

DHS ACCOUNTABILITY ACT OF 2016

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2976

TO AMEND THE HOMELAND SECURITY ACT OF 2002 TO REFORM,
STREAMLINE, AND MAKE IMPROVEMENTS TO THE DEPARTMENT
OF HOMELAND SECURITY AND SUPPORT THE DEPARTMENT'S
EFFORTS TO IMPLEMENT BETTER POLICY, PLANNING,
MANAGEMENT, AND PERFORMANCE, AND FOR OTHER PURPOSES



JUNE 28, 2016.—Ordered to be printed

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SENATE

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DHS ACCOUNTABILITY ACT OF 2016

JUNE 28, 2016.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2976]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2976), to amend the Homeland Security Act of 2002 to reform, streamline, and make improvements to the Department of Homeland Security and support the Department's efforts to implement better policy, planning, management, and performance, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 2976, the DHS Accountability Act of 2016, is to improve homeland security by strengthening the Department of Homeland Security's (DHS or the Department) management and operations and improving accountability across the Department and assessing homeland security threats. Specifically, the legislation identifies new responsibilities for the Department's headquarters management and requires improved Department-wide coordination to address homeland security priorities. The legislation requires the Department to report on certain homeland security

measures, such as border security and immigration statistics, and requires homeland security assessments and a plan from DHS to mitigate threats and vulnerabilities. The legislation establishes new rules for the Department's workforce, including strengthening whistleblower protections. Finally, the legislation requires reviews of foreign fighters returning from conflict areas and a national strategy to combat terrorist travel.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Congress created the DHS in 2002 when it passed, and President George W. Bush signed into law, the bipartisan Homeland Security Act of 2002 (HSA).¹ The HSA formed a unified Department out of 22 separate components.² The Department and its hundreds of thousands of employees have been instrumental in securing the nation. This is the most significant legislation Congress has passed to transform DHS since the creation of the Department.

The Committee and watchdogs, including the United States Government Accountability Office (GAO) and the DHS Office of Inspector General (OIG), have identified many areas where the Department must continue to improve to better carry out its missions. During the 114th Congress, the Committee examined DHS through hearings and other oversight work, and identified numerous opportunities to increase the accountability of the Department to the American people, and to improve key mission areas such as border security.³

The DHS Accountability Act enhances the accountability of DHS by improving the effectiveness and unity of the Department, increasing transparency, reducing waste and inefficiency, and strengthening Congressional oversight. Specifically, the bill requires the Department to improve its headquarters management and coordination of its component offices through unity of effort reforms, joint task forces, and joint duty assignments; creates new accountability measures, including new performance measures and efficiency reviews; establishes workforce reforms to strengthen the Department's personnel management; and requires independent assessments of homeland security by the DHS Office of Intelligence and Analysis and the Inspector General to identify areas that must be addressed and requires the Homeland Security Secretary to respond to the findings of the Inspector General.

¹ 6 U.S.C. App. §101, *et seq.*

² *Id.*

³ See, e.g., *DHS Management and Acquisition Reform: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 114th Cong. (2016); *Frustrated Travelers: Rethinking TSA Operations to Improve Passenger Screening and Address Threats to Aviation: Hearing Before the S. Comm. on Homeland Sec. and Governmental Affairs*, 114th Cong. (2016); *Securing the Border: Fencing, Infrastructure, and Technology Force Multipliers: Hearing Before the S. Comm. on Homeland Sec. and Governmental Affairs*, 114th Cong. (2015); *Visa Waiver Program: Implications for U.S. National Security: Hearing Before the S. Comm. on Homeland Sec. and Governmental Affairs*, 114th Cong. (2015); *Securing the Border: Understanding and Addressing the Root Causes of Central American Migration to the United States: Hearing Before the S. Comm. on Homeland Sec. and Governmental Affairs*, 114th Cong. (2015). In November 2015, staff for Chairman Ron Johnson issued a majority staff report providing a summary of the majority staff's findings from the Committee's border security hearings, as well as a primer on key border security issues and recommendations for small reforms that could move the country closer to a secure border. Senator Ron Johnson, *Majority Staff Report: The State of America's Border Security*, Committee on Homeland Security and Governmental Affairs, 114th Cong. (Nov. 23, 2015). Staff for the then-Ranking Member of the Committee, Senator Tom Coburn, issued a minority staff report reviewing DHS in January 2015. Senator Tom Coburn, *A Review of the Department of Homeland Security's Missions and Performance*, 113th Cong. (Jan. 2015).

Strengthening Homeland Security

The security of our nation continues to face serious threats, including threats due to violent extremism, illegal drug trafficking, and foreign fighters.⁴ Despite the threat of violent extremism, Congress has not authorized or codified an office at the Department responsible for coordinating and overseeing activities to counter violent extremism.⁵ The bill establishes within the Department an Office of Partnerships Against Violent Extremism, headed by an Assistant Secretary. The Office will lead the efforts of the Department to counter violent extremism, including collaborating with communities and civil society groups to address vulnerabilities that can be exploited by violent extremists.

The legislation also includes language to require the Federal Government to review information about individuals who have traveled or attempted to travel from the United States to support terrorist organizations in Iraq or Syria. This legislation, which was added to the bill as an amendment, is based on similar language in H.R. 4402, the Foreign Fighter Review Act, which passed the House of Representatives on February 23, 2016, and was referred to the Committee.⁶ An amendment was also added to this bill to require a national strategy to combat terrorist travel. This language is based on language from H.R. 4408, the National Strategy to Combat Terrorist Travel Act, which passed the House of Representatives on February 23, 2016.⁷ Together, these provisions will improve the nation's ability to prevent terrorist attacks from home-grown extremists, individuals seeking to return to the United States after traveling to conflict areas, and foreign terrorists seeking to enter the United States.

Additionally, the legislation includes language from S. 1808, the Northern Border Security Review Act, reported by the Committee in October 2015, which requires the Secretary to develop a northern border threat analysis of current and potential terrorism or criminal threats posed by individuals or organized groups seeking to enter or exploit the northern border of the United States. The threat analysis will further identify gaps in law and policy, and determine whether additional U.S. Customs and Border Protection preclearance and pre-inspection operations at ports of entry along the Northern Border could help prevent terrorists and instruments of terror from entering the United States. The analysis will assist Congress and the Department in identifying improvements necessary to make the Northern Border less susceptible to terrorist and criminal activity.

Department management and coordination

For thirteen years, DHS has been included on the GAO High Risk List, in part, because components and management functions

⁴ Department of Homeland Security, *The 2014 Quadrennial Homeland Security Review* (June 18, 2014), available at <https://www.dhs.gov/sites/default/files/publications/2014-qhsr-final-508.pdf>.

⁵ See *DHS Management and Acquisition Reform: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 114th Cong. (2016).

⁶ Foreign Fighter Review Act, H.R. 4402 (114th Cong.).

⁷ National Strategy to Combat Terrorist Travel Act, H.R. 4408 (114th Cong.).

have not fully been integrated across the Department.⁸ While significant progress has been made on this issue over the last several years, the Department's management remains on GAO's High Risk List, and continues to leave the Department vulnerable to waste and inefficiency.⁹ According to GAO, DHS must have effective collaboration and integration of its components and management functions to have a cohesive and effective department greater than the sum of its parts.¹⁰ GAO highlighted that the Department's *Unity of Effort* initiative has assisted DHS in addressing these issues; however, the initiative is in the early stages, and the Department has not demonstrated sustained progress—a requirement for removal from the GAO High Risk List.¹¹

To this end, S. 2976 codifies several critical aspects of the Department's *Unity of Effort* initiative to ensure that DHS management continues to integrate and address GAO's concerns. For example, the bill provides the Secretary the authority to establish initiatives to enhance coordination among the Department and components, including Department Leadership Councils, a Joint Requirements Council, Joint Operational Plans, Joint Task Forces, a Joint Duty Training Program, and a Joint Duty Assignment Program. These initiatives would help strengthen collaboration between DHS headquarters and its components and provide a more coordinated approach to how the Department protects the homeland.

Department transparency and assessments

DHS has relied on a variety of metrics to measure its progress in securing the border, such as the resources sent to the border or the number of people apprehended.¹² Over time, the Department adopted and then dropped various measures to track border security, failing to settle on a consistent framework that can measure long-term trends.¹³ Moreover, the data has not always been publicly reported.¹⁴ Mirroring S. 1864, introduced by Chairman Ron Johnson, Senator John Cornyn, and Senator John McCain on July 27, 2015, and approved by the Committee on July 29, 2015,¹⁵ the legislation enhances the ability of the Department to assess its progress in securing the border by requiring consistent, regular, and robust border security performance measures across all land and maritime borders, and requires DHS to make its data available to the public, subject to applicable privacy laws.

In addition to publically available border metrics, S. 2976 increases transparency by requiring DHS to publish more informa-

⁸ GOV'T ACCOUNTABILITY OFFICE, GAO-15-290, HIGH-RISK SERIES: AN UPDATE (2015) [hereinafter GAO-15-290, HIGH-RISK SERIES: AN UPDATE].

⁹ GOV'T ACCOUNTABILITY OFFICE, GAO-16-507T, PROGRESS MADE, BUT WORK REMAINS IN STRENGTHENING ACQUISITION AND OTHER MANAGEMENT FUNCTIONS (2016).

¹⁰ GAO-15-290, HIGH-RISK SERIES: AN UPDATE at 209.

¹¹ *Id.* at 5, 218.

¹² See, e.g., Jeh Johnson, Sec'y, Dep't of Homeland Sec., *Address at the Center for Strategic and International Studies: Border Security in the 21st Century* (Oct. 9, 2014), available at <http://www.dhs.gov/news/2014/10/09/remarks-secretary-homeland-security-jeh-johnson-border-security-21st-century>; Jeh Johnson, Sec'y, Dep't of Homeland Sec., *Address at Rice University: Immigration: Perception Versus Reality* (June 8, 2015), available at <http://www.dhs.gov/news/2015/06/08/remarks-secretary-johnson-immigration-perception-versus-reality>.

¹³ BIPARTISAN POLICY CENTER, MEASURING THE METRICS: GRADING THE GOVERNMENT ON IMMIGRATION ENFORCEMENT 10-13 (Feb. 2015), available at http://bipartisanpolicy.org/wp-content/uploads/2015/02/BPC_Immigration_MeasuringEnforcement.pdf (citing at least four different core measures agencies have utilized in the context of border control for the southwest border in the past fifteen years).

¹⁴ See *id.* at 1.

¹⁵ S. Rep. No. 114-152 (2015).

tion regarding research and development projects on its public website. DHS shall develop, maintain and publish a detailed list of each research and development project that is not classified, including the component responsible for the project. Further, the Department will publish a definition for the term “research and development.”

Both the DHS OIG and GAO have identified numerous actions the Department can take to use taxpayer dollars more efficiently, from reducing duplicative functions to planning information technology investments more effectively.¹⁶ This legislation requires that the Secretary lead a cost savings and efficiency review across the Department; requires an information technology strategic plan to ensure investments are aligned with mission priorities; prohibits the purchase of excess software licenses; requires a review of international affairs offices and functions to eliminate areas of unnecessary duplication; requires development of workforce strategy plans; and, requires the Secretary to submit to Congress an action plan that addresses recommendations issued in GAO’s annual duplication and cost savings report.

The legislation also requires that the DHS OIG identify instances wherein a grant or contract was improperly awarded to a suspended or debarred entity.

Department accountability: protecting whistleblowers and reforming the workforce

This Committee has a history of working on a bipartisan basis to protect Federal whistleblowers that come forward to report waste, fraud, and abuse, and seek the protections of the Whistleblower Protection Act.¹⁷ The Committee held a hearing with testimony from alleged whistleblowers from a number of agencies, including DHS components, and conducted oversight investigations of the Department, and found a number of areas where legislation could enhance whistleblower protections at the Department.¹⁸ S. 2976 requires the Secretary to inform employees of their whistleblower protection rights, requires training for supervisors, and codifies minimum suspension periods for supervisors that retaliate against whistleblowers.

Finally, GAO has reported that policies on paid administrative leave differ across the Federal Government, with some agencies recording leave that is otherwise authorized by Congress—certain union activities, certain military activities, serving as an organ donor, and jury duty—as administrative leave.¹⁹ In addition, GAO found that 116 DHS employees from fiscal years 2011 through 2015 were on administrative leave for at least one year, costing Amer-

¹⁶ GOV’T ACCOUNTABILITY OFFICE, GAO-16-375SP, 2016 ANNUAL REPORT: ADDITIONAL OPPORTUNITIES TO REDUCE FRAGMENTATION, OVERLAP, AND DUPLICATION AND ACHIEVE OTHER FINANCIAL BENEFITS (2016); DEPARTMENT OF HOMELAND SECURITY, OFFICE OF INSPECTOR GENERAL, SEMI-ANNUAL REPORT TO THE CONGRESS: OCTOBER 1, 2014 THROUGH MARCH 31, 2015 (Apr. 30, 2015), available at https://www.oig.dhs.gov/assets/SAR/OIG_SAR_Oct01_Mar31.pdf.

¹⁷ See, e.g., the Whistleblower Protection Enhancement Act of 2012, Pub. L. No. 112-199 (112th Cong.) (2012); The Dr. Chris Kirkpatrick Whistleblower Protection Act, S. 2127, 114th Cong. (2015) (approved by the Committee in 2015).

¹⁸ See, e.g., *Blowing the Whistle on Retaliation: Accounts of Current and Former Federal Agency Whistleblowers: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs*, 114th Cong. (2015).

¹⁹ GOV’T ACCOUNTABILITY OFFICE, GAO-15-79, FEDERAL PAID ADMINISTRATIVE LEAVE: ADDITIONAL GUIDANCE NEEDED TO IMPROVE OPM DATA (2014).

ican taxpayers \$19.8 million.²⁰ The vast majority of these individuals were eventually separated from the Department.²¹ To address issues raised by GAO and other oversight groups, the legislation defines “administrative leave” for the first time in Federal statute, limits the broad variation of its use by all Federal agencies, and encourages Federal agencies to use administrative leave only as a last resort by utilizing tools such as temporary reassignment or telework arrangements where possible. The legislation also requires agencies to improve accounting procedures of when they use administrative leave.

Conclusion

S. 2976 improves the Department’s ability to accomplish its mission of securing the homeland from the myriad threats it faces. With this legislation, the Committee believes DHS can be even more effective in its mission, while also being more transparent to Congress and accountable to the American people.

III. LEGISLATIVE HISTORY

Chairman Ron Johnson (R–WI.) introduced S. 2976 on May 23, 2016, with Ranking Member Tom Carper (D–DE.). The bill was referred to the Committee on Homeland Security and Governmental Affairs. The Committee considered S. 2976 at a business meeting on May 25, 2016.

During the business meeting, nine amendments were offered and accepted. Senator James Lankford offered an amendment to modify, streamline, and make improvements to DHS administrative leave policies. The amendment was subsequently amended by a second degree amendment offered by himself and Senator Jon Tester to make the provisions in the amendment applicable to all Federal agencies, not just DHS. As a result of the modification, the Tester/Lankford amendment mirrors S. 2450, the Administrative Leave Act of 2016. The Lankford amendment, as amended by the Tester-Lankford second degree amendment, was adopted by voice vote with Senators Johnson, Paul, Lankford, Ernst, Sasse, Carper, Tester, Baldwin, Heitkamp, Booker, and Peters present.

Senator James Lankford offered an amendment to require an annual public report on the personnel and other resources that each DHS component provides to a Joint Task Force. Senator Lankford modified the amendment to limit distribution of the annual report to Congress because of the sensitive nature of the data. The modified amendment was adopted by voice vote with Senators Johnson, Paul, Lankford, Ernst, Sasse, Carper, Tester, Baldwin, Heitkamp, Booker, and Peters present.

Senator James Lankford offered an amendment to change the cost savings and efficiencies review required in Section 206 of the DHS Accountability Act to add an examination of the functions and interactions between management and administrative offices at DHS headquarters, components, and other Federal agencies, including the Office of Personnel Management (OPM) and the General Services Administration (GSA). The amendment encourages

²⁰ GOV’T ACCOUNTABILITY OFFICE, GAO–16–342, ADMINISTRATIVE LEAVE: EVALUATION OF DHS’S NEW POLICY CAN HELP IDENTIFY PROGRESS TOWARD REDUCING LEAVE USE 8 (2016).

²¹*Id.* at 11.

DHS to look for opportunities to use shared services to perform support functions to promote process efficiencies and encourages DHS to use best practices to determine whether there are better ways to provide back office support to the Department. Senator Lankford modified the amendment to limit examination to DHS components and OPM and GSA. The modified amendment was adopted by voice vote with Senators Johnson, Paul, Lankford, Ayotte, Ernst, Sasse, Carper, Tester, Baldwin, Heitkamp, Booker, and Peters present.

Senators Kelly Ayotte and Senator Joni Ernst offered an amendment to require the Secretary of Homeland Security to conduct a review of known instances in which a person has traveled or attempted to travel since 2011 to a conflict zone in Iraq or Syria from the United States to join or provide material support or resources to a terrorist organization, and provide a report based on the review to Congress. The amendment was adopted by voice vote with Senators Johnson, Paul, Lankford, Ernst, Sasse, Carper, Tester, Baldwin, Heitkamp, Booker, and Peters present.

Senators Ayotte and Ernst also offered an amendment to express the sense of Congress that the United States should regularly assess the evolving terrorist threat to the United States; catalog existing efforts to obstruct terrorist and foreign fighter travel into, out of, and within the United States, as well as overseas; identify efforts that could be streamlined, consolidated, or eliminated; identify any vulnerabilities; and prioritize resources to take a risk-based approach to security vulnerabilities. The amendment also requires the President to submit a report to Congress on the a national strategy to combat terrorist travel. The amendment was adopted by voice vote with Senators Johnson, Paul, Lankford, Ernst, Sasse, Carper, Tester, Baldwin, Heitkamp, Booker, and Peters present.

An amendment was offered by Senator Claire McCaskill to require DHS to submit to Congress a plan to address the areas identified by the annual GAO report on duplication and fragmentation, and an estimated date of completion of the plan. The amendment was modified twice and adopted by voice vote with Senators Johnson, Paul, Lankford, Ernst, Sasse, Carper, Tester, Baldwin, Heitkamp, Booker, and Peters present.

Senator Heidi Heitkamp offered an amendment to change language in the bill from “capability gaps in homeland security defenses to address such threats” to “capability of the Department to address those threats” in the section of the bill that required the Under Secretary for Intelligence and Analysis to conduct an annual assessment of the current threats to homeland security and capability gaps in homeland security defenses to address such threats. The amendment also requires the DHS OIG to provide a report, which includes an assessment of the capability of the Department to address the threats identified by DHS. The amendment more clearly describes the requirements of the threat assessment, and ensures that mitigation steps identified by the assessment are directed at DHS. The amendment was adopted by voice vote with Senators Johnson, Paul, Lankford, Ernst, Sasse, Carper, Tester, Baldwin, Heitkamp, Booker, and Peters present.

Senator Heitkamp offered another amendment to codify, in the HSA, the DHS Chief Human Capital Officer (CHCO) position and

his or her responsibilities. The amendment was adopted by voice vote with Senators Johnson, Paul, Lankford, Ernst, Sasse, Carper, Tester, Baldwin, Heitkamp, Booker, and Peters present.

Senator Heitkamp, for herself and Senator Ayotte, offered an amendment to require the Secretary of Homeland Security to conduct and submit a threat analysis of the Northern Border to the appropriate congressional committees. The amendment mirrors S. 1808, the Northern Border Security Review Act, which was reported by the Committee in October 2015. The amendment was adopted by voice vote with Senators Johnson, Paul, Lankford, Ernst, Sasse, Carper, Tester, Baldwin, Heitkamp, Booker, and Peters present.

The Committee ordered the bill, as amended by the nine amendments discussed above, reported favorably by roll call vote. Fourteen Senators voted in the affirmative: Johnson, Portman, Paul, Lankford, Ayotte, Ernst, Sasse, Carper, McCaskill, Tester, Baldwin, Heitkamp, Booker, and Peters. For the record only, Senators McCain and Enzi voted aye by proxy. No Senator voted in the negative.

Consistent with the Committee's order on technical and conforming changes at the meeting, the Committee reports the bill with technical and conforming changes by mutual agreement of the full Committee majority and minority staff.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title; table of contents

This section provides the bill's short title, the "DHS Accountability Act of 2016," and its table of contents.

Section 2. Definitions

This section defines terms applicable to the bill, including "congressional homeland security committees," "Department," and "Secretary."

TITLE I—DEPARTMENT MANAGEMENT AND COORDINATION

Section 101. Management and execution

This section designates the Under Secretary for Management (USM) as the first assistant to the Deputy Secretary and provides the responsibilities of this officer; authorizes an Under Secretary of Strategy, Policy, and Plans; requires the Secretary to notify Congress of vacancies in certain senior positions; authorizes the Secretary to designate other officers further in succession to serve as Acting Secretary; revises the definition of management integration and transformation in the HSA; and requires DHS to report to GAO on the status of the Department's planned actions for removal from the GAO High Risk List.

Section 102. Department coordination

This section provides the Secretary the authority to establish initiatives to enhance coordination among the Department and components, including Department Leadership Councils, a Joint Requirements Council, Joint Operational Plans, Joint Task Forces, a Joint Duty Training Program, and a Joint Duty Assignment Program.

Section 103. National Operations Center

This section requires Federal agencies to provide the National Operations Center with timely information pertaining to homeland security issues.

Section 104. Homeland Security Advisory Council

This section requires that the Secretary establish a Homeland Security Advisory Council to provide advice and recommendations on homeland security and homeland security-related matters.

Section 105. Strategy, policy, and plans

This section codifies the existing Office of Policy at DHS and re-names it the Office of Strategy, Policy, and Plans, to be headed by an Under Secretary. The office is to lead, conduct, and coordinate Department-wide policy development and implementation, strategic planning, and homeland security statistics and joint analysis. The office is to be headed by an Under Secretary for Strategy, Policy, and Plans who shall serve as the principal policy advisor to the Secretary.

Section 106. Authorization of the Office for Partnerships Against Violent Extremism of the Department of Homeland Security

This section establishes within DHS the Office for Partnerships Against Violent Extremism, to be headed by an Assistant Secretary. The office shall be responsible for leading DHS efforts to counter violent extremism. This section also requires DHS to submit to Congress a comprehensive DHS strategy, a strategic implementation plan to counter violent extremism in the United States, and annual reports and annual reviews.

TITLE II—DEPARTMENT ACCOUNTABILITY, EFFICIENCY, AND
WORKFORCE REFORMS

Section 201. Duplication review

This section requires that DHS complete and report on a review of the international affairs offices, functions, and responsibilities of the Department to identify and eliminate areas of unnecessary duplication.

Section 202. Information technology strategic plan

This section requires the Chief Information Officer (CIO) to develop, make public, and submit to the congressional homeland committees an information technology strategic plan every five years. The DHS information technology strategic plan shall include an estimated date by which DHS will identify and eliminate unnecessary duplicative, legacy, and outdated information technology.

Section 203. Software licensing

This section requires that the CIO conduct a DHS-wide inventory of all existing software licenses held by DHS and assess the needs of DHS for software licenses for the subsequent two fiscal years. The section also prohibits DHS from procuring excess software licenses.

Section 204. Workforce strategy

This section codifies the CHCO position at DHS, and identifies the senior official's responsibilities, including developing and implementing strategic workforce planning policies, developing performance measures to evaluate strategic workforce planning efforts, and implementing policies to bolster the Department's workforce. This section also requires DHS to develop and implement strategic workforce planning policies and mandates the submission of an annual report to congressional homeland security committees containing information on the Department's progress toward fulfilling the workforce strategies required to be developed. The section also requires DHS components to coordinate with the CHCO to develop a five-year workforce strategy for human resource management.

Section 205. Whistleblower protections

This section requires that certain minimum disciplinary actions be taken against supervisors that commit a prohibited personnel action against whistleblowers, training on how to respond to complaints alleging a violation of whistleblower protections, and codifies responsibilities of the Secretary with regard to whistleblower protections.

Section 206. Cost savings and efficiency reviews

This section mandates that the Secretary, acting through the USM, shall submit a report to the congressional homeland security committees that provides a detailed inventory of the management and administrative expenditures and activities of DHS components; examines the major physical assets and size, experience level, and geographic distribution of DHS operational personnel; makes recommendations to reduce deficiencies in DHS's capabilities, reduce costs, and enhance efficiencies; and, examines whether there is any unnecessary duplication amongst personnel who perform these functions at headquarters, with those at the DHS components, Office of Personnel Management and General Services Administration.

Section 207. Abolishment of certain offices

This section abolishes the position of Director of Shared Services and the Office of the Director of Counternarcotics Enforcement.

TITLE III—DEPARTMENT TRANSPARENCY AND ASSESSMENTS

Section 301. Homeland security metrics

This section requires that the Secretary provide numbers of persons known to have overstayed their visa and the estimated percentage of persons believed to have overstayed their visa, along with enforcement actions taken. The section also requires the Department to assess its progress in securing the border by requiring consistent, regular, and robust border security performance measures across all land and maritime of our borders, and requires DHS to make its data available to the public, subject to applicable privacy laws.

Section 302. Annual homeland security assessment

This section requires that the Under Secretary for Intelligence and Analysis to conduct an annual assessment of the current threats to homeland security and capability gaps in homeland security defenses to address such threats. The section requires the DHS OIG to assess the capability of the Department to address the threats identified in the DHS report, and for the Secretary to review both assessments and report to the congressional homeland security committees on how it will mitigate the identified threats and capability gaps.

Section 303. Department transparency

This section requires the Administrator of the Federal Emergency Management Agency to initiate a study to determine the feasibility of providing to Congress information on the use of certain federal grant awards by entities that receive grants under the Urban Security Initiative and the State Homeland Security Grant Program.

Section 304. Transparency in research and development

This section requires that the Secretary maintain a detailed list, accessible on the website of the Department, of each research and development project that is not classified, and submit a list of classified projects to Congress.

Section 305. Reporting on National Bio- and Agro-Defense Facility

This section requires that the Secretary submit to the congressional homeland security committees a report on the National Bio- and Agro-defense Facility twice each year, including the status of the construction and a description of activities carried out to decommission the Plum Island Animal Disease Center.

Section 306. Inspector General oversight of suspension and debarment

This section requires the DHS OIG to conduct an audit of grant and procurement award decisions to ensure that entities suspended or debarred from receiving federal funds are not improperly receiving awards. The DHS Inspector General must also review the DHS suspension and debarment program to assess whether program criteria are being consistently applied throughout DHS.

Section 307. Future Years Homeland Security Program

This section ensures that the Future Years Homeland Security Program includes estimates for acquisition cost and deployment schedules for major acquisitions for the fiscal year for which the report is submitted and the four succeeding fiscal years.

Section 308. Quadrennial homeland security review

This section ensures that the Quadrennial Homeland Security Review includes a review of the capabilities and capacities across the homeland security enterprise to identify redundant, wasteful, or unnecessary capabilities and capacities.

Section 309. Reporting reduction

This section terminates and modifies certain reporting requirements of the Department, including the termination of an annual budget review by the Director of the Office of Counternarcotics Enforcement, which no longer exists.

Section 310. Additional definitions

This section codifies certain definitions in the HSA, including “congressional homeland security committees” and “best practices.”

TITLE IV—MISCELLANEOUS

Section 401. Administrative leave

This section defines “administrative leave” for the first time in Federal statute, limits the broad variation of its use by all Federal agencies, and encourages Federal agencies to use administrative leave only as a last resort by utilizing tools like temporary reassignment or telework arrangements where possible. The section also requires agencies to keep better accounting of when they use administrative leave and other forms of non-duty paid leave.

Section 402. United States Government review of certain foreign fighters

This section requires the President to review known instances of travel or attempted travel to the conflict zone in Iraq or Syria since 2011 and provide the information to the appropriate congressional committees. The scope of the review shall “ascertain which factors, including operational issues, security vulnerabilities, systemic challenges, or other issues, which may have undermined efforts to prevent the travel” of such persons, including “issues related to the timely identification of suspects, information sharing, intervention, and interdiction . . .”. The report is due to certain Congressional committees 120 days after enactment. No funds are authorized to be appropriated to carry out the review or report.

Section 403. National Strategy to combat terrorist travel

This section requires the President to submit a national strategy to combat terrorist travel to the appropriate congressional committees. The initial strategy shall be submitted within 180 days of enactment. Updated strategies shall be submitted to the appropriate committees within 180 days after the inauguration of a new President. The President shall direct the Secretary of Homeland Security to coordinate with other agencies, as appropriate. The contents of the national strategy shall include an accounting and description of all Federal programs to constrain domestic and international travel by terrorists and foreign fighters, identify specific security vulnerabilities that could be exploited, delineate goals for closing vulnerabilities, and describe actions to be taken to improve programs to align with the current threat environment. The section also requires the President to direct agency heads to develop implementation plans for each agency and annually provide updates on the plan. No funds are authorized to be appropriated to carry out the national strategy or implementation plans.

Section 404. Northern border threat analysis

This section requires the Secretary of Homeland Security to develop and submit to the appropriate congressional committees a threat analysis of current and potential terrorism and criminal threats posed by individuals or groups seeking to enter or exploit the northern border of the United States. The threat analysis will further identify gaps in law and policy, and determine whether additional U.S. Customs and Border Protection preclearance and pre-inspection operations at ports of entry along the Northern Border could help prevent terrorists and instruments of terror from entering the United States. The analysis will assist Congress and the Department in identifying improvements necessary to make the Northern Border less susceptible to terrorist and criminal activity.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JUNE 24, 2016.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2976, the DHS Accountability Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL.

Enclosure.

S. 2976—DHS Accountability Act of 2016

S. 2976 would aim to improve the management and accountability of the Department of Homeland Security (DHS). The bill also would direct DHS to develop various metrics to evaluate the effectiveness of security measures at the United States border and to conduct an analysis of potential threats and security gaps along the northern border of the United States. The bill would require a total of about a dozen reports, reviews, or assessments by DHS, the department's Office of Inspector General, and the Government Accountability Office. Several of the reports or reviews would be prepared annually.

Based on information from DHS and the cost of similar activities, CBO estimates that implementing S. 2976 would cost about \$4 million in 2017 and about \$1 million annually thereafter, assuming

appropriation of the necessary funds. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 2976 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 2976 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2976 as reported are shown as follows (existing law proposed to be omitted is enclosed in 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 2. DEFINITIONS

In this Act, the following definitions apply:

(1) *The term ‘acquisition’ has the meaning given the term in section 131 of title 41, United States Code.*

[(1)] (2) Each of the terms “American homeland” and “homeland” means the United States.

[(2)] (3)

(A) The term “appropriate congressional committee” means any committee of the House of Representatives or the Senate having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.

(B) *The term ‘congressional homeland security committees’ means—*

(i) *the Committee on Homeland Security and Governmental Affairs of the Senate;*

(ii) *the Committee on Homeland Security of the House of Representatives;*

(iii) *the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate; and*

(iv) *the Subcommittee on Homeland Security of the Committee on Appropriations of the House of Representatives.*

[(3)] (4) The term “assets” includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(5) *The term ‘best practices’, with respect to acquisition, means a knowledge-based approach to capability development that includes—*

(A) *identifying and validating needs;*

(B) assessing alternatives to select the most appropriate solution;

(C) clearly establishing well-defined requirements;

(D) developing realistic cost assessments and schedules;

(E) planning stable funding that matches resources to requirements;

(F) demonstrating technology, design, and manufacturing maturity;

(G) using milestones and exit criteria or specific accomplishments that demonstrate progress;

(H) adopting and executing standardized processes with known success across programs;

(I) establishing an adequate workforce that is qualified and sufficient to perform necessary functions; and

(J) integrating capabilities into the mission and business operations of the Department.

[(4)] (6) The term “critical infrastructure” has the meaning given that term in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e)).

[(5)] (7) The term “Department” means the Department of Homeland Security.

[(6)] (8) The term “emergency response providers” includes Federal, State, and local governmental and nongovernmental emergency public safety, fire, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.

[(7)] (9) The term “executive agency” means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

[(8)] (10) The term “functions” includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities.

(11) *The term ‘homeland security enterprise’ means all relevant governmental and nongovernmental entities involved in homeland security, including Federal, State, local, tribal, and territorial government officials, private sector representatives, academics, and other policy experts.*

[(9)] (12) The term “intelligence component of the Department” means any element or entity of the Department that collects, gathers, processes, analyzes, produces, or disseminates intelligence information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, or national intelligence, as defined under section 3(5) of the National Security Act of 1947 (50 U.S.C. 401a(5)), except—

(A) the United States Secret Service; and

(B) the Coast Guard, when operating under the direct authority of the Secretary of Defense or Secretary of the Navy pursuant to section 3 of title 14, United States Code, except that nothing in this paragraph shall affect or diminish the authority and responsibilities of the Commandant of the Coast Guard to command or control the Coast Guard as an armed force or the authority of the Director of National Intelligence with respect to the Coast Guard as

an element of the intelligence community (as defined under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

[(10)] (13) The term “key resources” means publicly or privately controlled resources essential to the minimal operations of the economy and government.

[(11)] (14) The term “local government” means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or in Alaska a Native village or Alaska Regional Native Corporation; and

(C) a rural community, unincorporated town or village, or other public entity.

[(12)] (15) The term “major disaster” has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(16) *The term ‘management integration and transformation’—*

(A) means the development of consistent and consolidated functions for information technology, financial management, acquisition management, logistics and material resource management, asset security, and human capital management; and

(B) includes governing processes and procedures, management systems, personnel activities, budget and resource planning, training, real estate management, and provision of security, as they relate to functions cited in subparagraph (A).

[(13)] (17) The term “personnel” means officers and employees.

[(14)] (18) The term “Secretary” means the Secretary of Homeland Security.

[(15)] (19) The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

[(16)] (20) The term “terrorism” means any activity that—

(A) involves an act that—

(i) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and

(ii) is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and

(B) appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

[(17)] (21)(A) The term “United States”, when used in a geographic sense, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any possession of the United States, and any waters within the jurisdiction of the United States.

(B) Nothing in this paragraph or any other provision of this Act shall be construed to modify the definition of “United States” for the purposes of the Immigration and Nationality Act or any other immigration or nationality law.

[(18)] (22) The term “voluntary preparedness standards” means a common set of criteria for preparedness, disaster management, emergency management, and business continuity programs, such as the American National Standards Institute’s National Fire Protection Association Standard on Disaster/Emergency Management and Business Continuity Programs (ANSI/NFPA 1600).

* * * * *

TITLE I—DEPARTMENT OF HOMELAND SECURITY

* * * * *

SEC. 102. SECRETARY; FUNCTIONS

(a) * * *

(b) FUNCTIONS.—The Secretary—

(1) * * *

(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Secretary’s responsibilities under this Act or otherwise provided by law; [and]

(3) shall take reasonable steps to ensure that information systems and databases of the Department are compatible with each other and with appropriate databases of other Departments[.];and

(4) shall establish a Homeland Security Advisory Council to provide advice and recommendations on homeland security and homeland security-related matters.

* * * * *

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) * * *

* * * * *

(F) [An Under Secretary for Management.] *An Under Secretary for Management, who shall be first assistant to*

the Deputy Secretary of Homeland Security for purposes of subchapter III of chapter 33 of title 5, United States Code.

* * * * *

(K) An Under Secretary for Strategy, Policy, and Plans.

* * * * *

(g) **VACANCIES.**—

(1) **ABSENCE, DISABILITY, OR VACANCY OF SECRETARY OR DEPUTY SECRETARY.**—*Notwithstanding chapter 33 of title 5, United States Code, the Under Secretary for Management shall serve as the Acting Secretary if by reason of absence, disability, or vacancy in office, neither the Secretary nor Deputy Secretary is available to exercise the duties of the Office of the Secretary.*

(2) **FURTHER ORDER OF SUCCESSION.**—*Notwithstanding chapter 33 of title 5, United States Code, the Secretary may designate such other officers of the Department in further order of succession to serve as Acting Secretary.*

(3) **NOTIFICATION OF VACANCIES.**—*The Secretary shall notify the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives of any vacancies that require notification under sections 3345 through 3349d of title 5, United States Code (commonly known as the ‘Federal Vacancies Reform Act of 1998’).*

* * * * *

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

* * * * *

SEC. 210G. ANNUAL HOMELAND SECURITY ASSESSMENT

(a) **DEPARTMENT ANNUAL ASSESSMENT.**—

(1) **IN GENERAL.**—*Not later than March 31 of each year beginning in the year after the date of enactment of this section, and each year thereafter for 7 years, the Under Secretary for Intelligence and Analysis shall prepare and submit to the congressional homeland security committees a report assessing the current threats to homeland security and the capability of the Department to address those threats.*

(2) **FORM OF REPORT.**—*In carrying out paragraph (1), the Under Secretary for Intelligence and Analysis shall submit an unclassified report, and as necessary, a classified annex.*

(b) **OFFICE OF INSPECTOR GENERAL ANNUAL ASSESSMENT.**—*Not later than 90 days after the date on which a report required under subsection (a) is submitted to the congressional homeland security committees, the Inspector General of the Department shall prepare and submit to the congressional homeland security committees a report, which shall include an assessment of the capability of the Department to address the threats identified in the report required under subsection (a) and recommendations for actions to mitigate those threats.*

(c) **MITIGATION PLAN.**—*Not later than 90 days after the date on which a report required under subsection (b) is submitted to the congressional homeland security committees, the Secretary shall*

submit to the congressional homeland security committees a plan to mitigate the threats to homeland security identified in the report.

* * * * *

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

* * * * *

SEC. 310 TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE

(a) * * *

* * * * *

(e) SUCCESSOR FACILITY.—The National Bio and Agro-Defense Facility, the planned successor facility to the Plum Island Animal Disease Center as of the date of enactment of this subsection, shall be subject to the requirements under subsections (b), (c), and (d) in the same manner and to the same extent as the Plum Island Animal Disease Center.

(f) CONSTRUCTION OF THE NATIONAL BIO AND AGRO-DEFENSE FACILITY.—

(1) REPORT REQUIRED.—Not later than September 30, 2016, and not less frequently than twice each year thereafter, the Secretary of Homeland Security and the Secretary of Agriculture shall submit to the congressional homeland security committees a report on the National Bio and Agro-Defense Facility that includes—

(A) a review of the status of the construction of the National Bio and Agro-Defense Facility, including—

- (i) current cost and schedule estimates;*
- (ii) any revisions to previous estimates described in clause (i); and*
- (iii) total obligations to date;*

(B) a description of activities carried out to prepare for the transfer of research to the facility and the activation of that research; and

(C) a description of activities that have occurred to decommission the Plum Island Animal Disease Center.

(2) SUNSET.—The reporting requirement under paragraph (1) shall terminate on the date that is 1 year after the date on which the Secretary of Homeland Security certifies to the congressional homeland security committees that construction of the National Bio and Agro-Defense Facility has been completed.

* * * * *

SEC. 319. TRANSPARENCY IN RESEARCH AND DEVELOPMENT.

(a) REQUIREMENT TO PUBLICLY LIST UNCLASSIFIED RESEARCH & DEVELOPMENT PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall maintain a detailed list, accessible on the website of the Department, of—

(A) each research and development project that is not classified, and all appropriate details for each such project,

including the component of the Department responsible for the project;

(B) each task order for a Federally Funded Research and Development Center not associated with a research and development project; and

(C) each task order for a University-based center of excellence not associated with a research and development project.

(2) EXCEPTIONS.—

(A) OPERATIONAL SECURITY.—The Secretary, or a designee of the Secretary with the rank of Assistant Secretary or above, may exclude a project from the list required under paragraph (1) if the Secretary or such designee provides to the appropriate congressional committees—

(i) the information that would otherwise be required to be publicly posted under paragraph (1); and

(ii) a written certification that—

(I) the information that would otherwise be required to be publicly posted under paragraph (1) is controlled unclassified information, the public dissemination of which would jeopardize operational security; and

(II) the publicly posted list under paragraph (1) includes as much information about the program as is feasible without jeopardizing operational security.

(B) COMPLETED PROJECTS.—Paragraph (1) shall not apply to a project completed or otherwise terminated before the date of enactment of this section.

(3) DEADLINE AND UPDATES.—The list required under paragraph (1) shall be—

(A) made publicly accessible on the website of the Department not later than 1 year after the date of enactment of this section; and

(B) updated as frequently as possible, but not less frequently than once per quarter.

(4) DEFINITION OF RESEARCH AND DEVELOPMENT.—For purposes of the list required under paragraph (1), the Secretary shall publish a definition for the term ‘research and development’ on the website of the Department.

(b) REQUIREMENT TO REPORT TO CONGRESS ON CLASSIFIED PROJECTS.—Not later than January 1, 2017, and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report that lists each ongoing classified project at the Department, including all appropriate details of each such project.

(c) INDICATORS OF SUCCESS OF TRANSITIONED PROJECTS.—

(1) IN GENERAL.—For each project that has been transitioned from research and development to practice, the Under Secretary for Science and Technology shall develop and track indicators to demonstrate the uptake of the technology or project among customers or end-users.

(2) REQUIREMENT.—To the fullest extent possible, the tracking of a project required under paragraph (1) shall continue for the 3-year period beginning on the date on which the project was transitioned from research and development to practice.

(3) *INDICATORS.*—*The indicators developed and tracked under this subsection shall be included in the list required under subsection (a).*

(d) *DEFINITIONS.*—*In this section:*

(1) *ALL APPROPRIATE DETAILS.*—*The term ‘all appropriate details’ means—*

(A) *the name of the project, including both classified and unclassified names if applicable;*

(B) *the name of the component carrying out the project;*

(C) *an abstract or summary of the project;*

(D) *funding levels for the project;*

(E) *project duration or timeline;*

(F) *the name of each contractor, grantee, or cooperative agreement partner involved in the project;*

(G) *expected objectives and milestones for the project; and*

(H) *to the maximum extent practicable, relevant literature and patents that are associated with the project.*

(2) *APPROPRIATE CONGRESSIONAL COMMITTEES.*—*The term ‘appropriate congressional committees’ means—*

(A) *the Committee on Homeland Security and Governmental Affairs of the Senate;*

(B) *the Committee on Homeland Security of the House of Representatives; and*

(C) *the Committee on Oversight and Government Reform of House of Representatives.*

(3) *CLASSIFIED.*—*The term ‘classified’ means anything containing—*

(A) *classified national security information as defined in section 6.1 of Executive Order 13526 (50 U.S.C. 3161 note) or any successor order;*

(B) *Restricted Data or data that was formerly Restricted Data, as defined in section 11y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y));*

(C) *material classified at the Sensitive Compartmented Information (SCI) level as defined in section 309 of the Intelligence Authorization Act for Fiscal Year 2001 (50 U.S.C. 3345); or*

(D) *information relating to a special access program, as defined in section 6.1 of Executive Order 13526 (50 U.S.C. 3161 note) or any successor order.*

(4) *CONTROLLED UNCLASSIFIED INFORMATION.*—*The term ‘controlled unclassified information’ means information described as ‘Controlled Unclassified Information’ under Executive Order 13556 (50 U.S.C. 3501 note) or any successor order.*

(5) *PROJECT.*—*The term ‘project’ means a research or development project, program, or activity administered by the Department, whether ongoing, completed, or otherwise terminated.*

TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

* * * * *

SEC. 478. IMMIGRATION FUNCTIONS.

(a) **ANNUAL REPORT.**—

(1) **IN GENERAL.**—One year after the date of enactment of this Act, and each year thereafter, the Secretary shall submit a report to the President, **to the Committees on the Judiciary and Government Reform of the House of Representatives, and to the Committees on the Judiciary and Government Affairs of the Senate,** *the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, and the congressional homeland security committees* on the impact the transfers made by this subtitle has had on immigration functions.

(2) **MATTER INCLUDED.**—The report shall address the following with respect to the period covered by the report:

(A) * * *

* * * * *

(I) The number of persons known to have overstayed the terms of their visa, by visa type.

(J) An estimated percentage of persons believed to have overstayed their visa, by visa type.

(K) A description of immigration enforcement actions.

* * * * *

**TITLE V—NATIONAL EMERGENCY
MANAGEMENT**

* * * * *

SEC. 515 NATIONAL OPERATIONS CENTER.

(a) **DEFINITION.**—In this section, the term “situational awareness” means information gathered from a variety of sources that, when communicated to **emergency managers and decision makers** *emergency managers, decision makers, and other appropriate officials*, can form the basis for incident management decision making and steady-state activity.

(b) **ESTABLISHMENT.**—The National Operations Center is the principal operations center for the Department and shall—

(1) provide situational awareness and a common operating picture for the entire Federal Government, and for State, local, **and tribal governments** *tribal, and territorial governments, the private sector, and international partners* as appropriate, **in the event of** *for events, threats, and incidents involving a natural disaster, act of terrorism, or other man-made disaster;* **and**

(2) ensure that critical terrorism and disaster-related information reaches government decision-makers **and**; and

(3) *enter into agreements with other Federal operations centers and other homeland security partners, as appropriate, to facilitate the sharing of information.*

(c) **REPORTING REQUIREMENTS.**—*Each Federal agency shall provide the National Operations Center with timely information—*

(1) *relating to events, threats, and incidents involving a natural disaster, act of terrorism, or other man-made disaster;*

(2) *concerning the status and potential vulnerability of the critical infrastructure and key resources of the United States;*

(3) *relevant to the mission of the Department; or*

(4) as may be requested by the Secretary under section 202.

[(c)] (d) STATE AND LOCAL [FIRE SERVICE] Emergency Responder REPRESENTATION.—

(1) **[ESTABLISHMENT OF POSITION.—**The Secretary shall, in consultation with the Administrator of the United States Fire Administration, establish a fire service position at the National Operations Center established under subsection (b) to ensure the effective sharing of information between the Federal Government and State and local fire services.**]** *ESTABLISHMENT OF POSITIONS.—The Secretary shall establish a position, on a rotating basis, for a representative of State and local emergency responders at the National Operations Center established under subsection (b) to ensure the effective sharing of information between the Federal Government and State and local emergency response services.*

[(2) DESIGNATION OF POSITION.—The Secretary shall designate, on a rotating basis, a State or local fire service official for the position described in paragraph (1).**]**

[(3)](2) MANAGEMENT.—The Secretary shall manage the position established pursuant to paragraph (1) in accordance with such rules, regulations, and practices as govern other similar rotating positions at the National Operations Center.

* * * * *

TITLE VII—MANAGEMENT

* * * * *

SECTION 701. UNDER SECRETARY FOR MANAGEMENT

(a) **IN GENERAL.—**The Under Secretary for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of homeland security operations and programs. The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) * * *

* * * * *

[(9) The management integration and transformation process, as well as the transition process, to ensure an efficient and orderly consolidation of functions and personnel in the Department and transition, including—

[(A) the development of a management integration strategy for the Department, and

[(B) before December 1 of any year in which a Presidential election is held, the development of a transition and succession plan, to be made available to the incoming Secretary and Under Secretary for Management, to guide the transition of management functions to a new Administration.]

(9) The management integration and transformation within each functional management discipline of the Department, including information technology, financial management, acquisi-

tion management, and human capital management, to ensure an efficient and orderly consolidation of functions and personnel in the Department, including—

(A) the development of centralized data sources and connectivity of information systems to the greatest extent practicable to enhance program visibility, transparency, and operational effectiveness and coordination;

(B) the development of standardized and automated management information to manage and oversee programs and make informed decisions to improve the efficiency of the Department;

(C) the development of effective program management and regular oversight mechanisms, including clear roles and processes for program governance, sharing of best practices, and access to timely, reliable, and evaluated data on all acquisitions and investments; and

(D) the overall supervision, including the conduct of internal audits and management analyses, of the programs and activities of the Department, including establishment of oversight procedures to ensure a full and effective review of the efforts by components of the Department to implement policies and procedures of the Department for management integration and transformation.

(10) The development of a transition and succession plan, before December 1 of each year in which a Presidential election is held, to guide the transition of Department functions to a new Presidential administration, and making such plan available to the next Secretary and Under Secretary for Management and to the congressional homeland security committees.

(11) Reporting to the Government Accountability Office every 6 months to demonstrate measurable, sustainable progress made in implementing the corrective action plans of the Department to address the designation of the management functions of the Department on the bi-annual high risk list of the Government Accountability Office, until the Comptroller General of the United States submits to the appropriate congressional committees written notification of removal of the high-risk designation.

[(10)] (12) The development of a transition and succession plan, before December 1 of each year in which a Presidential election is held, to guide the transition of Department functions to a new Presidential administration, and making such plan available to the next Secretary and Under Secretary for Management and to the congressional homeland security committees.

[(11)] (13) Reporting to the Government Accountability Office every 6 months to demonstrate measurable, sustainable progress made in implementing the corrective action plans of the Department to address the designation of the management functions of the Department on the bi-annual high risk list of the Government Accountability Office, until the Comptroller General of the United States submits to the appropriate congressional committees written notification of removal of the high-risk designation.”;

[(b) IMMIGRATION.—

【(1) IN GENERAL.—In addition to the responsibilities described in subsection (a), the Under Secretary for Management shall be responsible for the following:

【(A) Maintenance of all immigration statistical information of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services. Such statistical information shall include information and statistics of the type contained in the publication entitled “Statistical Yearbook of the Immigration and Naturalization Service” prepared by the Immigration and Naturalization Service (as in effect immediately before the date on which the transfer of functions specified under section 441 takes effect), including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied by such bureau, and the reasons for such denials, disaggregated by category of denial and application or petition type.

【(B) Establishment of standards of reliability and validity for immigration statistics collected by such bureaus.

【(2) TRANSFER OF FUNCTIONS.—In accordance with title XV, there shall be transferred to the Under Secretary for Management all functions performed immediately before such transfer occurs by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service with respect to the following programs:

【(A) The Border Patrol program.

【(B) The detention and removal program.

【(C) The intelligence program.

【(D) The investigations program.

【(E) The inspections program.

【(F) Adjudication of immigrant visa petitions.

【(G) Adjudication of naturalization petitions.

【(H) Adjudication of asylum and refugee applications.

【(I) Adjudications performed at service centers.

【(J) All other adjudications performed by the Immigration and Naturalization Service.】

(b) WAIVERS FOR CONDUCTING BUSINESS WITH SUSPENDED OR DEBARRED CONTRACTORS.—Not later than 5 days after the date on which the Chief Procurement Officer or Chief Financial Officer of the Department issues a waiver of the requirement that an agency not engage in business with a contractor or other recipient of funds listed as a party suspended or debarred from receiving contracts, grants, or other types of Federal assistance in the System for Award Management maintained by the General Services Administration, or any successor thereto, the Under Secretary for Management shall submit to the congressional homeland security committees and the Inspector General of the Department notice of the waiver and an explanation of the finding by the Under Secretary that a compelling reason exists for the waiver.

*(c) * * **

(d) SYSTEM FOR AWARD MANAGEMENT CONSULTATION.—The Under Secretary for Management shall require that all Department contracting and grant officials consult the System for Award Management (or successor system) as maintained by the General Services Administration prior to awarding a contract or grant or enter-

ing into other transactions to ascertain whether the selected contractor is excluded from receiving Federal contracts, certain sub-contracts, and certain types of Federal financial and non-financial assistance and benefits.

[(d)] *(e) INTEROPERABLE COMMUNICATIONS DEFINED.—In this section, the term “interoperable communications” has the meaning given that term in section 7303(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)).*

* * * * *

SEC. 703. CHIEF INFORMATION OFFICER

(a) * * *

(b) * * *

(c) STRATEGIC PLANS.—Consistent with the timing set forth in section 306(a) of title 5, United States Code, and the requirements under section 3506 of title 44, United States Code, the Chief Information Officer shall develop, make public, and submit to the congressional homeland security committees an information technology strategic plan, which shall include how—

(1) information technology will be leveraged to meet the priority goals and strategic objectives of the Department;

(2) the budget of the Department aligns with priorities specified in the information technology strategic plan;

(3) unnecessarily duplicative, legacy, and outdated information technology within and across the Department will be identified and eliminated, and an estimated date for the identification and elimination of duplicative information technology within and across the Department;

(4) the Chief Information Officer will coordinate with components of the Department to ensure that information technology policies are effectively and efficiently implemented across the Department;

(5) a list of information technology projects, including completion dates, will be made available to the public and Congress;

(6) the Chief Information Officer will inform Congress of high risk projects and cybersecurity risks; and

(7) the Chief Information Officer plans to maximize the use and purchase of commercial off-the-shelf information technology products and services.

(d) SOFTWARE LICENSING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, and every 2 years thereafter, the Chief Information Officer, in consultation with Chief Information Officers of components of the Department, shall—

(A) conduct a Department-wide inventory of all existing software licenses held by the Department, including utilized and unutilized licenses;

(B) assess the needs of the Department for software licenses for the subsequent 2 fiscal years;

(C) assess the actions that could be carried out by the Department to achieve the greatest possible economies of scale and cost savings in the procurement of software licenses;

(D) determine how the use of technological advancements will impact the needs for software licenses for the subsequent 2 fiscal years;

(E) establish plans and estimated costs for eliminating unutilized software licenses for the subsequent 2 fiscal years; and

(F) consult with the Federal Chief Information Officer to identify best practices in the Federal Government for purchasing and maintaining software licenses.

(2) *EXCESS SOFTWARE LICENSING.*—

(A) *PLAN TO REDUCE SOFTWARE LICENSES.*—If the Chief Information Officer determines through the inventory conducted under paragraph (1)(A) that the number of software licenses held by the Department exceed the needs of the Department as assessed under paragraph (1)(B), the Secretary, not later than 90 days after the date on which the inventory is completed, shall establish a plan for bringing the number of such software licenses into balance with such needs of the Department.

(B) *PROHIBITION ON PROCUREMENT OF EXCESS SOFTWARE LICENSES.*—

(i) *IN GENERAL.*—Except as provided in clause (ii), upon completion of a plan established under subparagraph (A), no additional budgetary resources may be obligated for the procurement of additional software licenses of the same types until such time as the needs of the Department equals or exceeds the number of used and unused licenses held by the Department.

(ii) *EXCEPTION.*—The Chief Information Officer may authorize the purchase of additional licenses and amend the number of needed licenses as necessary.

(3) *SUBMISSION TO CONGRESS.*—The Chief Information Officer shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a copy of each inventory conducted under paragraph (1)(A), each plan established under paragraph (2)(A), and each exception exercised under paragraph (2)(B)(ii).

SEC. 704. CHIEF HUMAN CAPITAL OFFICER

【The Chief Human Capital Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct and shall ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

【(1) participating in the 2302(c) Certification Program of the Office of Special Counsel;

【(2) achieving certification from the Office of Special Counsel of the Department's compliance with section 2302(c) of title 5, United States Code; and

【(3) informing Congress of such certification not later than 24 months after the date of enactment of this Act.】

(a) *IN GENERAL.*—There is a Chief Human Capital Officer of the Department, who shall report directly to the Under Secretary for Management.

(b) *RESPONSIBILITIES.*—In addition to the responsibilities set forth in chapter 14 of title 5, United States Code, and other applicable law, the Chief Human Capital Officer of the Department shall—

(1) *develop and implement strategic workforce planning policies that are consistent with Government-wide leading principles and in line with Department strategic human capital goals and priorities;*

(2) *develop performance measures to provide a basis for monitoring and evaluating Department-wide strategic workforce planning efforts;*

(3) *develop, improve, and implement policies, including compensation flexibilities available to Federal agencies where appropriate, to recruit, hire, train, and retain the workforce of the Department, in coordination with all components of the Department;*

(4) *identify methods for managing and overseeing human capital programs and initiatives, in coordination with the head of each component of the Department;*

(5) *develop a career path framework and create opportunities for leader development in coordination with all components of the Department;*

(6) *lead the efforts of the Department for managing employee resources, including training and development opportunities, in coordination with each component of the Department;*

(7) *work to ensure the Department is implementing human capital programs and initiatives and effectively educating each component of the Department about these programs and initiatives;*

(8) *identify and eliminate unnecessary and duplicative human capital policies and guidance;*

(9) *provide input concerning the hiring and performance of the Chief Human Capital Officer or comparable official in each component of the Department; and*

(10) *ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code.*

(c) **COMPONENT STRATEGIES.**—

(1) **IN GENERAL.**—*Each component of the Department shall, in coordination with the Chief Human Capital Officer of the Department, develop a 5-year workforce strategy for the component that will support the goals, objectives, and performance measures of the Department for determining the proper balance of Federal employees and private labor resources.*

(2) **STRATEGY REQUIREMENTS.**—*In developing the strategy required under paragraph (1), each component shall consider the effect on human resources associated with creating additional Federal full-time equivalent positions, converting private contractors to Federal employees, or relying on the private sector for goods and services, including—*

(A) *hiring projections, including occupation and grade level, as well as corresponding salaries, benefits, and hiring or retention bonuses;*

(B) *the identification of critical skills requirements over the 5-year period, any current or anticipated deficiency in critical skills required at the Department, and the training or other measures required to address those deficiencies in skills;*

- (C) recruitment of qualified candidates and retention of qualified employees;
- (D) supervisory and management requirements;
- (E) travel and related personnel support costs;
- (F) the anticipated cost and impact on mission performance associated with replacing Federal personnel due to their retirement or other attrition; and
- (G) other appropriate factors.

(d) ANNUAL SUBMISSION.—Not later than 90 days after the date on which the Secretary submits the annual budget justification for the Department, the Secretary shall submit to the congressional homeland security committees a report that includes a table, delineated by component with actual and enacted amounts, including—

- (1) information on the progress within the Department of fulfilling the workforce strategies developed under subsection (c); and
- (2) the number of on-board staffing for Federal employees from the prior fiscal year;
- (3) the total contract hours submitted by each prime contractor as part of the service contract inventory required under section 743 of the Financial Services and General Government Appropriations Act, 2010 (division C of Public Law 111-117; 31 U.S.C. 501 note) with respect to—
 - (A) support service contracts;
 - (B) federally funded research and development center contracts; and
 - (C) science, engineering, technical, and administrative contracts; and
- (4) the number of full-time equivalent personnel identified under the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.).

* * * * *

SEC. 707. QUADRENNIAL HOMELAND SECURITY REVIEW

(a) * * *

(b) CONTENTS OF REVIEW.—In each quadrennial homeland security review, the Secretary shall—

(1) * * *

* * * * *

(5) include an assessment of the organizational alignment of the Department with the national homeland security strategy referred to in paragraph (1) and the homeland security mission areas outlined under paragraph (2); **[and]**

(6) review and assess the effectiveness of the mechanisms of the Department for executing the process of turning the requirements developed in the quadrennial homeland security review into an acquisition strategy and expenditure plan within the Department;

(7) review available capabilities and capacities across the homeland security enterprise and identify redundant, wasteful, or unnecessary capabilities and capacities from which resources can be redirected to better support other existing capabilities and capacities.

(c) REPORTING.—

(1) IN GENERAL.—[Not later than December 31 of the year in which a quadrennial homeland security review is conducted, the Secretary shall submit to Congress a report regarding that quadrennial homeland security review.] *Not later than 60 days after the date on which the budget of the President is submitted to Congress under section 1105 of title 31, United States Code, for the fiscal year after the fiscal year in which a quadrennial homeland security review is conducted under subsection (a)(1), the Secretary shall submit to Congress a report on the quadrennial homeland security review.*

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include—

(A) * * *

* * * * *

(H) an explanation of any underlying assumptions used in conducting the review; [and]

(I) *a description of how the conclusions under the quadrennial homeland security review will inform efforts to develop capabilities and build capacity of States, local governments, Indian tribes, territories, and private entities, and of individuals, families, and communities;*

(J) *proposed changes to the authorities, organization, governance structure, or business processes (including acquisition processes) of the Department in order to better fulfil responsibilities of the Department;*

(K) *if appropriate, a classified or other appropriately controlled document containing any information required to be submitted under this paragraph that is restricted from public disclosure in accordance with Federal law, including information that is not publicly releasable; and*

[(I)] (L) any other matter the Secretary considers appropriate.

* * * * *

SEC. 708. DEPARTMENT COORDINATION.

(a) DEFINITIONS.—*In this section—*

(1) *the term ‘joint duty training program’ means the training program established under subsection (e)(9)(A);*

(2) *the term ‘joint requirement’ means a condition or capability of a Joint Task Force, or of multiple operating components of the Department, that is required to be met or possessed by a system, product, service, result, or component to satisfy a contract, standard, specification, or other formally imposed document;*

(3) *the term ‘Joint Task Force’ means a Joint Task Force established under subsection (e) when the scope, complexity, or other factors of the crisis or issue require capabilities of two or more components of the Department operating under the guidance of a single Director; and*

(4) *the term ‘situational awareness’ means knowledge and unified understanding of unlawful cross-border activity, including—*

(A) *threats and trends concerning illicit trafficking and unlawful crossings;*

(B) the ability to forecast future shifts in such threats and trends;

(C) the ability to evaluate such threats and trends at a level sufficient to create actionable plans; and

(D) the operational capability to conduct continuous and integrated surveillance of the air, land, and maritime borders of the United States.

(b) DEPARTMENT LEADERSHIP COUNCILS.—

(1) ESTABLISHMENT.—The Secretary may establish such Department leadership councils as the Secretary determines necessary to ensure coordination among leadership in the Department.

(2) FUNCTION.—Department leadership councils shall—

(A) serve as coordinating forums;

(B) advise the Secretary and Deputy Secretary on Department strategy, operations, and guidance; and

(C) consider and report on such other matters as the Secretary or Deputy Secretary may direct.

(3) CHAIRPERSON; MEMBERSHIP.—

(A) CHAIRPERSON.—The Secretary or a designee may serve as chairperson of a Department leadership council.

(B) MEMBERSHIP.—The Secretary shall determine the membership of a Department leadership council.

(4) RELATIONSHIP TO OTHER FORUMS.—The Secretary or Deputy Secretary may delegate the authority to direct the implementation of any decision or guidance resulting from the action of a Department leadership council to any office, component, coordinator, or other senior official of the Department.

(c) JOINT REQUIREMENTS COUNCIL.—

(1) ESTABLISHMENT.—There is established within the Department a Joint Requirements Council.

(2) MISSION.—In addition to other matters assigned to it by the Secretary and Deputy Secretary, the Joint Requirements Council shall—

(A) identify, assess, and validate joint requirements (including existing systems and associated capability gaps) to meet mission needs of the Department;

(B) ensure that appropriate efficiencies are made among life-cycle cost, schedule, and performance objectives, and procurement quantity objectives, in the establishment and approval of joint requirements; and

(C) make prioritized capability recommendations for the joint requirements validated under subparagraph (A) to the Secretary, the Deputy Secretary, or the chairperson of a Department leadership council designated by the Secretary to review decisions of the Joint Requirements Council.

(3) CHAIR.—The Secretary shall appoint a chairperson of the Joint Requirements Council, for a term of not more than 2 years, from among senior officials from components of the Department or other senior officials as designated by the Secretary.

(4) COMPOSITION.—The Joint Requirements Council shall be composed of senior officials representing components of the Department and other senior officials as designated by the Secretary.

(5) *RELATIONSHIP TO FUTURE YEARS HOMELAND SECURITY PROGRAM.*—The Secretary shall ensure that the Future Years Homeland Security Program required under section 874 is consistent with the recommendations of the Joint Requirements Council under paragraph (2)(C) of this subsection, as affirmed by the Secretary, the Deputy Secretary, or the chairperson of a Department leadership council designated by the Secretary under that paragraph.

(d) *JOINT OPERATIONAL PLANS.*—

(1) *PLANNING AND GUIDANCE.*—The Secretary may direct the development of Joint Operational Plans for the Department and issue planning guidance for such development.

(2) *COORDINATION.*—The Secretary shall ensure coordination between requirements derived from Joint Operational Plans and the Future Years Homeland Security Program required under section 874.

(3) *LIMITATION.*—Nothing in this subsection shall be construed to affect the national emergency management authorities and responsibilities of the Administrator of the Federal Emergency Management Agency under title V.

(e) *JOINT TASK FORCES.*—

(1) *ESTABLISHMENT.*—The Secretary may establish and operate Departmental Joint Task Forces to conduct joint operations using personnel and capabilities of the Department.

(2) *JOINT TASK FORCE DIRECTORS.*—

(A) *DIRECTOR.*—Each Joint Task Force shall be headed by a Director appointed by the Secretary for a term of not more than 2 years, who shall be a senior official of the Department.

(B) *EXTENSION.*—The Secretary may extend the appointment of a Director of a Joint Task Force for not more than 2 years if the Secretary determines that such an extension is in the best interest of the Department.

(3) *JOINT TASK FORCE DEPUTY DIRECTORS.*—For each Joint Task Force, the Secretary shall appoint a Deputy Director who shall be an official of a different component or office of the Department than the Director of the Joint Task Force.

(4) *RESPONSIBILITIES.*—The Director of a Joint Task Force, subject to the oversight, direction, and guidance of the Secretary, shall—

(A) maintain situational awareness within the areas of responsibility of the Joint Task Force, as determined by the Secretary;

(B) provide operational plans and requirements for standard operating procedures and contingency operations;

(C) plan and execute joint task force activities within the areas of responsibility of the Joint Task Force, as determined by the Secretary;

(D) set and accomplish strategic objectives through integrated operational planning and execution;

(E) exercise operational direction over personnel and equipment from components and offices of the Department allocated to the Joint Task Force to accomplish the objectives of the Joint Task Force;

(F) establish operational and investigative priorities within the operating areas of the Joint Task Force;

(G) coordinate with foreign governments and other Federal, State, and local agencies, as appropriate, to carry out the mission of the Joint Task Force; and

(H) carry out other duties and powers the Secretary determines appropriate.

(5) PERSONNEL AND RESOURCES.—

(A) IN GENERAL.—The Secretary may, upon request of the Director of a Joint Task Force, and giving appropriate consideration of risk to the other primary missions of the Department, allocate on a temporary basis personnel and equipment of components and offices of the Department to a Joint Task Force.

(B) COST NEUTRALITY.—A Joint Task Force may not require more personnel, equipment, or resources than would be required by components of the Department in the absence of the Joint Task Force.

(C) LOCATION OF OPERATIONS.—In establishing a location of operations for a Joint Task Force, the Secretary shall, to the extent practicable, use existing facilities that integrate efforts of components of the Department and State, local, tribal, or territorial law enforcement or military entities.

(D) REPORT.—The Secretary shall, at the time the budget of the President is submitted to Congress for a fiscal year under section 1105(a) of title 31, United States Code, submit to the congressional homeland security committees a report on the total funding, personnel, and other resources that each component of the Department allocated to each Joint Task Force to carry out the mission of the Joint Task Force during the fiscal year immediately preceding the report.

(6) COMPONENT RESOURCE AUTHORITY.—As directed by the Secretary—

(A) each Director of a Joint Task Force shall be provided sufficient resources from relevant components and offices of the Department and the authority necessary to carry out the missions and responsibilities required under this section;

(B) the resources referred to in subparagraph (A) shall be under the operational authority, direction, and control of the Director of the Joint Task Force to which the resources are assigned; and

(C) the personnel and equipment of each Joint Task Force shall remain under the administrative direction of the executive agent for the Joint Task Force.

(7) JOINT TASK FORCE STAFF.—Each Joint Task Force shall have a staff, composed of officials from relevant components, to assist the Director in carrying out the mission and responsibilities of the Joint Task Force.

(8) ESTABLISHMENT OF PERFORMANCE METRICS.—The Secretary shall—

(A) establish outcome-based and other appropriate performance metrics to evaluate the effectiveness of each Joint Task Force;

(B) not later than 120 days after the date of enactment of this section, submit the metrics established under subparagraph (A) to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives; and

(C) not later than January 31 2017, and each year thereafter, submit to each committee described in subparagraph (B) a report that contains the evaluation described in subparagraph (A).

(9) *JOINT DUTY TRAINING PROGRAM.*—

(A) *IN GENERAL.*—The Secretary shall—

(i) establish a joint duty training program in the Department for the purposes of—

(I) enhancing coordination within the Department; and

(II) promoting workforce professional development; and

(ii) tailor the joint duty training program to improve joint operations as part of the Joint Task Forces.

(B) *ELEMENTS.*—The joint duty training program established under subparagraph (A) shall address, at a minimum, the following topics:

(i) National security strategy.

(ii) Strategic and contingency planning.

(iii) Command and control of operations under joint command.

(iv) International engagement.

(v) The homeland security enterprise.

(vi) Interagency collaboration.

(vii) Leadership.

(viii) Specific subject matter relevant to the Joint Task Force to which the joint duty training program is assigned.

(C) *TRAINING REQUIRED.*—

(i) *DIRECTORS AND DEPUTY DIRECTORS.*—Except as provided in clauses (iii) and (iv), an individual shall complete the joint duty training program before being appointed Director or Deputy Director of a Joint Task Force.

(ii) *JOINT TASK FORCE STAFF.*—Each official serving on the staff of a Joint Task Force shall complete the joint duty training program within the first year of assignment to the Joint Task Force.

(iii) *EXCEPTION.*—Clause (i) shall not apply to the first Director or Deputy Director appointed to a Joint Task Force on or after the date of enactment of this section.

(iv) *WAIVER.*—The Secretary may waive clause (i) if the Secretary determines that such a waiver is in the interest of homeland security.

(10) *ESTABLISHING JOINT TASK FORCES.*—Subject to paragraph (13), the Secretary may establish Joint Task Forces for the purposes of—

(A) coordinating and directing operations along the land and maritime borders of the United States;

(B) cybersecurity; and

(C) preventing, preparing for, and responding to other homeland security matters, as determined by the Secretary.

(11) NOTIFICATION OF JOINT TASK FORCE FORMATION.—

(A) IN GENERAL.—Not later than 90 days before establishing a Joint Task Force under this subsection, the Secretary shall submit a notification to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives.

(B) WAIVER AUTHORITY.—The Secretary may waive the requirement under subparagraph (A) in the event of an emergency circumstance that imminently threatens the protection of human life or the protection of property.

(12) REVIEW.—

(A) IN GENERAL.—The Inspector General of the Department shall conduct a review of the Joint Task Forces established under this subsection.

(B) CONTENTS.—The review required under subparagraph (A) shall include—

(i) an assessment of the effectiveness of the structure of each Joint Task Force; and

(ii) recommendations for enhancements to that structure to strengthen the effectiveness of the Joint Task Force.

(C) SUBMISSION.—The Inspector General of the Department shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives—

(i) an initial report that contains the evaluation described in subparagraph (A) by not later than January 31, 2018; and

(ii) a second report that contains the evaluation described in subparagraph (A) by not later than January 31, 2021.

(13) LIMITATION ON JOINT TASK FORCES.—

(A) IN GENERAL.—The Secretary may not establish a Joint Task Force for any major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or an incident for which the Federal Emergency Management Agency has primary responsibility for management of the response under title V of this Act, including section 504(a)(3)(A), unless the responsibilities of the Joint Task Force—

(i) do not include operational functions related to incident management, including coordination of operations; and

(ii) are consistent with the requirements of paragraphs (3) and (4)(A) of section 503(c) and section 509(c) of this Act and section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143).

(B) RESPONSIBILITIES AND FUNCTIONS NOT REDUCED.—Nothing in this section shall be construed to reduce the re-

sponsibilities or functions of the Federal Emergency Management Agency or the Administrator thereof under title V of this Act and any other provision of law, including the diversion of any asset, function, or mission from the Federal Emergency Management Agency or the Administrator thereof pursuant to section 506.

(f) *JOINT DUTY ASSIGNMENT PROGRAM.*—The Secretary may establish a joint duty assignment program within the Department for the purposes of enhancing coordination in the Department and promoting workforce professional development.

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SEC. 709. OFFICE OF STRATEGY, POLICY, AND PLANS.

(a) *IN GENERAL.*—There is established in the Department an Office of Strategy, Policy, and Plans.

(b) *HEAD OF OFFICE.*—The Office of Strategy, Policy, and Plans shall be headed by an Under Secretary for Strategy, Policy, and Plans, who shall serve as the principal policy advisor to the Secretary and be appointed by the President, by and with the advice and consent of the Senate.

(c) *FUNCTIONS.*—The Office of Strategy, Policy, and Plans shall—

(1) lead, conduct, and coordinate Department-wide policy development and implementation and strategic planning;

(2) develop and coordinate policies to promote and ensure quality, consistency, and integration for the programs, offices, and activities across the Department;

(3) develop and coordinate strategic plans and long-term goals of the Department with risk-based analysis and planning to improve operational mission effectiveness, including leading and conducting the quadrennial homeland security review under section 707;

(4) manage Department leadership councils and provide analytics and support to such councils;

(5) manage international coordination and engagement for the Department;

(6) review and incorporate, as appropriate, external stakeholder feedback into Department policy; and

(7) carry out such other responsibilities as the Secretary determines appropriate.

(d) *COORDINATION BY DEPARTMENT COMPONENTS.*—To ensure consistency with the policy priorities of the Department, the head of each component of the Department shall coordinate with the Office of Strategy, Policy, and Plans in establishing or modifying policies or strategic planning guidance.

(e) *HOMELAND SECURITY STATISTICS AND JOINT ANALYSIS.*—

(1) *HOMELAND SECURITY STATISTICS.*—The Under Secretary for Strategy, Policy, and Plans shall—

(A) establish standards of reliability and validity for statistical data collected and analyzed by the Department;

(B) be provided with statistical data maintained by the Department regarding the operations of the Department;

(C) conduct or oversee analysis and reporting of such data by the Department as required by law or directed by the Secretary; and

(D) ensure the accuracy of metrics and statistical data provided to Congress.

(2) *TRANSFER OF RESPONSIBILITIES.*—There shall be transferred to the Under Secretary for Strategy, Policy, and Plans the maintenance of all immigration statistical information of U.S. Customs and Border Protection and U.S. Citizenship and Immigration Services, which shall include information and statistics of the type contained in the publication entitled ‘Yearbook of Immigration Statistics’ prepared by the Office of Immigration Statistics, including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied, and the reasons for such denials, disaggregated by category of denial and application or petition type.

* * * * *

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

* * * * *

SEC. 802. OFFICE FOR PARTNERSHIPS AGAINST VIOLENT EXTREMISM.

(a) *DEFINITIONS.*—In this section:

(1) *ADMINISTRATOR.*—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.

(2) *ASSISTANT SECRETARY.*—The term ‘Assistant Secretary’ means the Assistant Secretary for Partnerships Against Violent Extremism designated under subsection (c).

(3) *COUNTERING VIOLENT EXTREMISM.*—The term ‘countering violent extremism’ means proactive and relevant actions to counter recruitment, radicalization, and mobilization to violence and to address the immediate factors that lead to violent extremism and radicalization.

(4) *DOMESTIC TERRORISM; INTERNATIONAL TERRORISM.*—The terms ‘domestic terrorism’ and ‘international terrorism’ have the meanings given those terms in section 2331 of title 18, United States Code.

(5) *RADICALIZATION.*—The term ‘radicalization’ means the process by which an individual chooses to facilitate or commit domestic terrorism or international terrorism.

(6) *VIOLENT EXTREMISM.*—The term ‘violent extremism’ means international or domestic terrorism.

(b) *ESTABLISHMENT.*—There is in the Department an Office for Partnerships Against Violent Extremism.

(c) *HEAD OF OFFICE.*—The Office for Partnerships Against Violent Extremism shall be headed by an Assistant Secretary for Partnerships Against Violent Extremism, who shall be designated by the Secretary and report directly to the Secretary.

(d) *DEPUTY ASSISTANT SECRETARY; ASSIGNMENT OF PERSONNEL.*—The Secretary shall—

(1) designate a career Deputy Assistant Secretary for Partnerships Against Violent Extremism; and

(2) assign or hire, as appropriate, permanent staff to the Office for Partnerships Against Violent Extremism.

(e) RESPONSIBILITIES.—

(1) IN GENERAL.—The Assistant Secretary shall be responsible for the following:

(A) Leading the efforts of the Department to counter violent extremism across all the components and offices of the Department that conduct strategic and supportive efforts to counter violent extremism. Such efforts shall include the following:

(i) Partnering with communities to address vulnerabilities that can be exploited by violent extremists in the United States and explore potential remedies for government and nongovernment institutions.

(ii) Working with civil society groups and communities to counter violent extremist propaganda, messaging, or recruitment.

(iii) In coordination with the Office for Civil Rights and Civil Liberties of the Department, managing the outreach and engagement efforts of the Department directed toward communities at risk for radicalization and recruitment for violent extremist activities.

(iv) Ensuring relevant information, research, and products inform efforts to counter violent extremism.

(v) Developing and maintaining Department-wide strategy, plans, policies, and programs to counter violent extremism. Such plans shall, at a minimum, address each of the following:

(I) The Department's plan to leverage new and existing Internet and other technologies and social media platforms to improve nongovernment efforts to counter violent extremism, as well as the best practices and lessons learned from other Federal, State, local, tribal, territorial, and foreign partners engaged in similar counter-messaging efforts.

(II) The Department's countering violent extremism-related engagement efforts.

(III) The use of cooperative agreements with State, local, tribal, territorial, and other Federal departments and agencies responsible for efforts relating to countering violent extremism.

(vi) Coordinating with the Office for Civil Rights and Civil Liberties of the Department to ensure all of the activities of the Department related to countering violent extremism fully respect the privacy, civil rights, and civil liberties of all persons.

(vii) In coordination with the Under Secretary for Science and Technology and in consultation with the Under Secretary for Intelligence and Analysis, identifying and recommending new empirical research and analysis requirements to ensure the dissemination of information and methods for Federal, State, local, tribal, and territorial countering violent extremism practitioners, officials, law enforcement personnel, and non-

governmental partners to utilize such research and analysis.

(viii) Assessing the methods used by violent extremists to disseminate propaganda and messaging to communities at risk for recruitment by violent extremists.

(B) Developing a digital engagement strategy that expands the outreach efforts of the Department to counter violent extremist messaging by—

(i) exploring ways to utilize relevant Internet and other technologies and social media platforms; and

(ii) maximizing other resources available to the Department.

(C) Serving as the primary representative of the Department in coordinating countering violent extremism efforts with other Federal departments and agencies and non-governmental organizations.

(D) Serving as the primary Department-level representative in coordinating with the Department of State on international countering violent extremism issues.

(E) In coordination with the Administrator, providing guidance regarding the use of grants made to State, local, and tribal governments under sections 2003 and 2004 under the allowable uses guidelines related to countering violent extremism.

(F) Developing a plan to expand philanthropic support for domestic efforts related to countering violent extremism, including by identifying viable community projects and needs for possible philanthropic support.

(2) COMMUNITIES AT RISK.—For purposes of this subsection, the term ‘communities at risk’ shall not include a community that is determined to be at risk solely on the basis of race, religious affiliation, or ethnicity.

(f) STRATEGY TO COUNTER VIOLENT EXTREMISM IN THE UNITED STATES.—

(1) STRATEGY.—Not later than 90 days after the date of enactment of this section, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives a comprehensive Department strategy to counter violent extremism in the United States.

(2) CONTENTS OF STRATEGY.—The strategy required under paragraph (1) shall, at a minimum, address each of the following:

(A) The Department’s digital engagement effort, including a plan to leverage new and existing Internet, digital, and other technologies and social media platforms to counter violent extremism, as well as the best practices and lessons learned from other Federal, State, local, tribal, territorial, nongovernmental, and foreign partners engaged in similar counter-messaging activities.

(B) The Department’s countering violent extremism-related engagement and outreach activities.

(C) *The use of cooperative agreements with State, local, tribal, territorial, and other Federal departments and agencies responsible for activities relating to countering violent extremism.*

(D) *Ensuring all activities related to countering violent extremism adhere to relevant Department and applicable Department of Justice guidance regarding privacy, civil rights, and civil liberties, including safeguards against discrimination.*

(E) *The development of qualitative and quantitative outcome-based metrics to evaluate the Department's programs and policies to counter violent extremism.*

(F) *An analysis of the homeland security risk posed by violent extremism based on the threat environment and empirical data assessing terrorist activities and incidents, and violent extremist propaganda, messaging, or recruitment.*

(G) *Information on the Department's near-term, mid-term, and long-term risk-based goals for countering violent extremism, reflecting the risk analysis conducted under subparagraph (F).*

(3) *STRATEGIC CONSIDERATIONS.—In drafting the strategy required under paragraph (1), the Secretary shall consider including the following:*

(A) *Departmental efforts to undertake research to improve the Department's understanding of the risk of violent extremism and to identify ways to improve countering violent extremism activities and programs, including outreach, training, and information sharing programs.*

(B) *The Department's nondiscrimination policies as they relate to countering violent extremism.*

(C) *Departmental efforts to help promote community engagement and partnerships to counter violent extremism in furtherance of the strategy.*

(D) *Departmental efforts to help increase support for programs and initiatives to counter violent extremism of other Federal, State, local, tribal, territorial, nongovernmental, and foreign partners that are in furtherance of the strategy, and which adhere to all relevant constitutional, legal, and privacy protections.*

(E) *Departmental efforts to disseminate to local law enforcement agencies and the general public information on resources, such as training guidance, workshop reports, and the violent extremist threat, through multiple platforms, including the development of a dedicated webpage, and information regarding the effectiveness of those efforts.*

(F) *Departmental efforts to use cooperative agreements with State, local, tribal, territorial, and other Federal departments and agencies responsible for efforts relating to countering violent extremism, and information regarding the effectiveness of those efforts.*

(G) *Information on oversight mechanisms and protections to ensure that activities and programs undertaken pursuant to the strategy adhere to all relevant constitutional, legal, and privacy protections.*

(H) Departmental efforts to conduct oversight of all countering violent extremism training and training materials and other resources developed or funded by the Department.

(I) Departmental efforts to foster transparency by making, to the extent practicable, all regulations, guidance, documents, policies, and training materials publicly available, including through any webpage developed under subparagraph (E).

(4) STRATEGIC IMPLEMENTATION PLAN.—

(A) IN GENERAL.—Not later than 90 days after the date on which the Secretary submits the strategy required under paragraph (1), the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on the Judiciary of the House of Representatives an implementation plan for each of the components and offices of the Department with responsibilities under the strategy.

(B) CONTENTS.—The implementation plan required under subparagraph (A) shall include an integrated master schedule and cost estimate for activities and programs contained in the implementation plan, with specificity on how each such activity and program aligns with near-term, mid-term, and long-term goals specified in the strategy required under paragraph (1).

(g) ANNUAL REPORT.—Not later than April 1, 2017, and annually thereafter, the Assistant Secretary shall submit to Congress an annual report on the Office for Partnerships Against Violent Extremism, which shall include the following:

(1) A description of the status of the programs and policies of the Department for countering violent extremism in the United States.

(2) A description of the efforts of the Office for Partnerships Against Violent Extremism to cooperate with and provide assistance to other Federal departments and agencies.

(3) Qualitative and quantitative metrics for evaluating the success of such programs and policies and the steps taken to evaluate the success of such programs and policies.

(4) An accounting of—

(A) grants and cooperative agreements awarded by the Department to counter violent extremism; and

(B) all training specifically aimed at countering violent extremism sponsored by the Department.

(5) An analysis of how the Department's activities to counter violent extremism correspond and adapt to the threat environment.

(6) A summary of how civil rights and civil liberties are protected in the Department's activities to counter violent extremism.

(7) An evaluation of the use of section 2003 and section 2004 grants and cooperative agreements awarded to support efforts of local communities in the United States to counter violent extre-

mism, including information on the effectiveness of such grants and cooperative agreements in countering violent extremism.

(8) A description of how the Office for Partnerships Against Violent Extremism incorporated lessons learned from the countering violent extremism programs and policies of foreign, State, local, tribal, and territorial governments and stakeholder communities.

(h) ANNUAL REVIEW.—Not later than 1 year after the date of enactment of this section, and every year thereafter, the Office for Civil Rights and Civil Liberties of the Department shall—

(1) conduct a review of the Office for Partnerships Against Violent Extremism activities to ensure that all of the activities of the Office related to countering violent extremism respect the privacy, civil rights, and civil liberties of all persons; and

(2) make publicly available on the website of the Department a report containing the results of the review conducted under paragraph (1).

* * * * *

SEC. 843. USE OF COUNTERNARCOTICS ENFORCEMENT ACTIVITIES IN CERTAIN EMPLOYEE PERFORMANCE APPRAISALS.

(a) * * *

(b) DEFINITIONS.—For purposes of this section—

(1) the term “National Drug Control Program Agency” means—

(A) * * *

(B) any subdivision of the Department that has a significant counternarcotics responsibility, as determined [by—

[(i) the counternarcotics officer, appointed under section 878; or

[(ii) if applicable, the counternarcotics officer’s successor in function (as determined by the Secretary); and] by the Secretary; and

* * * * *

SEC. 874. FUTURE [YEAR] YEARS HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—[Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.] *Not later than 60 days after the date on which the budget of the President is submitted to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives (referred to in this section as the ‘appropriate committees’) a Future Years Homeland Security Program that covers the fiscal year for which the budget is submitted and the 4 succeeding fiscal years.*

(b) * * *

(c) [EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and for any subsequent fiscal year, except that the first Future Years Homeland Security Program shall be submitted not later than 90 days after the Department’s fiscal year 2005 budget request is submitted to Congress.] *PROJECTION*

OF ACQUISITION ESTIMATES.—On and after February 1, 2018, each Future Years Homeland Security Program shall project—

(1) acquisition estimates for the fiscal year for which the budget is submitted and the 4 succeeding fiscal years, with specified estimates for each fiscal year, for all major acquisitions by the Department and each component of the Department; and

(2) estimated annual deployment schedules for all physical asset major acquisitions over the 5-fiscal-year period described in paragraph (1) and the full operating capability for all information technology major acquisitions.

(d) SENSITIVE AND CLASSIFIED INFORMATION.—The Secretary may include with each Future Years Homeland Security Program a classified or other appropriately controlled document containing any information required to be submitted under this section that is restricted from public disclosure in accordance with Federal law or any Executive order.

(e) AVAILABILITY OF INFORMATION TO THE PUBLIC.—The Secretary shall make available to the public in electronic form the information required to be submitted to the appropriate committees under this section, other than information described in subsection (d).

* * * * *

[SEC. 878. OFFICE OF COUNTERNARCOTICS ENFORCEMENT.

[(a) OFFICE.—There is established in the Department an Office of Counternarcotics Enforcement, which shall be headed by a Director appointed by the President.

[(b) ASSIGNMENT OF PERSONNEL.—

[(1) IN GENERAL.—The Secretary shall assign permanent staff to the Office, consistent with effective management of Department resources.

[(2) LIAISONS.—The Secretary shall designate senior employees from each appropriate subdivision of the Department that has significant counternarcotics responsibilities to act as a liaison between that subdivision and the Office of Counternarcotics Enforcement.

[(c) LIMITATION ON CONCURRENT EMPLOYMENT.—The Director of the Office of Counternarcotics Enforcement shall not be employed by, assigned to, or serve as the head of, any other branch of the Federal Government, any State or local government, or any subdivision of the Department other than the Office of Counternarcotics Enforcement.

[(d) RESPONSIBILITIES.—The Secretary shall direct the Director of the Office of Counternarcotics Enforcement—

[(1) to coordinate policy and operations within the Department, between the Department and other Federal departments and agencies, and between the Department and State and local agencies with respect to stopping the entry of illegal drugs into the United States;

[(2) to ensure the adequacy of resources within the Department for stopping the entry of illegal drugs into the United States;

[(3) to recommend the appropriate financial and personnel resources necessary to help the Department better fulfill its re-

sponsibility to stop the entry of illegal drugs into the United States;

[(4) within the Joint Terrorism Task Force construct to track and sever connections between illegal drug trafficking and terrorism; and

[(5) to be a representative of the Department on all task forces, committees, or other entities whose purpose is to coordinate the counternarcotics enforcement activities of the Department and other Federal, State or local agencies.

[(e) SAVINGS CLAUSE.—Nothing in this section shall be construed to authorize direct control of the operations conducted by the Directorate of Border and Transportation Security, the Coast Guard, or joint terrorism task forces.

[(f) REPORTS TO CONGRESS.—

[(1) ANNUAL BUDGET REVIEW.—The Director of the Office of Counternarcotics Enforcement shall, not later than 30 days after the submission by the President to Congress of any request for expenditures for the Department, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of such request. The review and evaluation shall—

[(A) identify any request or subpart of any request that affects or may affect the counternarcotics activities of the Department or any of its subdivisions, or that affects the ability of the Department or any subdivision of the Department to meet its responsibility to stop the entry of illegal drugs into the United States;

[(B) describe with particularity how such requested funds would be or could be expended in furtherance of counternarcotics activities; and

[(C) compare such requests with requests for expenditures and amounts appropriated by Congress in the previous fiscal year.

[(2) EVALUATION OF COUNTERNARCOTICS ACTIVITIES.—The Director of the Office of Counternarcotics Enforcement shall, not later than February 1 of each year, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of the counternarcotics activities of the Department for the previous fiscal year. The review and evaluation shall—

[(A) describe the counternarcotics activities of the Department and each subdivision of the Department (whether individually or in cooperation with other subdivisions of the Department, or in cooperation with other branches of the Federal Government or with State or local agencies), including the methods, procedures, and systems (including computer systems) for collecting, analyzing, sharing, and disseminating information concerning narcotics activity within the Department and between the Department and other Federal, State, and local agencies;

[(B) describe the results of those activities, using quantifiable data whenever possible;

[(C) state whether those activities were sufficient to meet the responsibility of the Department to stop the entry of illegal drugs into the United States, including a description of the performance measures of effectiveness that were used in making that determination; and

[(D) recommend, where appropriate, changes to those activities to improve the performance of the Department in meeting its responsibility to stop the entry of illegal drugs into the United States.

[(3) CLASSIFIED OR LAW ENFORCEMENT SENSITIVE INFORMATION.—Any content of a review and evaluation described in the reports required in this subsection that involves information classified under criteria established by an Executive order, or whose public disclosure, as determined by the Secretary, would be detrimental to the law enforcement or national security activities of the Department or any other Federal, State, or local agency, shall be presented to Congress separately from the rest of the review and evaluation.]

* * * * *

SEC. 883. [REQUIREMENT TO COMPLY WITH LAWS PROTECTING EQUAL EMPLOYMENT OPPORTUNITY AND PROVIDING] WHISTLEBLOWER PROTECTIONS.

[Nothing in this Act shall be construed as exempting the Department from requirements applicable with respect to executive agencies—

[(1) to provide equal employment protection for employees of the Department (including pursuant to the provisions in section 2302(b)(1) of title 5, United States Code, and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Public Law 107–174)); or

[(2) to provide whistleblower protections for employees of the Department (including pursuant to the provisions in section 2302(b)(8) and (9) of such title and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002).]

(a) *DEFINITIONS.—In this section—*

(1) *the term ‘new employee’ means an individual—*

(A) *appointed to a position as an employee of the Department on or after the date of enactment of the DHS Accountability Act of 2016; and*

(B) *who has not previously served as an employee of the Department;*

(2) *the term ‘prohibited personnel action’ means taking or failing to take an action in violation of paragraph (8) or (9) of section 2302(b) of title 5, United States Code, against an employee of the Department;*

(3) *the term ‘supervisor’ means a supervisor, as defined under section 7103(a) of title 5, United States Code, who is employed by the Department; and*

(4) *the term ‘whistleblower protections’ means the protections against and remedies for a prohibited personnel practice described in paragraph (8) or subparagraph (A)(i), (B), (C), or (D) of paragraph (9) of section 2302(b) of title 5, United States Code.*

(b) *ADVERSE ACTIONS.—*

(1) *PROPOSED ADVERSE ACTIONS.*—In accordance with paragraph (2), the Secretary shall propose against a supervisor whom the Secretary, an administrative law judge, the Merit Systems Protection Board, the Office of Special Counsel, an adjudicating body provided under a union contract, a Federal judge, or the Inspector General of the Department determines committed a prohibited personnel action the following adverse actions:

(A) *With respect to the first prohibited personnel action, an adverse action that is not less than a 12-day suspension.*

(B) *With respect to the second prohibited personnel action, removal.*

(2) *PROCEDURES.*—

(A) *NOTICE.*—A supervisor against whom an adverse action under paragraph (1) is proposed is entitled to written notice.

(B) *ANSWER AND EVIDENCE.*—

(i) *IN GENERAL.*—A supervisor who is notified under subparagraph (A) that the supervisor is the subject of a proposed adverse action under paragraph (1) is entitled to 14 days following such notification to answer and furnish evidence in support of the answer.

(ii) *NO EVIDENCE.*—After the end of the 14-day period described in clause (i), if a supervisor does not furnish evidence as described in clause (i) or if the Secretary determines that such evidence is not sufficient to reverse the proposed adverse action, the Secretary shall carry out the adverse action.

(C) *SCOPE OF PROCEDURES.*—Paragraphs (1) and (2) of subsection (b) and subsection (c) of section 7513 of title 5, United States Code, and paragraphs (1) and (2) of subsection (b) and subsection (c) of section 7543 of title 5, United States Code, shall not apply with respect to an adverse action carried out under this subsection.

(3) *NO LIMITATION ON OTHER ADVERSE ACTIONS.*—With respect to a prohibited personnel action, if the Secretary carries out an adverse action against a supervisor under another provision of law, the Secretary may carry out an additional adverse action under this subsection based on the same prohibited personnel action.

(c) *TRAINING FOR SUPERVISORS.*—In consultation with the Special Counsel and the Inspector General of the Department, the Secretary shall provide training regarding how to respond to complaints alleging a violation of whistleblower protections available to employees of the Department—

(1) *to employees appointed to supervisory positions in the Department who have not previously served as a supervisor; and*

(2) *on an annual basis, to all employees of the Department serving in a supervisory position.*

(d) *INFORMATION ON WHISTLEBLOWER PROTECTIONS.*—

(1) *RESPONSIBILITIES OF SECRETARY.*—The Secretary shall be responsible for—

(A) *the prevention of prohibited personnel practices;*

(B) the compliance with and enforcement of applicable civil service laws, rules, and regulations and other aspects of personnel management; and

(C) ensuring (in consultation with the Special Counsel and the Inspector General of the Department) that employees of the Department are informed of the rights and remedies available to them under chapters 12 and 23 of title 5, United States Code, including—

(i) information regarding whistleblower protections available to new employees during the probationary period;

(ii) the role of the Office of Special Counsel and the Merit Systems Protection Board with regard to whistleblower protections; and

(iii) how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs to the Special Counsel, the Inspector General of the Department, Congress, or other Department employee designated to receive such disclosures.

(2) **TIMING.**—The Secretary shall ensure that the information required to be provided under paragraph (1) is provided to each new employee not later than 6 months after the date the new employee is appointed.

(3) **INFORMATION ONLINE.**—The Secretary shall make available information regarding whistleblower protections applicable to employees of the Department on the public website of the Department, and on any online portal that is made available only to employees of the Department.

(4) **DELEGEES.**—Any employee to whom the Secretary delegates authority for personnel management, or for any aspect thereof, shall, within the limits of the scope of the delegation, be responsible for the activities described in paragraph (1).

(e) **RULES OF CONSTRUCTION.**—Nothing in this section shall be construed to exempt the Department from requirements applicable with respect to executive agencies—

(1) to provide equal employment protection for employees of the Department (including pursuant to section 2302(b)(1) of title 5, United States Code, and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (5 U.S.C. 2301 note)); or

(2) to provide whistleblower protections for employees of the Department (including pursuant to paragraphs (8) and (9) of section 2302(b) of title 5, United States Code, and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (5 U.S.C. 2301 note)).

* * * * *

TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

* * * * *

SEC. 1902. MISSION OF OFFICE.

(a) MISSION.—The Office shall be responsible 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 attack using such devices or materials against the people, territory, or interests of the United States and, to this end, shall—

(1) * * *

* * * * *

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

* * * * *

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—]** *once every other year—*

(A) * * *

(B) * * *

(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]** *the previous 2 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) * * *

(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]** *the previous 2 years*.

(2) TECHNOLOGY.—Not less frequently than **[once each year]** *once every other year*, 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 year]** *of every other year*, the Secretary, the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of En-

ergy, 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—

* * * * *
(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.

TITLE XX—HOMELAND SECURITY GRANTS

* * * * *
SEC. 2008. USE OF FUNDS.

(a) * * *
(b) LIMITATIONS ON USE OF FUNDS.—

(1) IN GENERAL.—Funds provided under section 2003 or 2004 may not be used—

(A) to supplant State or local funds, except that nothing in this paragraph shall prohibit the use of grant funds provided to a State or high-risk urban area for otherwise permissible uses under subsection (a) on the basis that a State or high-risk urban area has previously used State or local funds to support the same or similar uses; [or]

(B) for any State or local government cost-sharing contribution[.]; or

(C) to support any organization or group which has knowingly or recklessly funded domestic terrorism or international terrorism (as those terms are defined in section 2331 of title 18, United States Code) or organization or group known to engage in or recruit to such activities, as determined by the Assistant Secretary for Partnerships Against Violent Extremism in consultation with the Administrator and the heads of other appropriate Federal departments and agencies.

* * * * *
**OFFICE OF NATIONAL DRUG CONTROL POLICY
REAUTHORIZATION ACT OF 1998**

* * * * *
**SEC. 705. COORDINATION WITH NATIONAL DRUG CONTROL PROGRAM
AGENCIES IN DEMAND REDUCTION, SUPPLY REDUCTION,
AND STATE AND LOCAL AFFAIRS.**

(a) ACCESS TO INFORMATION.—
(1) * * *

(2) * * *
[(3) ILLEGAL DRUG CULTIVATION.—The Secretary of Agriculture shall annually submit to the Director an assessment of the acreage of illegal drug cultivation in the United States.]

* * * * *

UNITED STATES CODE

* * * * *

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

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PART III—EMPLOYEES

* * * * *

Subpart A—General Provisions

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CHAPTER 23—MERIT SYSTEM PRINCIPLES

* * * * *

SEC. 2302. PROHIBITED PERSONNEL PRACTICES.

(a)

(1) For the purpose of this title, “prohibited personnel practice” means any action described in subsection (b).

(2) For the purpose of this section—

(A) “personnel action” means—

* * * * *

(xi) the implementation or enforcement of any non-disclosure policy, form, or agreement; **[and]**

(xii) a determination made by an agency under section 6329b(c)(1) that the continued presence of an employee in the workplace during an investigation of the employee or while the employee is in a notice period, if applicable, may—

(I) pose a threat to the employee or others;

(II) result in the destruction of evidence relevant to an investigation;

(III) result in loss of or damage to Government property; or

(IV) otherwise jeopardize legitimate Government interests; and

[(xii)] *(xiii) any other significant change in duties, responsibilities, or working conditions;*

Subpart E—Attendance and Leave

* * * * *

CHAPTER 63—LEAVE

* * * * *

Subchapter II—Other Paid Leave

* * * * *

§ 6329a. *Administrative leave.*

(a) *DEFINITIONS.—In this section—*

(1) *the term ‘administrative leave’ means leave—*

(A) *without loss of or reduction in—*

(i) *pay;*

(ii) *leave to which an employee is otherwise entitled under law; or*

(iii) *credit for time or service; and*

(B) *that is not authorized under any other provision of law;*

(2) *the term ‘agency’—*

(A) *means an Executive agency (as defined in section 105 of this title); and*

(B) *does not include the Government Accountability Office; and*

(3) *the term ‘employee’—*

(A) *has the meaning given the term in section 2105; and*

(B) *does not include an intermittent employee who does not have an established regular tour of duty during the administrative workweek.*

(b) *ADMINISTRATIVE LEAVE.—*

(1) *IN GENERAL.—An agency may place an employee in administrative leave for a period of not more than 5 consecutive days.*

(2) *RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to limit the use of leave that is—*

(A) *specifically authorized under law; and*

(B) *not administrative leave.*

(3) *RECORDS.—An agency shall record administrative leave separately from leave authorized under any other provision of law.*

(c) *REGULATIONS.—*

(1) *OPM REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Director of the Office of Personnel Management shall—*

(A) *prescribe regulations to carry out this section; and*

(B) *prescribe regulations that provide guidance to agencies regarding—*

(i) *acceptable agency uses of administrative leave; and*

(ii) *the proper recording of—*

(I) *administrative leave; and*

(II) *other leave authorized by law.*

(2) *AGENCY ACTION.—Not later than 1 year after the date on which the Director of the Office of Personnel Management prescribes regulations under paragraph (1), each agency shall revise and implement the internal policies of the agency to meet the requirements of this section.*

(d) *RELATION TO OTHER LAWS.—Notwithstanding subsection (a) of section 7421 of title 38, this section shall apply to an employee described in subsection (b) of that section*

§ 6329b. Investigative leave and notice leave

(a) *DEFINITIONS.*—*In this section—*

(1) *the term ‘agency’—*

(A) *means an Executive agency (as defined in section 105 of this title); and*

(B) *does not include the Government Accountability Office;*

(2) *the term ‘Chief Human Capital Officer’ means—*

(A) *the Chief Human Capital Officer of an agency designated or appointed under section 1401; or*

(B) *the equivalent;*

(3) *the term ‘committees of jurisdiction’, with respect to an agency, means each committee in the Senate and House of Representatives with jurisdiction over the agency;*

(4) *the term ‘Director’ means the Director of the Office of Personnel Management;*

(5) *the term ‘employee’—*

(A) *has the meaning given the term in section 2105; and*

(B) *does not include—*

(i) *an intermittent employee who does not have an established regular tour of duty during the administrative workweek; or*

(ii) *the Inspector General of an agency;*

(6) *the term ‘investigative leave’ means leave—*

(A) *without loss of or reduction in—*

(i) *pay;*

(ii) *leave to which an employee is otherwise entitled under law; or*

(iii) *credit for time or service;*

(B) *that is not authorized under any other provision of law; and*

(C) *in which an employee who is the subject of an investigation is placed;*

(7) *the term ‘notice leave’ means leave—*

(A) *without loss of or reduction in—*

(i) *pay;*

(ii) *leave to which an employee is otherwise entitled under law; or*

(iii) *credit for time or service;*

(B) *that is not authorized under any other provision of law; and*

(C) *in which an employee who is in a notice period is placed; and*

(8) *the term ‘notice period’ means a period beginning on the date on which an employee is provided notice required under law of a proposed adverse action against the employee and ending on the date on which an agency may take the adverse action.*

(b) *LEAVE FOR EMPLOYEES UNDER INVESTIGATION OR IN A NOTICE PERIOD.*—

(1) *AUTHORITY.*—*An agency may, in accordance with paragraph (2), place an employee in—*

(A) *investigative leave if the employee is the subject of an investigation;*

(B) *notice leave if the employee is in a notice period; or*

- (C) notice leave following a placement in investigative leave if, not later than the day after the last day of the period of investigative leave—
- (i) the agency proposes or initiates an adverse action against the employee; and
 - (ii) the agency determines that the employee continues to meet 1 or more of the criteria described in subsection (c)(1).
- (2) REQUIREMENTS.—An agency may place an employee in leave under paragraph (1) only if the agency has—
- (A) made a determination with respect to the employee under subsection (c)(1);
 - (B) considered the available options for the employee under subsection (c)(2); and
 - (C) determined that none of the available options under subsection (c)(2) is appropriate.
- (c) EMPLOYEES UNDER INVESTIGATION OR IN A NOTICE PERIOD.—
- (1) DETERMINATIONS.—An agency may not place an employee in investigative leave or notice leave under subsection (b) unless the continued presence of the employee in the workplace during an investigation of the employee or while the employee is in a notice period, if applicable, may—
- (A) pose a threat to the employee or others;
 - (B) result in the destruction of evidence relevant to an investigation;
 - (C) result in loss of or damage to Government property;
- or
- (D) otherwise jeopardize legitimate Government interests.
- (2) AVAILABLE OPTIONS FOR EMPLOYEES UNDER INVESTIGATION OR IN A NOTICE PERIOD.—After making a determination under paragraph (1) with respect to an employee, and before placing an employee in investigative leave or notice leave under subsection (b), an agency shall consider taking 1 or more of the following actions:
- (A) Assigning the employee to duties in which the employee is no longer a threat to—
 - (i) safety;
 - (ii) the mission of the agency;
 - (iii) Government property; or
 - (iv) evidence relevant to an investigation.
 - (B) Allowing the employee to take leave for which the employee is eligible.
 - (C) Requiring the employee to telework under section 6502(c).
 - (D) If the employee is absent from duty without approved leave, carrying the employee in absence without leave status.
 - (E) For an employee subject to a notice period, curtailing the notice period if there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed.
- (3) DURATION OF LEAVE.—
- (A) INVESTIGATIVE LEAVE.—Subject to extensions of a period of investigative leave for which an employee may be eligible under subsections (d) and (e), the initial placement of

an employee in investigative leave shall be for a period not longer than 10 days.

(B) NOTICE LEAVE.—Placement of an employee in notice leave shall be for a period not longer than the duration of the notice period.

(4) EXPLANATION OF LEAVE.—

(A) IN GENERAL.—If an agency places an employee in leave under subsection (b), the agency shall provide the employee a written explanation of the leave placement and the reasons for the leave placement.

(B) EXPLANATION.—The written notice under subparagraph (A) shall describe the limitations of the leave placement, including—

(i) the applicable limitations under paragraph (3); and

(ii) in the case of a placement in investigative leave, an explanation that, at the conclusion of the period of leave, the agency shall take an action under paragraph (5).

(5) AGENCY ACTION.—Not later than the day after the last day of a period of investigative leave for an employee under subsection (b)(1), an agency shall—

(A) return the employee to regular duty status;

(B) take 1 or more of the actions authorized under paragraph (2), meaning—

(i) assigning the employee to duties in which the employee is no longer a threat to—

(I) safety;

(II) the mission of the agency;

(III) Government property; or

(IV) evidence relevant to an investigation;

(ii) allowing the employee to take leave for which the employee is eligible;

(iii) requiring the employee to telework under section 6502(c);

(iv) if the employee is absent from duty without approved leave, carrying the employee in absence without leave status; or

(v) for an employee subject to a notice period, curtailing the notice period if there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed;

(C) propose or initiate an adverse action against the employee as provided under law; or

(D) extend the period of investigative leave under subsections (d) and (e).

(6) RULE OF CONSTRUCTION.—Nothing in paragraph (5) shall be construed to prevent the continued investigation of an employee, except that the placement of an employee in investigative leave may not be extended for that purpose except as provided in subsections (d) and (e).

(d) INITIAL EXTENSION OF INVESTIGATIVE LEAVE.—

(1) IN GENERAL.—Subject to paragraph (4), if the Chief Human Capital Officer of an agency, or the designee of the Chief Human Capital Officer, approves such an extension after

consulting with the investigator responsible for conducting the investigation to which an employee is subject, the agency may extend the period of investigative leave for the employee under subsection (b) for not more than 30 days.

(2) **MAXIMUM NUMBER OF EXTENSIONS.**—The total period of additional investigative leave for an employee under paragraph (1) may not exceed 110 days.

(3) **DESIGNATION GUIDANCE.**—Not later than 1 year after the date of enactment of this section, the Chief Human Capital Officers Council shall issue guidance to ensure that if the Chief Human Capital Officer of an agency delegates the authority to approve an extension under paragraph (1) to a designee, the designee is at a sufficiently high level within the agency to make an impartial and independent determination regarding the extension.

(4) **EXTENSIONS FOR OIG EMPLOYEES.**—

(A) **APPROVAL.**—In the case of an employee of an Office of Inspector General—

(i) the Inspector General or the designee of the Inspector General, rather than the Chief Human Capital Officer or the designee of the Chief Human Capital Officer, shall approve an extension of a period of investigative leave for the employee under paragraph (1); or

(ii) at the request of the Inspector General, the head of the agency within which the Office of Inspector General is located shall designate an official of the agency to approve an extension of a period of investigative leave for the employee under paragraph (1).

(B) **GUIDANCE.**—Not later than 1 year after the date of enactment of this section, the Council of the Inspectors General on Integrity and Efficiency shall issue guidance to ensure that if the Inspector General or the head of an agency, at the request of the Inspector General, delegates the authority to approve an extension under subparagraph (A) to a designee, the designee is at a sufficiently high level within the Office of Inspector General or the agency, as applicable, to make an impartial and independent determination regarding the extension.

(e) **FURTHER EXTENSION OF INVESTIGATIVE LEAVE.**—

(1) **IN GENERAL.**—After reaching the limit under subsection (d)(2), an agency may further extend a period of investigative leave for an employee for a period of not more than 60 days if, before the further extension begins, the head of the agency or, in the case of an employee of an Office of Inspector General, the Inspector General submits a notification that includes the reasons for the further extension to the—

(A) committees of jurisdiction;

(B) Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) Committee on Oversight and Government Reform of the House of Representatives.

(2) **NO LIMIT.**—There shall be no limit on the number of further extensions that an agency may grant to an employee under paragraph (1).

(3) *OPM REVIEW.*—An agency shall request from the Director, and include with the notification required under paragraph (1), the opinion of the Director—

(A) with respect to whether to grant a further extension under this subsection, including the reasons for that opinion; and

(B) which shall not be binding on the agency.

(4) *SUNSET.*—The authority provided under this subsection shall expire on the date that is 6 years after the date of enactment of this section.

(f) *CONSULTATION GUIDANCE.*—Not later than 1 year after the date of enactment of this section, the Council of the Inspectors General on Integrity and Efficiency, in consultation with the Attorney General and the Special Counsel, shall issue guidance on best practices for consultation between an investigator and an agency on the need to place an employee in investigative leave during an investigation of the employee, including during a criminal investigation, because the continued presence of the employee in the workplace during the investigation may—

(1) pose a threat to the employee or others;

(2) result in the destruction of evidence relevant to an investigation;

(3) result in loss of or damage to Government property; or

(4) otherwise jeopardize legitimate Government interests.

(g) *REPORTING AND RECORDS.*—

(1) *IN GENERAL.*—An agency shall keep a record of the placement of an employee in investigative leave or notice leave by the agency, including—

(A) the basis for the determination made under subsection (c)(1);

(B) an explanation of why an action under subsection (c)(2) was not appropriate;

(C) the length of the period of leave;

(D) the amount of salary paid to the employee during the period of leave;

(E) the reasons for authorizing the leave, including, if applicable, the recommendation made by an investigator under subsection (d)(1); and

(F) the action taken by the agency at the end of the period of leave, including, if applicable, the granting of any extension of a period of investigative leave under subsection (d) or (e).

(2) *AVAILABILITY OF RECORDS.*—An agency shall make a record kept under paragraph (1) available—

(A) to any committee of Congress, upon request;

(B) to the Office of Personnel Management; and

(C) as otherwise required by law, including for the purposes of the Administrative Leave Act of 2016 and the amendments made by that Act.

(h) *REGULATIONS.*—

(1) *OPM ACTION.*—Not later than 1 year after the date of enactment of this section, the Director shall prescribe regulations to carry out this section, including guidance to agencies regarding—

(A) acceptable purposes for the use of—

- (i) *investigative leave; and*
- (ii) *notice leave;*
- (B) *the proper recording of—*
 - (i) *the leave categories described in subparagraph (A); and*
 - (ii) *other leave authorized by law;*
- (C) *baseline factors that an agency shall consider when making a determination that the continued presence of an employee in the workplace may—*
 - (i) *pose a threat to the employee or others;*
 - (ii) *result in the destruction of evidence relevant to an investigation;*
 - (iii) *result in loss or damage to Government property;*
 - or
 - (iv) *otherwise jeopardize legitimate Government interests; and*
- (D) *procedures and criteria for the approval of an extension of a period of investigative leave under subsection (d) or (e).*

(2) **AGENCY ACTION.**—*Not later than 1 year after the date on which the Director prescribes regulations under paragraph (1), each agency shall revise and implement the internal policies of the agency to meet the requirements of this section.*

(i) **RELATION TO OTHER LAWS.**—*Notwithstanding subsection (a) of section 7421 of title 38, this section shall apply to an employee described in subsection (b) of that section.*

§ 6329c. Weather and safety leave

(a) **DEFINITIONS.**—*In this section—*

(1) *the term ‘agency’—*

(A) *means an Executive agency (as defined in section 105 of this title); and*

(B) *does not include the Government Accountability Office; and*

(2) *the term ‘employee’—*

(A) *has the meaning given the term in section 2105; and*

(B) *does not include an intermittent employee who does not have an established regular tour of duty during the administrative workweek.*

(b) **LEAVE FOR WEATHER AND SAFETY ISSUES.**—*An agency may approve the provision of leave under this section to an employee or a group of employees without loss of or reduction in the pay of the employee or employees, leave to which the employee or employees are otherwise entitled, or credit to the employee or employees for time or service only if the employee or group of employees is prevented from safely traveling to or performing work at an approved location due to—*

(1) *an act of God;*

(2) *a terrorist attack; or*

(3) *another condition that prevents the employee or group of employees from safely traveling to or performing work at an approved location.*

(c) **RECORDS.**—*An agency shall record leave provided under this section separately from leave authorized under any other provision of law.*

(d) *REGULATIONS.*—Not later than 1 year after the date of enactment of this section, the Director of the Office of Personnel Management shall prescribe regulations to carry out this section, including—

(1) *guidance to agencies regarding the appropriate purposes for providing leave under this section; and*

(2) *the proper recording of leave provided under this section.*

(e) *RELATION TO OTHER LAWS.*—Notwithstanding subsection (a) of section 7421 of title 38, this section shall apply to an employee described in subsection (b) of that section.

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CHAPTER 65—TELEWORK

* * * * *

SEC. 6502. EXECUTIVE AGENCIES TELEWORK REQUIREMENT.

(a) * * *

(b) * * *

(c) *REQUIRED TELEWORK.*—If an agency determines under section 6329b(c)(1) that the continued presence of an employee in the workplace during an investigation of the employee or while the employee is in a notice period, if applicable, may pose 1 or more of the threats described in that section and the employee is eligible to telework under subsections (a) and (b) of this section, the agency may require the employee to telework for the duration of the investigation or the notice period, if applicable.

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