a CBRNE Office, led by a Presidentially-appointed Assistant Secretary. The bill directs the Secretary to include within the new CBRNE Office: the Office of Health Affairs, the Domestic Nuclear Detection Office, risk assessment activities and personnel of the Science and Technology Directorate, CBRNE activities and personnel of the Office of Policy and Operations Coordination and Planning, and the Office for Bombing Prevention. The bill provides specific responsibilities of the Assistant Secretary and needed structure for the management of CBRNE activities.

## HEARINGS

The Committee on Homeland Security did not hold any hearings on H.R. 3875, however the Committee held the following oversight hearing:

The Subcommittees on Cybersecurity, Infrastructure Protection, and Security Technologies and Emergency Preparedness, Response, and Communications held a joint hearing, “Weapons of Mass Destruction: Bolstering DHS to Combat Persistent Threats to America,” on July 14, 2015. The Subcommittees received testimony from Dr. Reginald Brothers, Under Secretary for Science and Technology, U.S. Department of Homeland Security; Dr. Kathryn Brinsfield, Assistant Secretary, Office of Health Affairs, U.S. Department of Homeland Security; Dr. Huban Gowadia, Director, Domestic Nuclear Detection Office, U.S. Department of Homeland Security; Mr. Alan D. Cohn, Counsel, Steptoe & Johnson LLP; Mr.

Rick “Ozzie” Nelson, Senior Associate, Homeland Security and Counterterrorism Program, Center for Strategic and International Studies; and Mr. Warren Stern, Former Director, Domestic Nuclear Detection Office, U.S. Department of Homeland Security.

This hearing examined the Department of Homeland Security’s proposal to consolidate certain CBRNE defense activities of DHS headquarters. Members received testimony from DHS headquarters personnel whose organizations would be impacted by the DHS proposal, as well as outside experts, on the optimal management of DHS CBRNE activities. This hearing helped to inform the drafting of H.R. 3875.

#### COMMITTEE CONSIDERATION

The Committee met on November 4, 2015, to consider H.R. 3875, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MR. McCAUL (#1); was AGREED TO, as amended, by voice vote.

An Amendment by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1A); was AGREED TO, by voice vote.

Page 2, line 12, insert after “Division.” the following: “The CBRNE Office may include a Health Division.”

Page 3, beginning line 17, strike “the Director of the Explosives Division, and the Chief Medical Officer” and insert “and the Director of the Explosives Division”.

Page 4, line 5, strike “Nuclear Division authorized under title XIX” and insert “Domestic Nuclear Detection Office authorized under title XIX as in existence on the date before the date of the enactment of this title (and redesignated as the Nuclear Division)”.

Page 13, line 11, strike “EFFICIENCIES REVIEW” and insert “AFTER ACTION AND EFFICIENCIES REVIEW”.

Page 14, line 6, insert after “Office” the following: “, including expenditures related to the establishment of the CBRNE Office, such as expenditures associated with the utilization of the Secretary’s authority to award retention bonuses pursuant to Federal law;”.

Page 14, beginning line 6, strike “and identifies any potential cost savings and efficiencies for such expenditures and activities of each sub-office; and” and insert the following (and redesignate subsequent paragraphs accordingly): (3) identifies any potential cost savings and efficiencies within the CBRNE Office or its divisions; and

Page 14, line 9, strike “make recommendations for adjustments in the management and administration of the Office” and insert “identifies opportunities to enhance the effectiveness of the management and administration of the CBRNE Office”.

Page 15, line 1, strike “for fiscal year 2020”.

Page 15, line 2, insert “for the fiscal year that follows the issuance of the Comptroller General review required pursuant to subsection (d)” after “United States Code,”.

Page 17, line 5, strike “CONCURRENT”.

Page 17, line 10, insert “organizational structure of the” after “review of the”.

Page 17, line 17, insert “organizational structure for the” before “management”.

Page 17, line 24, insert “organizational structure of the” before “Department’s”.

Page 18, line 3, strike “one year” and insert “two years”.

Page 25, line 9, strike “Maintaining” and insert “Achieving”.

Page 29, strike lines 17 through 22 (and redesignate subsequent subsections accordingly).

Page 31, line 23, strike “PROVISION” and insert “PROVISIONS”.

Page 32, line 2, insert after “United States.” The following: “Nothing in this Act shall alter the responsibility of the Chief Medical Officer of the Department of Homeland Security to serve as the principal advisor to the Secretary of Homeland

Security and the Administrator of the Federal Emergency Management Agency on medical and public health issues pursuant to paragraph (1) of section 516(c) of the Homeland Security Act of 2002 (6 U.S.C. 321e(c)).”

#### COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 3875.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

##### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3875, the Department of Homeland Security CBRNE Defense Act of 2015, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 3875 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

H.R. 3875 establishes a CBRNE Office within the Department of Homeland Security to coordinate, strengthen, and provide CBRNE capabilities in support of homeland security. It requires the Secretary to report on the efficiencies achieved by the consolidation of a number of Department offices and functions into the new CBRNE Office, including any potential cost savings. Furthermore, it requires the Secretary and the Government Accountability Office to report on the optimal structure on CBRNE research and development activities.

#### DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 3875 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED  
TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 3875 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 3875 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short Title.*

This section provides that this bill may be cited as the “Department of Homeland Security CBRNE Defense Act of 2015”.

*Sec. 2. CBRNE Office.*

This section adds a new “TITLE XXII—CBRNE OFFICE” to the Homeland Security Act of 2002. This includes “*Subtitle A—The Chemical, Biological, Radiological, Nuclear, and Explosives Office*” as follows:

*‘Sec. 2201. CBRNE Office.*

This new section establishes in the Department of Homeland Security (DHS) a Chemical, Biological, Radiological, Nuclear, and Ex-

plosives Office, referred to as the CBRNE Office. This section also specifies that the CBRNE Office may include a Health Division.

It establishes that the mission of the Office is to coordinate, strengthen, and provide chemical, biological, radiological, nuclear, and explosives (CBRNE) capabilities in support of homeland security.

The section provides that the Office shall be led by a Presidentially-appointed, Senate-confirmed Assistant Secretary.

It enumerates the responsibilities of the Assistant Secretary for the CBRNE Office: to develop, coordinate, and maintain overall CBRNE strategy and policy for the Department; to develop, coordinate, and maintain for the Department periodic CBRNE risk assessments; to serve as the primary Department representative for coordinating CBRNE activities with other Federal departments and agencies; to provide oversight for the Department's preparedness for CBRNE threats; to provide support for operations during CBRNE threats or incidents; and to carry out such other responsibilities as the Secretary determines appropriate, consistent with this title.

Finally, the section requires the Directors of the Chemical, Biological, Nuclear, and Explosives Divisions to report directly to the Assistant Secretary. This section is silent as to the reporting structure of the Chief Medical Officer. Pursuant to section 516 of the Homeland Security Act of 2002, the Chief Medical Officer serves as the principal advisor to the Secretary of Homeland Security and Administrator of the Federal Emergency Management Agency on medical and public health issues. Nothing in this bill changes that reporting structure, as noted in section 7, or dictates where the Chief Medical Officer position must reside in the CBRNE Office structure. The Committee directs the Secretary to orient the Chief Medical Officer in a manner that will ensure his or her ability to best address the health impacts of CBRNE threats, emerging infectious diseases, and the protection of the DHS workforce.

*'Sec. 2202. Composition of the CBRNE Office.*

This section requires the Secretary to transfer to the CBRNE Office the Office of Health Affairs, the Domestic Nuclear Detection Office, the CBRNE threat awareness and risk assessment activities of the Science and Technology Directorate, the CBRNE functions of the Office of Policy and the Office of Operations Coordination, and the Office for Bombing Prevention of the National Protection and Programs Directorate.

In transferring the CBRNE threat awareness and risk assessment activities of the Science and Technology Directorate, the Committee intends that this transfer include the development of Material Threat Assessments and Material Threat Determinations.

*'Sec. 2203. Hiring Authority.*

This section provides for the hiring of scientific and technical positions.

*‘Sec. 2204. Grants, Cooperative Agreements, and Other Transactions and Contracts.*

This section provides that the Assistant Secretary may distribute funds through grants, cooperative agreements, and other transactions and contracts.

*‘Sec. 2205. Terrorism Risk Assessments.*

This section authorizes the Assistant Secretary for the CBRNE Office to develop, coordinate, and update periodically terrorism risk assessments of chemical, biological, radiological, and nuclear threats, as well as an integrated terrorism risk assessment that assesses CBRNE threats and compares each such threat against one another according to their relative risk.

It requires the Assistant Secretary to provide the risk assessments to Congress.

It further requires specific activities in assessing the methodology for developing the risk assessments, and provides that the risk assessments shall be used to inform and guide allocation of resources for chemical, biological, radiological, and nuclear threat activities of the Department.

Finally, this section requires the Department to get input from and share or make available as appropriate, the risk assessments with Federal, State, local, Tribal, and territorial officials involved in efforts to counter chemical, biological, radiological, and nuclear threats.

*‘Sec. 2206. CBRNE Communications and Public Messaging.*

This section requires the Secretary to develop an overarching risk communication strategy for terrorist attacks and other high consequence events utilizing CBRN agents or explosives that pose a high risk to homeland security.

Furthermore, it requires development of threat-specific risk communication plans; risk communication messages, including prescribed messaging; defined interagency processes and protocols to assure coordinated risk and incident communications and information sharing during incident response; and strategies for communicating using social and new media. It directs the Secretary to engage private and nongovernmental entities in communications planning, as appropriate; identify ways to educate and engage the public about CBRNE threats and consequences; and provide guidance on risk and incident communications for CBRNE events to State, local, Tribal, and territorial governments, and other stakeholders, as appropriate.

It requires the Secretary to provide appropriate timely, accurate information to the public, governmental partners, the private sector, and other appropriate stakeholders in the event of a suspected or confirmed CBRNE terrorist attack or other high consequence event.

This section requires the Department to report to Congress 120 days after enactment on current and future efforts of the Department to develop the communication strategy, and two years after enactment, to provide the strategy to Congress.

*‘Sec. 2207. CBRNE Intelligence and Information Sharing.*

This section is very similar to H.R. 2200, the “CBRN Intelligence and Information Sharing Act of 2015”, which passed the House on June 25, 2015, by a vote of 420 yeas and 2 nays (Roll No. 389). This section expands H.R. 2200 to include information sharing on explosives threats.

This section amends Subtitle A of title II (6 U.S. Code 121 et seq.) of the Homeland Security Act of 2002 by adding a new section at the end directing the Office of Intelligence and Analysis (I&A) of the Department of Homeland Security (DHS) to:

- support homeland security-focused intelligence analysis of terrorists, their claims, and their plans to conduct attacks against the nation involving CBRNE, and of global infectious disease, public health, food, agricultural, and veterinary issues;
- support homeland security-focused risk analysis and risk assessments of those hazards by providing relevant threat information;
- leverage homeland security intelligence capabilities and structures to enhance prevention, protection, response, and recovery efforts with respect to a CBRNE attack; and
- share information and provide tailored analytical support on these threats to State, local, and Tribal authorities as well as other national biosecurity and biodefense stakeholders.

This section also requires I&A to coordinate with other DHS components, the Intelligence Community, and Federal, State, local, and Tribal authorities, where appropriate, and enable such entities to provide recommendations on optimal information sharing mechanisms and on how they can provide information to DHS. Additionally this section directs the Secretary of DHS to report annually for five years on: (1) intelligence and information sharing activities to counter the threat from weapons of mass destruction; and (2) DHS’s activities in accordance with relevant intelligence strategies.

*Sec. 2(b). Efficiencies Review.*

This subsection of the bill requires the Secretary, acting through the Assistant Secretary of the CBRNE Office, to provide to Congress within one year of enactment, a report that reviews the functions and responsibilities of the CBRNE Office to identify and eliminate areas of unnecessary duplication; provides a detailed accounting of the management and administrative expenditures and activities of the Office and identifies any potential cost savings and efficiencies; and makes recommendations for adjustments in the management and administration of the CBRNE Office to increase operational impact and enhance efficiencies.

This section specifically requires information on the Secretary’s utilization of his authority to issue retention bonuses pursuant to 5 U.S.C. section 5754. These bonuses may be provided to an employee with unusually high or unique qualifications or who fills a special need of the Department of Homeland Security that makes such employee’s services essential to retain and who the Secretary determines, in the absence of a retention bonus, would be likely to leave such position in the Department.

The Committee recognizes that reorganizations can take a toll on personnel and, as such, the Secretary may seek to use his authority to provide bonuses to ensure the retention of a specialized CBRNE workforce. This section requires the efficiency review to include information on the use of this authority.

*Sec. 2(c). CBRNE Research and Development.*

This subsection requires the Secretary to assess and report to Congress on the organizational structure of the management and execution of DHS research and development activities related to CBRNE. Additionally, it requires in the assessment a thorough justification and rationalization for the proposed organizational structure for management and execution of CBRNE research and development activities, and other specific information.

This section provides that the Secretary may not take any action to reorganize the management and execution of CBRNE research and development activities without prior Congressional authorization.

The Committee notes that research and development for CBRNE is currently bifurcated at the Department. The Domestic Nuclear Detection Office conducts its own research and development activities and, after initial failures on projects such as the Advanced Spectroscopic Radiation Portal Monitor, has matured its capabilities into a highly functioning R&D operation. However, when it comes to chemical, biological, and explosives research and development, the Science and Technology Directorate has had little success in transitioning technology for operational use. S&T failures in soliciting requirements from DHS operational users in the chemical and biological space has contributed to its inability to successfully transfer technology. In this subsection, the Committee directs the Secretary to assess this structure and report to Congress on its view for the optimal organization of CBRNE R&D activities within the Department. This could include the consolidation of all CBRNE R&D into the CBRNE Office. However, should S&T improve its track record for chemical, biological, and explosives R&D, the report could also find that the current structure is optimal. Once the Secretary submits the required report, the Committee will determine whether this structure should be authorized.

*Sec. 2(d). GAO Review.*

This subsection requires a review by the Comptroller General of the organizational structure of the management and execution of DHS research and development activities related to CBRNE to be submitted to the Committee within two years of enactment.

*Sec. 2(e). Technical and Conforming Amendments.*

This section makes technical and conforming amendments to the Homeland Security Act of 2002 to align responsibilities to the new authorities within this act.

*Sec. 3. Chemical Division.*

This section adds a new “*Subtitle B—Chemical Division*” to new Title XXII of the Homeland Security Act of 2002. It requires GAO to assess DHS’s programs and activities related to the terrorist at-

tacks and other high-consequence events utilizing chemical agents that pose a high risk to homeland security.

*‘Sec. 2211. Chemical Division.*

This section establishes a Chemical Division within the CBRNE Office, headed by a Director.

It provides that the Director shall be responsible for coordinating Departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing chemical agents that pose a high risk to homeland security.

This includes developing and maintaining the Department’s strategy against chemical threats; serving as the Department’s representative for chemical activities with other Federal departments and agencies; providing oversight of the Department’s preparedness, including operational requirements, for chemical threats; enhancing capabilities of Federal, State, local, Tribal, and territorial governments, and private entities as appropriate, for chemical threats; evaluating and providing guidance on detection and communication technology; and supporting and enhancing the effective sharing and use of appropriate information generated by the intelligence community on chemical threats.

*‘Sec. 2212. Chemical Defense Demonstration Projects.*

This section provides that the Director may partner with high-risk urban areas or facilities to conduct demonstration projects to enhance national capabilities against chemical threats.

*Sec. 4. Biological Division.*

This section adds a new “*Subtitle C—Biological Division*” to new Title XXII of the Homeland Security Act of 2002 as follows:

*‘Sec. 2221. Biological Division.*

This section establishes a Biological Division within the CBRNE Office, headed by a Director.

It provides that the Director shall be responsible for coordinating Departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing biological agents that pose a high risk to homeland security.

This includes developing and maintaining the Department’s strategy against biological threats; serving as the Department’s representative for biodefense and related activities with other Federal departments and agencies; providing oversight of the Department’s preparedness, including operational requirements, for biological threats; enhancing the biodefense capabilities of Federal, State, local, Tribal, and territorial governments, and private entities as appropriate; supporting and enhancing the effective sharing and use of appropriate information generated by the intelligence community on biological threats; achieving a biodetection program; and maintaining the National Biosurveillance Integration Center.

*Sec. 5. Nuclear Division.*

This section adds a new “*Subtitle D—Nuclear Division*” to new Title XXII of the Homeland Security Act of 2002 as follows:

*‘Sec. 2231. Nuclear Division.*

This section establishes a Nuclear Division within the CBRNE Office, headed by a Director. It retitles the Domestic Nuclear Detection Office (DNDO), authorized under title XIX of the Homeland Security Act, as the new Nuclear Division.

In addition to the responsibilities under Title XIX, it provides that the Director shall also be responsible for coordinating Departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing nuclear or other radiological materials, and for coordinating Federal efforts to detect and protect against the unauthorized importation, possession, storage, transportation, development, or use of a nuclear explosive device, fissile material, or radiological material in the United States, and to protect against an attack using such devices or materials against the people, territory, or interests of the United States, in accordance with Title XIX.

It changes from one to two years the frequency of the interagency review of the Global Nuclear Detection Architecture. It requires the Director to provide support for planning, organization, equipment, training, exercises, and operational assessments to Federal, State, local, Tribal, and territorial governments to assist such governments in implementing radiological and nuclear detection capabilities.

The Committee intends that the Domestic Nuclear Detection Office—renamed the Nuclear Division under this title—remain intact as authorized under Title XXII of the Homeland Security Act of 2002.

*Sec. 6. Explosives Division.*

This section adds a new “*Subtitle E—Explosives Division*” to new Title XXII of the Homeland Security Act of 2002 as follows:

*‘Sec. 2241. Explosives Division.*

This section establishes an Explosives Division within the CBRNE Office, headed by a Director. It provides that the Director shall be responsible for coordinating Departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing explosives that pose a high risk to homeland security.

This includes developing and maintaining the Department’s strategy against explosives threats; serving as the Department’s representative for explosives activities with other Federal departments and agencies; providing oversight of the Department’s preparedness, including operational requirements, for explosives threats; enhancing capabilities of Federal, State, local, Tribal, and territorial governments, and private entities as appropriate; and supporting and enhancing the effective sharing and use of appropriate information generated by the intelligence community on explosives threats.

*Sec. 7. Savings Provision.*

This section provides that nothing in this Act shall change the authority of the Administrator of the Federal Emergency Management Agency to lead the Nation’s emergency management system.

This section further provides that nothing in this Act shall alter the responsibility of the Chief Medical Officer to serve as the principal advisor to the Secretary and FEMA on medical and public health issues.

*Sec. 8. Clerical Amendments.*

This section makes clerical amendments to the table of contents section of the Homeland Security Act of 2002 to reflect the changes made in this measure.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**HOMELAND SECURITY ACT OF 2002**

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

\* \* \* \* \*

**【TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE**

*TITLE XIX—NUCLEAR DIVISION*

**【Sec. 1901. Domestic Nuclear Detection Office.】**

*Sec. 1901. Nuclear Division.*

\* \* \* \* \*

**【Sec. 1903. Hiring authority.】**

\* \* \* \* \*

*Sec. 1908. Domestic Implementation of the global nuclear detection architecture.*

\* \* \* \* \*

*TITLE XXII—CBRNE OFFICE*

*Subtitle A—Chemical, Biological, Radiological, Nuclear, and Explosives Office*

*Sec. 2201. Chemical, Biological, Radiological, Nuclear, and Explosives Office.*

*Sec. 2202. Composition of the CBRNE Office.*

*Sec. 2203. Hiring authority.*

*Sec. 2204. Grants, cooperative agreements, and other transactions and contracts.*

*Sec. 2205. Terrorism risk assessments.*

*Sec. 2206. CBRNE communications and public messaging.*

*Sec. 2207. Chemical, biological, radiological, nuclear, and explosives intelligence and information sharing.*

*Subtitle B—Chemical Division*

*Sec. 2211. Chemical Division.*

*Sec. 2212. Demonstration projects.*

*Subtitle C—Biological Division*

*Sec. 2221. Biological Division.*

*Subtitle D—Nuclear Division*

*Sec. 2231. Nuclear Division.*

*Subtitle E—Explosives Division**Sec. 2241. Explosives Division.*

\* \* \* \* \*

**TITLE I—DEPARTMENT OF HOMELAND SECURITY**

\* \* \* \* \*

**SEC. 103. OTHER OFFICERS.**

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—(1) IN GENERAL.—Except as provided under paragraph (2), there are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(A) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of subchapter III of chapter 33 of title 5, United States Code.

(B) An Under Secretary for Science and Technology.

(C) An Under Secretary for Border and Transportation Security.

(D) An Administrator of the Federal Emergency Management Agency.

(E) A Director of the Bureau of Citizenship and Immigration Services.

(F) An Under Secretary for Management.

(G) A Director of the Office of Counternarcotics Enforcement.

(H) An Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department.

(I) Not more than 12 Assistant Secretaries.

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

(2) ASSISTANT SECRETARIES.—If any of the Assistant Secretaries referred to under paragraph (1)(I) is designated to be the [Assistant Secretary for Health Affairs, the Assistant Secretary for Legislative Affairs, or the Assistant Secretary for Public Affairs,] *Assistant Secretary for Legislative Affairs or the Assistant Secretary for Public Affairs*, that Assistant Secretary shall be appointed by the President without the advice and consent of the Senate.

(b) INSPECTOR GENERAL.—There shall be in the Department an Office of Inspector General and an Inspector General at the head of such office, as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

(c) COMMANDANT OF THE COAST GUARD.—To assist the Secretary in the performance of the Secretary's functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code, and who shall report directly to the Secretary. In addition to such duties as may be provided in this Act and as assigned to the Commandant by the Secretary, the duties of the Commandant shall include those required by section 2 of title 14, United States Code.

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

- (1) A Director of the Secret Service.
- (2) A Chief Information Officer.
- (3) An Officer for Civil Rights and Civil Liberties.
- (4) A Director for Domestic Nuclear Detection.

(f) PERFORMANCE OF SPECIFIC FUNCTIONS.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for the official’s office or prescribed by the Secretary.

(e) CHIEF FINANCIAL OFFICER.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code.

\* \* \* \* \*

## **TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION**

### **Subtitle A—Information and Analysis and Infrastructure Protection; Access to In- formation**

#### **SEC. 201. INFORMATION AND ANALYSIS AND INFRASTRUCTURE PROTECTION.**

(a) INTELLIGENCE AND ANALYSIS AND INFRASTRUCTURE PROTECTION.—There shall be in the Department an Office of Intelligence and Analysis and an Office of Infrastructure Protection.

(b) UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS AND ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.—

(1) OFFICE OF INTELLIGENCE AND ANALYSIS.—The Office of Intelligence and Analysis shall be headed by an Under Secretary for Intelligence and Analysis, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) CHIEF INTELLIGENCE OFFICER.—The Under Secretary for Intelligence and Analysis shall serve as the Chief Intelligence Officer of the Department.

(3) OFFICE OF INFRASTRUCTURE PROTECTION.—The Office of Infrastructure Protection shall be headed by an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

(c) DISCHARGE OF RESPONSIBILITIES.—The Secretary shall ensure that the responsibilities of the Department relating to information analysis and infrastructure protection, including those described in subsection (d), are carried out through the Under Secretary for Intelligence and Analysis or the Assistant Secretary for Infrastructure Protection, as appropriate.

(d) RESPONSIBILITIES OF SECRETARY RELATING TO INTELLIGENCE AND ANALYSIS AND INFRASTRUCTURE PROTECTION.—The responsibilities of the Secretary relating to intelligence and analysis and infrastructure protection shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information, in support of the mission responsibilities of the Department and the functions of the National Counterterrorism Center established under section 119 of the National Security Act of 1947 (50 U.S.C. 404o), in order to—

(A) identify and assess the nature and scope of terrorist threats to the homeland;

(B) detect and identify threats of terrorism against the United States; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analysis, and vulnerability assessments (regardless of whether such information, analysis or assessments are provided by or produced by the Department) in order to—

(A) identify priorities for protective and support measures regarding terrorist and other threats to homeland security by the Department, other agencies of the Federal Government, State, and local government agencies and authorities, the private sector, and other entities; and

(B) prepare finished intelligence and information products in both classified and unclassified formats, as appropriate, whenever reasonably expected to be of benefit to a State, local, or tribal government (including a State, local, or tribal law enforcement agency) or a private sector entity.

(4) To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government.

(5) To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution 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) To recommend measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and

in cooperation with State and local government agencies and authorities, the private sector, and other entities.

(7) To review, analyze, and make recommendations for improvements to the policies and procedures governing the sharing of information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), including homeland security information, terrorism information, and weapons of mass destruction information, and any policies, guidelines, procedures, instructions, or standards established under that section.

(8) To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, [and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.] *to State, local, tribal, territorial, and appropriate private entities with such responsibilities, and, as appropriate, to the public, in order to assist in preventing, protecting against, preparing for, responding to, mitigating, and recovering from terrorist attacks against the United States.*

(9) To consult with the Director of National Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

(10) To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to threats of terrorism against the United States.

(11) To ensure that—

(A) any material received pursuant to this Act is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

(B) any intelligence information under this Act is shared, retained, and disseminated consistent with the authority of the Director of National Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

(12) To request additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility assigned by the Secretary, including the entry into cooperative agreements through the Secretary to obtain such information.

(13) To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications

and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

(14) To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

(A) are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

(B) treat information in such databases in a manner that complies with applicable Federal law on privacy.

(15) To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

(16) To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

(17) To provide intelligence and information analysis and support to other elements of the Department.

(18) To coordinate and enhance integration among the intelligence components of the Department, including through strategic oversight of the intelligence activities of such components.

(19) To establish the intelligence collection, processing, analysis, and dissemination priorities, policies, processes, standards, guidelines, and procedures for the intelligence components of the Department, consistent with any directions from the President and, as applicable, the Director of National Intelligence.

(20) To establish a structure and process to support the missions and goals of the intelligence components of the Department.

(21) To ensure that, whenever possible, the Department—

(A) produces and disseminates unclassified reports and analytic products based on open-source information; and

(B) produces and disseminates such reports and analytic products contemporaneously with reports or analytic products concerning the same or similar information that the Department produced and disseminated in a classified format.

(22) To establish within the Office of Intelligence and Analysis an internal continuity of operations plan.

(23) Based on intelligence priorities set by the President, and guidance from the Secretary and, as appropriate, the Director of National Intelligence—

(A) to provide to the heads of each intelligence component of the Department guidance for developing the budget pertaining to the activities of such component; and

(B) to present to the Secretary a recommendation for a consolidated budget for the intelligence components of the Department, together with any comments from the heads of such components.

(24) To perform such other duties relating to such responsibilities as the Secretary may provide.

(25) To prepare and submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security in the House of Representatives, and to other appropriate congressional committees having jurisdiction over the critical infrastructure or key resources, for each sector identified in the National Infrastructure Protection Plan, a report on the comprehensive assessments carried out by the Secretary of the critical infrastructure and key resources of the United States, evaluating threat, vulnerability, and consequence, as required under this subsection. Each such report—

(A) shall contain, if applicable, actions or countermeasures recommended or taken by the Secretary or the head of another Federal agency to address issues identified in the assessments;

(B) shall be required for fiscal year 2007 and each subsequent fiscal year and shall be submitted not later than 35 days after the last day of the fiscal year covered by the report; and

(C) may be classified.

(e) STAFF.—

(1) IN GENERAL.—The Secretary shall provide the Office of Intelligence and Analysis and the Office of Infrastructure Protection with a staff of analysts having appropriate expertise and experience to assist such offices in discharging responsibilities under this section.

(2) PRIVATE SECTOR ANALYSTS.—Analysts under this subsection may include analysts from the private sector.

(3) SECURITY CLEARANCES.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(f) DETAIL OF PERSONNEL.—

(1) IN GENERAL.—In order to assist the Office of Intelligence and Analysis and the Office of Infrastructure Protection in discharging responsibilities under this section, personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) COVERED AGENCIES.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Geospatial-Intelligence Agency.

(F) The Defense Intelligence Agency.

(G) Any other agency of the Federal Government that the President considers appropriate.

(3) COOPERATIVE AGREEMENTS.—The Secretary and the head of the agency concerned may enter into cooperative agreements for the purpose of detailing personnel under this subsection.

(4) BASIS.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(g) FUNCTIONS TRANSFERRED.—In accordance with title XV, there shall be transferred to the Secretary, for assignment to the Office of Intelligence and Analysis and the Office of Infrastructure Protection under this section, the functions, personnel, assets, and liabilities of the following:

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

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

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

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

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

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## TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

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### SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the responsibility for—

(1) advising the Secretary regarding research and development efforts and priorities in support of the Department's missions;

(2) developing, in consultation with other appropriate executive agencies, a national policy and strategic plan for, identifying priorities, goals, objectives and policies for, and coordinating the Federal Government's civilian efforts to identify and develop countermeasures to chemical, biological, and other emerging terrorist threats, including the development of comprehensive, research-based definable goals for such efforts and development of annual measurable objectives and specific targets to accomplish and evaluate the goals for such efforts;

(3) supporting the Under Secretary for Intelligence and Analysis and the Assistant Secretary for Infrastructure Protection,

by assessing and testing homeland security vulnerabilities and possible threats;

(4) conducting basic and applied research, development, demonstration, testing, and evaluation activities that are relevant to any or all elements of the Department, through both intramural and extramural programs, except that such responsibility does not extend to human health-related research and development activities;

(5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems for—

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

(B) detecting, preventing, protecting against, and responding to terrorist attacks;

(6) establishing a system for transferring homeland security developments or technologies to Federal, State, local government, and private sector entities;

(7) entering into work agreements, joint sponsorships, contracts, or any other agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities;

(8) collaborating with the Secretary of Agriculture and the Attorney General as provided in section 212 of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401), as amended by section 1709(b);

(9) collaborating with the Secretary of Health and Human Services and the Attorney General in determining any new biological agents and toxins that shall be listed as “select agents” in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a);

(10) supporting United States leadership in science and technology;

(11) establishing and administering the primary research and development activities of the Department, including the long-term research and development needs and capabilities for all elements of the Department;

(12) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department;

*(13) collaborating with the Assistant Secretary for the Chemical, Biological, Radiological, Nuclear, and Explosives Office on all chemical, biological, and explosives research and development activities;*

[(13)] (14) coordinating with other appropriate executive agencies in developing and carrying out the science and technology agenda of the Department to reduce duplication and identify unmet needs; and

[(14)] (15) developing and overseeing the administration of guidelines for merit review of research and development projects throughout the Department, and for the dissemination of research conducted or sponsored by the Department.

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**SEC. 307. HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.**

(a) **DEFINITIONS.**—In this section:

(1) **FUND.**—The term “Fund” means the Acceleration Fund for Research and Development of Homeland Security Technologies established in subsection (c).

(2) **HOMELAND SECURITY RESEARCH.**—The term “homeland security research” means research relevant to the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism.

(3) **HSARPA.**—The term “HSARPA” means the Homeland Security Advanced Research Projects Agency established in subsection (b).

(4) **UNDER SECRETARY.**—The term “Under Secretary” means the Under Secretary for Science and Technology.

(b) **HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.**—

(1) **ESTABLISHMENT.**—There is established the Homeland Security Advanced Research Projects Agency.

(2) **DIRECTOR.**—HSARPA shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

(3) **RESPONSIBILITIES.**—The Director shall administer the Fund to award competitive, merit-reviewed grants, cooperative agreements or contracts to public or private entities, including businesses, federally funded research and development centers, and universities. The Director shall administer the Fund to—

(A) support basic and applied homeland security research to promote revolutionary changes in technologies that would promote homeland security;

(B) advance the development, testing and evaluation, and deployment of critical homeland security technologies;

(C) accelerate the prototyping and deployment of technologies that would address homeland security vulnerabilities; and

(D) conduct research and development for the purpose of advancing technology for the investigation of child exploitation crimes, including child victim identification, trafficking in persons, and child pornography, and for advanced forensics.

(4) **TARGETED COMPETITIONS.**—The Director may solicit proposals to address specific vulnerabilities identified by the Director.

(5) **COORDINATION.**—The Director shall ensure that the activities of HSARPA are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

(6) **PERSONNEL.**—In hiring personnel for HSARPA, the Secretary shall have the hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261). The term of appointments for employees under subsection (c)(1) of that section may not exceed

5 years before the granting of any extension under subsection (c)(2) of that section.

(7) DEMONSTRATIONS.—The Director, periodically, shall hold homeland security technology demonstrations to improve contact among technology developers, vendors and acquisition personnel.

(8) CBRNE DEFENSE.—*The Director shall coordinate with the Assistant Secretary for the Chemical, Biological, Radiological, Nuclear, and Explosives Office on all chemical, biological, and explosives research and development activities.*

(c) FUND.—

(1) ESTABLISHMENT.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies, which shall be administered by the Director of HSARPA.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$500,000,000 to the Fund for fiscal year 2003 and such sums as may be necessary thereafter.

(3) COAST GUARD.—Of the funds authorized to be appropriated under paragraph (2), not less than 10 percent of such funds for each fiscal year through fiscal year 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways and coastal security mission.

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## TITLE V—NATIONAL EMERGENCY MANAGEMENT

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### SEC. 516. CHIEF MEDICAL OFFICER.

(a) IN GENERAL.—There is in the Department a Chief Medical Officer, who shall be appointed by the President.

(b) QUALIFICATIONS.—The individual appointed as Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.

(c) RESPONSIBILITIES.—The Chief Medical Officer shall have the primary responsibility within the Department for medical issues related to natural disasters, *including the health impacts of chemical, biological, radiological, and nuclear agents and explosives*, acts of terrorism, and other man-made disasters, including—

(1) serving as the principal advisor to the Secretary and the Administrator on medical and public health issues;

[(2) coordinating the biodefense activities of the Department;]

(2) *coordinating the Department's policy, strategy, and preparedness for pandemics and emerging infectious diseases;*

(3) ensuring internal and external coordination of all medical preparedness and response activities of the Department, including training, exercises, and equipment support;

(4) serving as the Department's primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments or agencies, on medical and public health issues;

(5) serving as the Department's primary point of contact for State, local, and tribal governments, the medical community, and others within and outside the Department, with respect to medical and public health matters;

(6) discharging, in coordination with the [Under Secretary for Science and Technology] *Assistant Secretary for the Chemical, Biological, Radiological, Nuclear, and Explosives Office*, the responsibilities of the Department related to Project Bioshield; and

(7) performing such other duties relating to such responsibilities as the Secretary may require.

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## TITLE XIX— [DOMESTIC NUCLEAR DETECTION OFFICE] *NUCLEAR DIVISION*

### SEC. 1901. [DOMESTIC NUCLEAR DETECTION OFFICE] *NUCLEAR DIVISION*.

(a) ESTABLISHMENT.—[There shall be established in the Department a Domestic Nuclear Detection Office] *There is in the Department a Nuclear Division, located in the CBRNE Office* (referred to in this title as the "Office"). The Secretary may request that the Secretary of Defense, the Secretary of Energy, the Secretary of State, the Attorney General, the Nuclear Regulatory Commission, and the directors of other Federal agencies, including elements of the Intelligence Community, provide for the reimbursable detail of personnel with relevant expertise to the Office.

(b) DIRECTOR.—The Office shall be headed by a [Director for Domestic Nuclear Detection, who shall be appointed by the President] *Director of the Nuclear Division*.

### SEC. 1902. MISSION OF OFFICE.

(a) MISSION.—The Office shall be responsible for *coordinating departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing nuclear or other radiological materials, and for coordinating Federal efforts to detect and protect against the unauthorized importation, possession, storage, transportation, development, or use of a nuclear explosive device, fissile material, or radiological material in the United States, and [to protect] protecting* against attack using such devices or materials against the people, territory, or interests of the United States and, to this end, shall—

(1) serve as the primary entity of the United States Government to further develop, acquire, and support the deployment of an enhanced domestic system to detect and report on at-

tempts to import, possess, store, transport, develop, or use an unauthorized nuclear explosive device, fissile material, or radiological material in the United States, and improve that system over time;

(2) enhance and coordinate the nuclear detection efforts of Federal, State, local, and tribal governments and the private sector to ensure a managed, coordinated response;

(3) establish, with the approval of the Secretary and in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Energy, additional protocols and procedures for use within the United States to ensure that the detection of unauthorized nuclear explosive devices, fissile material, or radiological material is promptly reported to the Attorney General, the Secretary, the Secretary of Defense, the Secretary of Energy, and other appropriate officials or their respective designees for appropriate action by law enforcement, military, emergency response, or other authorities;

(4) develop, with the approval of the Secretary and in coordination with the Attorney General, the Secretary of State, the Secretary of Defense, and the Secretary of Energy, an enhanced global nuclear detection architecture with implementation under which—

(A) the Office will be responsible for the implementation of the domestic portion of the global architecture;

(B) the Secretary of Defense will retain responsibility for implementation of Department of Defense requirements within and outside the United States; and

(C) the Secretary of State, the Secretary of Defense, and the Secretary of Energy will maintain their respective responsibilities for policy guidance and implementation of the portion of the global architecture outside the United States, which will be implemented consistent with applicable law and relevant international arrangements;

(5) ensure that the expertise necessary to accurately interpret detection data is made available in a timely manner for all technology deployed by the Office to implement the global nuclear detection architecture;

(6) conduct, support, coordinate, and encourage an aggressive, expedited, evolutionary, and transformational program of research and development to generate and improve technologies to detect and prevent the illicit entry, transport, assembly, or potential use within the United States of a nuclear explosive device or fissile or radiological material, and coordinate with the Under Secretary for Science and Technology on basic and advanced or transformational research and development efforts relevant to the mission of both organizations;

(7) carry out a program to test and evaluate technology for detecting a nuclear explosive device and fissile or radiological material, in coordination with the Secretary of Defense and the Secretary of Energy, as appropriate, and establish performance metrics for evaluating the effectiveness of individual detectors and detection systems in detecting such devices or material—

(A) under realistic operational and environmental conditions; and

- (B) against realistic adversary tactics and countermeasures;
- (8) support and enhance the effective sharing and use of appropriate information generated by the intelligence community, law enforcement agencies, counterterrorism community, other government agencies, and foreign governments, as well as provide appropriate information to such entities;
- (9) further enhance and maintain continuous awareness by analyzing information from all Office mission-related detection systems;
- (10) lead the development and implementation of the national strategic five-year plan for improving the nuclear forensic and attribution capabilities of the United States required under section 1036 of the National Defense Authorization Act for Fiscal Year 2010;
- (11) establish, within the [Domestic Nuclear Detection Office] *Nuclear Division*, the National Technical Nuclear Forensics Center to provide centralized stewardship, planning, assessment, gap analysis, exercises, improvement, and integration for all Federal nuclear forensics and attribution activities—
- (A) to ensure an enduring national technical nuclear forensics capability to strengthen the collective response of the United States to nuclear terrorism or other nuclear attacks; and
- (B) to coordinate and implement the national strategic five-year plan referred to in paragraph (10);
- (12) establish a National Nuclear Forensics Expertise Development Program, which—
- (A) is devoted to developing and maintaining a vibrant and enduring academic pathway from undergraduate to post-doctorate study in nuclear and geochemical science specialties directly relevant to technical nuclear forensics, including radiochemistry, geochemistry, nuclear physics, nuclear engineering, materials science, and analytical chemistry;
- (B) shall—
- (i) make available for undergraduate study student scholarships, with a duration of up to 4 years per student, which shall include, if possible, at least 1 summer internship at a national laboratory or appropriate Federal agency in the field of technical nuclear forensics during the course of the student's undergraduate career;
- (ii) make available for doctoral study student fellowships, with a duration of up to 5 years per student, which shall—
- (I) include, if possible, at least 2 summer internships at a national laboratory or appropriate Federal agency in the field of technical nuclear forensics during the course of the student's graduate career; and
- (II) require each recipient to commit to serve for 2 years in a post-doctoral position in a technical nuclear forensics-related specialty at a national

laboratory or appropriate Federal agency after graduation;

(iii) make available to faculty awards, with a duration of 3 to 5 years each, to ensure faculty and their graduate students have a sustained funding stream; and

(iv) place a particular emphasis on reinvigorating technical nuclear forensics programs while encouraging the participation of undergraduate students, graduate students, and university faculty from historically Black colleges and universities, Hispanic-serving institutions, Tribal Colleges and Universities, Asian American and Native American Pacific Islander-serving institutions, Alaska Native-serving institutions, and Hawaiian Native-serving institutions; and

(C) shall—

(i) provide for the selection of individuals to receive scholarships or fellowships under this section through a competitive process primarily on the basis of academic merit and the nuclear forensics and attribution needs of the United States Government;

(ii) provide for the setting aside of up to 10 percent of the scholarships or fellowships awarded under this section for individuals who are Federal employees to enhance the education of such employees in areas of critical nuclear forensics and attribution needs of the United States Government, for doctoral education under the scholarship on a full-time or part-time basis;

(iii) provide that the Secretary may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which such scholarship is awarded;

(iv) require scholarship recipients to maintain satisfactory academic progress; and

(v) require that—

(I) a scholarship recipient who fails to maintain a high level of academic standing, as defined by the Secretary, who is dismissed for disciplinary reasons from the educational institution such recipient is attending, or who voluntarily terminates academic training before graduation from the educational program for which the scholarship was awarded shall be liable to the United States for repayment within 1 year after the date of such default of all scholarship funds paid to such recipient and to the institution of higher education on the behalf of such recipient, provided that the repayment period may be extended by the Secretary if the Secretary determines it necessary, as established by regulation; and

(II) a scholarship recipient who, for any reason except death or disability, fails to begin or com-

plete the post-doctoral service requirements in a technical nuclear forensics-related specialty at a national laboratory or appropriate Federal agency after completion of academic training shall be liable to the United States for an amount equal to—

(aa) the total amount of the scholarship received by such recipient under this section; and

(bb) the interest on such amounts which would be payable if at the time the scholarship was received such scholarship was a loan bearing interest at the maximum legally prevailing rate;

(13) provide an annual report to Congress on the activities carried out under paragraphs (10), (11), and (12); and

(14) perform other duties as assigned by the Secretary.

(b) DEFINITIONS.—In this section:

(1) ALASKA NATIVE-SERVING INSTITUTION.—The term “Alaska Native-serving institution” has the meaning given the term in section 317 of the Higher Education Act of 1965 (20 U.S.C. 1059d).

(2) ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTION.—The term “Asian American and Native American Pacific Islander-serving institution” has the meaning given the term in section 320 of the Higher Education Act of 1965 (20 U.S.C. 1059g).

(3) HAWAIIAN NATIVE-SERVING INSTITUTION.—The term “Hawaiian native-serving institution” has the meaning given the term in section 317 of the Higher Education Act of 1965 (20 U.S.C. 1059d).

(4) HISPANIC-SERVING INSTITUTION.—The term “Hispanic-serving institution” has the meaning given that term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).

(5) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term “historically Black college or university” has the meaning given the term “part B institution” in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

(6) TRIBAL COLLEGE OR UNIVERSITY.—The term “Tribal College or University” has the meaning given that term in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

#### **[SEC. 1903. HIRING AUTHORITY.**

**[In hiring personnel for the Office, the Secretary shall have the hiring and management authorities provided in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note). The term of appointments for employees under subsection (c)(1) of such section may not exceed 5 years before granting any extension under subsection (c)(2) of such section.]**

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#### **SEC. 1906. CONTRACTING AND GRANT MAKING AUTHORITIES.**

The Secretary, acting through the Director for **[Domestic Nuclear Detection]** *the Nuclear Division*, in carrying out the responsibilities under **[paragraphs (6) and (7) of]** section 1902(a), shall—

(1) operate extramural and intramural programs and distribute funds through grants, cooperative agreements, and other transactions and contracts;

(2) ensure that activities under [paragraphs (6) and (7) of] section 1902(a) include investigations of radiation detection equipment in configurations suitable for deployment at sea-ports, which may include underwater or water surface detection equipment and detection equipment that can be mounted on cranes and straddle cars used to move shipping containers; and

(3) have the authority to establish or contract with 1 or more federally funded research and development centers to provide independent analysis of homeland security issues and carry out other responsibilities under this title.

**SEC. 1907. JOINT ANNUAL INTERAGENCY REVIEW OF GLOBAL NUCLEAR DETECTION ARCHITECTURE.**

(a) **[ANNUAL]BIENNIAL REVIEW.**—

(1) **IN GENERAL.**—The Secretary, the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence shall jointly ensure interagency coordination on the development and implementation of the global nuclear detection architecture by ensuring that, not less frequently than once [each year] *every two years*—

(A) each relevant agency, office, or entity—

(i) assesses its involvement, support, and participation in the development, revision, and implementation of the global nuclear detection architecture; and

(ii) examines and evaluates components of the global nuclear detection architecture (including associated strategies and acquisition plans) relating to the operations of that agency, office, or entity, to determine whether such components incorporate and address current threat assessments, scenarios, or intelligence analyses developed by the Director of National Intelligence or other agencies regarding threats relating to nuclear or radiological weapons of mass destruction;

(B) each agency, office, or entity deploying or operating any nuclear or radiological detection technology under the global nuclear detection architecture—

(i) evaluates the deployment and operation of nuclear or radiological detection technologies under the global nuclear detection architecture by that agency, office, or entity;

(ii) identifies performance deficiencies and operational or technical deficiencies in nuclear or radiological detection technologies deployed under the global nuclear detection architecture; and

(iii) assesses the capacity of that agency, office, or entity to implement the responsibilities of that agency, office, or entity under the global nuclear detection architecture; and

(C) the Director of the Domestic Nuclear Detection Office and each of the relevant departments that are partners in the National Technical Forensics Center—

(i) include, as part of the assessments, evaluations, and reviews required under this paragraph, each office's or department's activities and investments in support of nuclear forensics and attribution activities and specific goals and objectives accomplished during the [previous year] *previous two years* pursuant to the national strategic five-year plan for improving the nuclear forensic and attribution capabilities of the United States required under section 1036 of the National Defense Authorization Act for Fiscal Year 2010;

(ii) attaches, as an appendix to the Joint Interagency [Annual] *Biennial* Review, the most current version of such strategy and plan; and

(iii) includes a description of new or amended bilateral and multilateral agreements and efforts in support of nuclear forensics and attribution activities accomplished during the [previous year] *previous two years*.

(2) TECHNOLOGY.—Not less frequently than once [each year] *every two years*, the Secretary shall examine and evaluate the development, assessment, and acquisition of radiation detection technologies deployed or implemented in support of the domestic portion of the global nuclear detection architecture.

(b) [ANNUAL] *BIENNIAL* REPORT ON JOINT INTERAGENCY REVIEW.—

(1) IN GENERAL.—Not later than March 31 of each *odd-numbered* year, the Secretary, the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence, shall jointly submit a report regarding the implementation of this section and the results of the reviews required under subsection (a) to—

(A) the President;

(B) the Committee on Appropriations, the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Appropriations, the Committee on Armed Services, the Permanent Select Committee on Intelligence, the Committee on Homeland Security, and the Committee on Science and Technology of the House of Representatives.

(2) FORM.—The [annual] *biennial* report submitted under paragraph (1) shall be submitted in unclassified form to the maximum extent practicable, but may include a classified annex.

(c) DEFINITION.—In this section, the term “global nuclear detection architecture” means the global nuclear detection architecture developed under section 1902.

**SEC. 1908. DOMESTIC IMPLEMENTATION OF THE GLOBAL NUCLEAR DETECTION ARCHITECTURE.**

*In carrying out the mission of the Office under subparagraph (A) of section 1902(a)(4), the Director of the Nuclear Division shall provide support for planning, organization, equipment, training, exercises, and operational assessments to Federal, State, local, tribal, and territorial governments to assist such governments in imple-*

*menting radiological and nuclear detection capabilities in the event of terrorist attacks or other high-consequence events utilizing nuclear or other radiological materials that pose a high risk to homeland security. Such capabilities shall be integrated into the enhanced global nuclear detection architecture referred to in such section 1902(a)(4), and shall inform and be guided by architecture studies, technology needs, and research activities of the Office.*

\* \* \* \* \*

## **TITLE XXII—CBRNE OFFICE**

### **Subtitle A—Chemical, Biological, Radiological, Nuclear, and Explosives Office**

#### **SEC. 2201. CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND EXPLOSIVES OFFICE**

(a) *ESTABLISHMENT* There is established in the Department a Chemical, Biological, Radiological, Nuclear, and Explosives Office (referred to in this title as the “CBRNE Office”). The CBRNE Office shall be comprised of the Chemical Division, the Biological Division, the Nuclear Division, and the Explosives Division. The CBRNE Office may include a Health Division.

(b) *MISSION OF OFFICE* The mission of the CBRNE Office is to coordinate, strengthen, and provide chemical, biological, radiological, nuclear, and explosives (CBRNE) capabilities in support of homeland security.

(c) *ASSISTANT SECRETARY* The Office shall be headed by an Assistant Secretary for the Chemical, Biological, Radiological, Nuclear, and Explosives Office (referred to in this title as the “Assistant Secretary”), who shall be appointed by the President by and with the advice and consent of the Senate.

(d) *RESPONSIBILITIES* The Assistant Secretary shall—

(1) develop, coordinate, and maintain overall CBRNE strategy and policy for the Department;

(2) develop, coordinate, and maintain for the Department periodic CBRNE risk assessments;

(3) serve as the primary Department representative for coordinating CBRNE activities with other Federal departments and agencies;

(4) provide oversight for the Department’s preparedness for CBRNE threats;

(5) provide support for operations during CBRNE threats or incidents; and

(6) carry out such other responsibilities as the Secretary determines appropriate, consistent with this title.

(e) *OTHER OFFICERS* The Director of the Chemical Division, the Director of the Biological Division, the Director of the Nuclear Division, and the Director of the Explosives Division shall report directly to the Assistant Secretary.

#### **SEC. 2202. COMPOSITION OF THE CBRNE OFFICE**

The Secretary shall transfer to the CBRNE Office, the functions, personnel, budget authority, and assets of the following:

(1) *The Office of Health Affairs as in existence on the day before the date of the enactment of this title, including the Chief Medical Officer authorized under section 516, and the National Biosurveillance Integration Center authorized under section 316.*

(2) *The Domestic Nuclear Detection Office authorized under title XIX, as in existence on the date before the date of the enactment of this title (and redesignated as the Nuclear Division).*

(3) *CBRNE threat awareness and risk assessment activities of the Science and Technology Directorate.*

(4) *The CBRNE functions of the Office of Policy and the Office of Operations Coordination.*

(5) *The Office for Bombing Prevention of the National Protection and Programs Directorate, as in existence on the day before the date of the enactment of this title.*

**SEC. 2203. HIRING AUTHORITY**

*In hiring personnel for the CBRNE Office, the Secretary shall have the hiring and management authorities provided in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105-261), except that the term of appointments for employees under subsection (c)(1) of such section may not exceed five years before granting any extension under subsection (c)(2) of such section.*

**SEC. 2204. GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS AND CONTRACTS**

*The Assistant Secretary, in carrying out the responsibilities under this title, may distribute funds through grants, cooperative agreements, and other transactions and contracts.*

**SEC. 2205. TERRORISM RISK ASSESSMENTS**

*(a) TERRORISM RISK ASSESSMENTS*

(1) *IN GENERAL* The Assistant Secretary shall, in coordination with relevant Department components and other appropriate Federal departments and agencies, develop, coordinate, and update periodically terrorism risk assessments of chemical, biological, radiological, and nuclear threats.

(2) *COMPARISON* The Assistant Secretary shall develop, coordinate, and update periodically an integrated terrorism risk assessment that assesses all of the threats referred to in paragraph (1) and, as appropriate, explosives threats, and compares each such threat against one another according to their relative risk.

(3) *INCLUSION IN ASSESSMENT* Each terrorism risk assessment under this subsection shall include a description of the methodology used for each such assessment.

(4) *UPDATES* Each terrorism risk assessment under this subsection shall be updated not less often than once every two years.

(5) *PROVISION TO CONGRESS* The Assistant Secretary shall provide a copy of each risk assessment under this subsection to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate not later than 30 days after completion of each such assessment.

(b) *METHODOLOGY* In developing the terrorism risk assessments under subsection (a), the Assistant Secretary, in consultation with appropriate Federal departments and agencies, shall—

(1) assess the proposed methodology to be used for such assessments; and

(2) consider the evolving threat to the United States as indicated by the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))).

(c) *USAGE* The terrorism risk assessments required under subsection (a) shall be used to inform and guide allocation of resources for chemical, biological, radiological, and nuclear threat activities of the Department.

(d) *INPUT AND SHARING* The Assistant Secretary shall, for each terrorism risk assessment under subsection (a)—

(1) seek input from national stakeholders and other Federal, State, local, tribal, and territorial officials involved in efforts to counter chemical, biological, radiological, and nuclear threats;

(2) ensure that written procedures are in place to guide the development of such assessments, including for input, review, and implementation purposes, among relevant Federal partners;

(3) share such assessments with Federal, State, local, tribal, and territorial officials with appropriate security clearances and a need for the information in the classified versions of such assessments; and

(4) to the maximum extent practicable, make available an unclassified version of such assessments for Federal, State, local, tribal, and territorial officials involved in prevention and preparedness for chemical, biological, radiological, and nuclear events.

#### **SEC. 2206. CBRNE COMMUNICATIONS AND PUBLIC MESSAGING**

(a) *IN GENERAL* The Secretary, in coordination with the Assistant Secretary, shall develop an overarching risk communication strategy for terrorist attacks and other high consequence events utilizing chemical, biological, radiological, or nuclear agents or explosives that pose a high risk to homeland security, and shall—

(1) develop threat-specific risk communication plans, in coordination with appropriate Federal departments and agencies;

(2) develop risk communication messages, including pre-scripted messaging to the extent practicable;

(3) develop clearly defined interagency processes and protocols to assure coordinated risk and incident communications and information sharing during incident response;

(4) engage private and nongovernmental entities in communications planning, as appropriate;

(5) identify ways to educate and engage the public about CBRNE threats and consequences;

(6) develop strategies for communicating using social and new media; and

(7) provide guidance on risk and incident communications for CBRNE events to State, local, tribal, and territorial governments, and other stakeholders, as appropriate.

(b) *COMMUNICATION DURING RESPONSE* The Secretary shall provide appropriate timely, accurate information to the public, govern-

mental partners, the private sector, and other appropriate stakeholders in the event of a suspected or confirmed terrorist attack or other high consequence event utilizing chemical, biological, radiological, or nuclear agents or explosives that pose a high risk to homeland security.

(c) **REPORTS**

(1) **DEVELOPMENT EFFORTS** Not later than 120 days after the date of the enactment of this title, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on current and future efforts of the Department to develop the communication strategy required under subsection (a).

(2) **FINALIZATION** Not later than two years after the date the report required under paragraph (1) is submitted, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate the communication strategy required under subsection (a).

**SEC. 2207. CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND EXPLOSIVES INTELLIGENCE AND INFORMATION SHARING**

(a) **IN GENERAL** The Under Secretary of Intelligence and Analysis of the Department shall—

(1) support homeland security-focused intelligence analysis of terrorist actors, their claims, and their plans to conduct attacks involving chemical, biological, radiological, or nuclear materials or explosives against the United States;

(2) support homeland security-focused intelligence analysis of global infectious diseases, public health, food, agricultural, and veterinary issues;

(3) support homeland security-focused risk analysis and risk assessments of the homeland security hazards described in paragraphs (1) and (2) by providing relevant quantitative and nonquantitative threat information;

(4) leverage existing and emerging homeland security intelligence capabilities and structures to enhance prevention, protection, response, and recovery efforts with respect to a chemical, biological, radiological, nuclear, or explosives attack;

(5) share appropriate information regarding such threats to appropriate State, local, tribal, and territorial authorities, as well as other national biosecurity and biodefense stakeholders; and

(6) perform other responsibilities, as assigned by the Secretary.

(b) **COORDINATION** Where appropriate, the Under Secretary of Intelligence and Analysis shall coordinate with the heads of other relevant Department components, including the Assistant Secretary, members of the intelligence community, including the National Counter Proliferation Center and the National Counterterrorism Center, and other Federal, State, local, tribal, and territorial authorities, including officials from high-threat areas, to enable such entities to provide recommendations on optimal information sharing mechanisms, including expeditious sharing of classified information, and on how such entities can provide information to the Department.

(c) *REPORT*

(1) *IN GENERAL* Not later than one year after the date of the enactment of this section and annually thereafter, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on—

(A) the intelligence and information sharing activities under subsections (a) and (b) and of all relevant entities within the Department to prevent, protect against, prepare for, respond to, mitigate, and recover from terrorist attacks and other high consequence events utilizing chemical, biological, radiological, or nuclear agents or explosives that pose a high risk to homeland security; and

(B) the Department's activities in accordance with relevant intelligence strategies.

(2) *ASSESSMENT OF IMPLEMENTATION* Each report required under paragraph (1) shall also include—

(A) a description of methods established to assess progress of the Office of Intelligence and Analysis in implementing this section; and

(B) such assessment of such progress.

(d) *DEFINITIONS* In this section:

(1) *INTELLIGENCE COMMUNITY* The term “intelligence community” has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(2) *NATIONAL BIOSECURITY AND BIODEFENSE STAKEHOLDERS* The term “national biosecurity and biodefense stakeholders” means officials from Federal, State, local, tribal, and territorial authorities and individuals from the private sector who are involved in efforts to prevent, protect against, prepare for, respond to, mitigate, and recover from a biological attack or other phenomena that may have serious health consequences for the United States, including infectious disease outbreaks.

## **Subtitle B—Chemical Division**

### **SEC. 2211. CHEMICAL DIVISION.**

(a) *ESTABLISHMENT.*—There is established in the CBRNE Office a Chemical Division, headed by a Director of the Chemical Division (in this subtitle referred to as the “Director”).

(b) *MISSION AND RESPONSIBILITIES.*—The Director shall be responsible for coordinating departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing chemical agents that pose a high risk to homeland security, including the following:

(1) Developing and maintaining the Department's strategy against chemical threats.

(2) Serving as the Department representative for chemical threats and related activities with other Federal departments and agencies.

(3) Providing oversight of the Department's preparedness, including operational requirements, for chemical threats.

(4) *Enhancing the capabilities of Federal, State, local, tribal, and territorial governments, and private entities as appropriate, against chemical threats.*

(5) *Evaluating and providing guidance to Federal, State, local, tribal, and territorial governments, and private entities as appropriate, on detection and communication technology that could be effective in terrorist attacks and other high-consequence events utilizing chemical agents.*

(6) *Supporting and enhancing the effective sharing and use of appropriate information generated by the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))), law enforcement agencies, other Federal, State, local tribal, and territorial governments, and foreign governments, on chemical threats.*

**SEC. 2212. DEMONSTRATION PROJECTS.**

(a) *IN GENERAL.*—*The Director may, subject to the availability of appropriations for such purpose, partner with high-risk urban areas or facilities to conduct demonstration projects to enhance, through Federal, State, local, tribal, and territorial governments, and private entities, capabilities of the United States to counter terrorist attacks and other high-consequence events utilizing chemical agents that pose a high risk to homeland security.*

(b) *GOALS.*—*The Director may provide guidance and evaluations for all situations and venues at risk of terrorist attacks and other high-consequence events utilizing chemical agents, such as at ports, areas of mass gathering, and transit facilities, and may—*

(1) *ensure all high-risk situations and venues are studied;*  
*and*

(2) *ensure key findings and best practices are made available to State, local, tribal, and territorial governments and the private sector.*

(c) *CONGRESSIONAL NOTIFICATION.*—*The Director shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate not later than 30 days before initiating a new demonstration project.*

## ***Subtitle C—Biological Division***

**SEC. 2221. BIOLOGICAL DIVISION.**

(a) *ESTABLISHMENT.*—*There is established in the CBRNE Office a Biological Division, headed by a Director of the Biological Division (in this subtitle referred to as the “Director”).*

(b) *MISSION AND RESPONSIBILITIES.*—*The Office shall be responsible for coordinating departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing biological agents that pose a high risk to homeland security, including the following:*

(1) *Developing and maintaining the Department’s strategy against biological threats.*

(2) *Serving as the Department representative for biological threats and related activities with other Federal departments and agencies.*

(3) *Providing oversight for the Department's preparedness, including operational requirements, for biological threats.*

(4) *Enhancing the capabilities of Federal, State, local, tribal, and territorial governments, and private entities as appropriate, against biological threats.*

(5) *Supporting and enhancing the effective sharing and use of appropriate information generated by the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))), law enforcement agencies, other Federal, State, local, tribal, and territorial governments, and foreign governments, on biological threats.*

(6) *Achieving a biological detection program.*

(7) *Maintaining the National Biosurveillance Integration Center, authorized under section 316.*

## **Subtitle D—Nuclear Division**

### **SEC. 2231. NUCLEAR DIVISION.**

(a) *ESTABLISHMENT.—The Secretary shall include within the CBRNE Office the Nuclear Division under title XIX, headed by the Director of the Nuclear Division (in this subtitle referred to as the "Director") pursuant to section 1901.*

(b) *MISSION AND RESPONSIBILITIES.—In addition to the responsibilities specified in title XIX, the Director shall also be responsible for coordinating departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing nuclear or other radiological materials, and for coordinating Federal efforts to detect and protect against the unauthorized importation, possession, storage, transportation, development, or use of a nuclear explosive device, fissile material, or radiological material in the United States, and to protect against an attack using such devices or materials against the people, territory, or interests of the United States, in accordance with title XIX.*

## **Subtitle E—Explosives Division**

### **SEC. 2241. EXPLOSIVES DIVISION.**

(a) *ESTABLISHMENT.—There is established within the CBRNE Office an Explosives Division, headed by a Director of the Explosives Division (in this subtitle referred to as the "Director").*

(b) *MISSION AND RESPONSIBILITIES.—The Director shall be responsible for coordinating departmental strategy and policy relating to terrorist attacks and other high-consequence events utilizing explosives that pose a high risk to homeland security, including the following:*

(1) *Developing and maintaining the Department's strategy against explosives threats.*

(2) *Serving as the Department representative for explosives threats and related activities with other Federal departments and agencies.*

(3) *Providing oversight of the Department's preparedness, including operational requirements, for explosives threats.*

(4) *Enhancing the capabilities of Federal, State, local, tribal, and territorial governments, and private entities as appropriate,*

*to counter terrorist attacks and other high-consequence events utilizing explosives.*

*(5) Evaluating and providing guidance to Federal, State, local, tribal, and territorial governments and appropriate private entities on detection and communication technology that could be effective during terrorist attacks or other high-consequence events utilizing explosives.*

*(6) Supporting and enhancing the effective sharing and use of appropriate information generated by the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))), law enforcement agencies, other Federal, State, local, tribal, and territorial government agencies, and foreign governments, on explosives threats.*

## ADDITIONAL VIEWS

On Wednesday, November 4, 2015, the Committee on Homeland Security approved, H.R. 3875, the “Department of Homeland Security CBRNE Defense Act of 2015,” as amended. While I remain skeptical about the reorganization scheme advanced by the Department of Homeland Security (DHS) and H.R. 3875, I am pleased that the Committee accepted an amendment I offered to make key refinements to the legislation to address some of my concerns.

Pursuant to the explanatory statement accompanying the “Consolidated and Further Continuing Appropriations Act, 2013” [P.L. 113–6], DHS was directed to “to ensure clear assignment of responsibilities and unrestricted lines of communication both within the Department and in DHS engagement with the interagency and intergovernmental community” and “to undertake an in-depth review of its organization, operations, and communications in carrying out its WMD programs, to include an evaluation of potential improvements in performance and possible savings in costs that might be gained by consolidation of current organizations and missions.” The Department was required to submit the results of its review to Congress by September 1, 2013.

Subsequently, I wrote to the Government Accountability Office (GAO) in April 2013 and requested that it assess whether and how the Department should realign its programs related to chemical, biological, radiological, nuclear, and explosives (CBRNE) threats. I would note that, prior to enactment of P.L. 113–6, the report language attached to the House appropriation package directed GAO to “review the Department’s submission and provide an assessment of whether and how proposed changes would improve DHS coordination with the interagency on WMD defense issues.”<sup>1</sup>

GAO, however, could not begin work until the Department submitted the findings of its review to Congress.

In June of this year, the Department transmitted the findings of its WMD programs review—nearly two years behind schedule. Although the report proposed consolidating the Office of Health Affairs (OHA), the Domestic Nuclear Detection Office (DNDO), elements of the Science and Technology Directorate (S&T), the Office of Bombing and Explosives, and some staff from the Office of Policy, details as to why consolidation of these programs was appropriate and how it would improve the execution of the WMD mission were scant. In the Committee’s subsequent discussions with the Department, DHS stated that it did not anticipate cost savings from this reorganization and did not say that this reorganization is necessary to make the troubled BioWatch program or the long-suffering National Biosurveillance Integration Center effective.

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<sup>1</sup> Report language accompanying H.R. 5855, the “Department of Homeland Security Appropriations Act, 2013” (H. Rept. 112–492), which served as the basis for the explanatory statement accompanying P.L. 113–6.

Last month, the Committee was informed by GAO that it has begun its work to evaluate the Department's proposal and a final report is expected to be delivered in five to six months. Subsequently, I communicated to the Majority my belief that the Department and, for that matter, this Committee would benefit from waiting a few months to commence consideration of legislation to establish a CBRNE office so that GAO's findings can be evaluated and integrated.

On October 28, 2015, the Blue Ribbon Study Panel on Bio-defense, chaired by former Secretary of Homeland Security Tom Ridge and former Senator Joe Lieberman, released a report making over 30 recommendations on improving the nation's biodefense capabilities. Those recommendations should have informed this legislation, particularly those that involve two of DHS's signature bio-detection and biosurveillance programs—BioWatch and the National Biosurveillance Integration Center (NBIC).

However, because the Full Committee moved forward with consideration of H.R. 3875 just one day after the Committee received testimony from the leaders of the Blue Ribbon Study Panel on Bio-defense, that was not possible. The Full Committee bypassed regular order to hastily consider H.R. 3875 with no time to evaluate the Blue Ribbon Study Panel recommendations and without the benefit of considering GAO's forthcoming review of DHS' proposal.

One of the chief arguments in favor of this proposed reorganization has been the need to bring DHS in line with other Federal agencies that have consolidated their WMD activities. We came to learn in meetings prior to consideration of this legislation that CBRNE activities have not, in fact, been fully consolidated at other Federal agencies, including the Department of Defense. I would also note that the reorganization called for under H.R. 3875 would not fully consolidate CBRNE activities at DHS. Indeed, CBRNE activities will continue at the Federal Emergency Management Agency, the National Programs and Protection Directorate, and the Science and Technology Directorate.

H.R. 3875 does not alter DHS' responsibilities with respect to CBRNE risks. Rather, it alters how the men and women who are charged with addressing these risks are organized. While the Majority correctly observes in the report accompanying H.R. 3875 that the Committee has done years of oversight of DHS' activities in the CBRNE mission space, it is hard to see how H.R. 3875 reflects that oversight. This Committee has identified problems DHS has experienced gaining and analyzing biosurveillance data within NBIC and serious acquisitions challenges at OHA and DNDO. H.R. 3875 does nothing to tackle these challenges. Instead, it places its energy on pushing together organizations that have historically struggled to carry out their missions and have achieved varying levels of success in addressing the challenges this Committee has identified through its oversight.

I authored an amendment making important improvements to the underlying bill to stave off some of the potential problems that the kind of reorganization called for under H.R. 3875 can cause. My amendment, which was accepted, included language that underscored my belief that a far more likely outcome than this reorganization generating cost savings is that it will necessitate new

expenditure—particularly the provision of retention bonuses to highly skilled, much-sought-after nuclear and biodefense experts who otherwise would leave DHS because of their lowered position and reduced prospects for advancement.

In any merger, there are perceived “winners” and “losers” within each organization involved. It is unreasonable to expect anything different with this reorganization. That said, DHS is not just any organization or company. It is responsible for keeping our country secure from a broad array of threats. As a Nation, we cannot afford to have focus and attention towards the CBRNE mission diminished as a result of the unavoidable staff upheaval and infighting that come with a reorganization of this order.

My amendment seeks to protect the role of the Chief Medical Officer as a leader within the Department on public health and medical issues. This Committee worked in a bipartisan manner in 2007 to authorize the Chief Medical Officer position to, among other things, serve as the principal advisor to the DHS Secretary and FEMA Administrator on medical and public health issues. Moreover, my amendment preserves this key advisory role, even as the Chief Medical Officer’s budget, personnel, and resources get folded into this new office. Moreover, it allows for the establishment of a “Health Division” within the new office, which could serve as a base of operations for the Chief Medical Officer’s public health activities.

Although I am skeptical about advancing the reorganization mandated by H.R. 3875, particularly at this time of heightened threat, I am hopeful that it will be successful and will closely monitor implementation, should H.R. 3875 or any other such reorganization legislation be enacted into law.

BENNIE G. THOMPSON

