

**Calendar No. 676**

117TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
117-277 }

SAFEGUARDING THE HOMELAND FROM  
THREATS POSED BY UNMANNED AIRCRAFT  
SYSTEMS ACT OF 2022

—  
R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 4687

TO ENHANCE THE AUTHORITY GRANTED TO THE  
DEPARTMENT OF HOMELAND SECURITY AND DEPARTMENT  
OF JUSTICE WITH RESPECT TO UNMANNED AIRCRAFT  
SYSTEMS AND UNMANNED AIRCRAFT, AND FOR OTHER PURPOSES



DECEMBER 19, 2022.—Ordered to be printed

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**SAFEGUARDING THE HOMELAND FROM THREATS POSED  
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DECEMBER 19, 2022.—Ordered to be printed

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

**R E P O R T**

[To accompany S. 4687]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4687) to enhance the authority granted to the Department of Homeland Security and Department of Justice with respect to unmanned aircraft systems and unmanned aircraft, and for other purposes, having considered the same, reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

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**I. PURPOSE AND SUMMARY**

S. 4687, the *Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2022*, enhances our nation’s ability to counter the threat posed by unmanned aircraft systems (UAS) by addressing existing policy and legal gaps to strengthen the Department of Homeland Security (DHS) and Department of Justice’s (DOJ) authorities to execute their countering unmanned aircraft systems (C-UAS) missions. Specifically, the bill reauthor-

izes DHS and DOJ’s current C–UAS authorities provided by the Preventing Emerging Threats Act of 2018. Additionally, the bill authorizes the Transportation Security Administration (TSA) to proactively protect transportation infrastructure from drone threats, which would grant TSA the authority to deploy C–UAS detection and mitigation equipment beyond limited emergency circumstances.

The bill also authorizes DHS and DOJ to use existing authorities to protect critical infrastructure at the request of an infrastructure facility’s owner or operator. The legislation authorizes state, local, territorial, and tribal (SLTT) law enforcement and critical infrastructure owners and operators to conduct drone detection-only with safe and proven technology. Detection equipment authorized for use would be limited to a DHS list of approved systems. The equipment included on this list will be tested and evaluated by DHS or DOJ, in coordination with other federal agencies, for risks, including potential counterintelligence and cybersecurity risks, and reevaluated annually for any changes in those risks. Next, the bill creates a limited 6-year pilot program for SLTT law enforcement to mitigate threats in their jurisdictions through federal sponsorship and oversight by DHS and DOJ. Finally, the bill provides DHS with explicit authority to develop a database of security-related UAS incidents that occur inside the United States.

## II. BACKGROUND AND NEED FOR THE LEGISLATION

The use of UAS technology in the United States has grown rapidly in recent years, and the Federal Aviation Administration (FAA) estimates that by 2024, about 2.3 million UAS, including 1.5 million recreational drones and model aircraft and about 800,000 commercial UAS, will be registered to fly in U.S. airspace.<sup>1</sup> As the UAS market expands, drones will bring substantial benefits to our society and economy as the technology transforms the delivery of goods and the provision of services.<sup>2</sup> Commercial drone use is already generating billions of dollars of economic growth. Law enforcement and public safety use of drones is also increasing and enables law enforcement entities to perform critical public safety missions while reducing risk to personnel and the public.<sup>3</sup>

As the UAS market expands, the homeland faces an increasing risk that rogue UAS owners and operators that either fail to obey safety rules or are operated for nefarious purposes could threaten manned aircraft operations, airports, critical infrastructure facilities, and high-profile events. Between November 2014 and June 2022, there were at least three confirmed collisions between UAS and manned aircraft in the United States, and numerous near mid-air collisions reported by pilots between manned aircraft and UAS.<sup>4</sup> FAA-sponsored research has found that collisions with drones weighing eight pounds or less can cause more structural damage

<sup>1</sup> Congressional Research Service, *Protecting Against Rogue Drones* (IF11550) (Sept. 3, 2020).

<sup>2</sup> Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Deputy Assistant Attorney General Brad Wiegmann, Department of Justice, *Hearing on Protecting the Homeland from Unmanned Aircraft Systems*, 117th Cong. (July 14, 2022) (S. Hrg. 117–XX).

<sup>3</sup> *Id.*

<sup>4</sup> Federal Aviation Administration, *UAS Sightings Report* ([https://www.faa.gov/uas/resources/public\\_records/uas\\_sightings\\_report](https://www.faa.gov/uas/resources/public_records/uas_sightings_report)) (accessed Dec. 2, 2022).

than collisions with birds of similar weight.<sup>5</sup> Experts fear that a collision between a small drone and a manned aircraft, or a drone being ingested into a jet engine, would be catastrophic.<sup>6</sup>

In September 2017, a hobby drone launched from a park in Brooklyn, New York, was intentionally flown beyond its operator's line of sight and collided with a U.S. Army Black Hawk helicopter patrolling a temporary no-fly zone around New York City. The helicopter landed safely, but the incident damaged the main rotor assembly, where fragments of the drone were found.<sup>7</sup> In December 2018, hundreds of flights at London's Gatwick airport were canceled over a three-day period following multiple drone sightings near the runway.<sup>8</sup> Three weeks later, London's Heathrow airport was briefly shut down due to a drone sighting, as was Newark-Liberty Airport in New Jersey in January 2019.<sup>9</sup> Since those incidents took place, the UAS threat to manned aviation has only increased. Since 2021, TSA has reported nearly 2,000 drone sightings near U.S. airports, including incursions at major airports on an almost daily basis.<sup>10</sup> The most serious drone incidents force pilots to take evasive action during takeoff and landing to avoid potentially fatal collisions. During 2021–2022, TSA reported 63 drone incidents requiring evasive action.<sup>11</sup>

In addition to posing a threat to manned aircraft operations, critical infrastructure owners and operators consistently report suspicious activity of UAS being operated near critical infrastructure and services.<sup>12</sup> In 2020, law enforcement discovered a crashed drone outside an electrical substation in Pennsylvania, which had been modified with a tether and copper wire to cause an intentional power disruption by causing damage to transformers or distribution lines.<sup>13</sup> During 2021–2022, the Federal Bureau of Investigation (FBI) identified 235 reports of suspicious drone flights at or near chemical plants in Louisiana.<sup>14</sup> Similar UAS incidents also occurred at oil storage facilities in Oklahoma and natural gas facilities in Texas. Given the volume of reports of suspicious UAS activity near critical infrastructure facilities, malicious actors, if they so choose, could pose a devastating interruption to our national security, economic security, public health, and safety.

Transnational criminal organizations (TCOs) are also using drones to convey narcotics and contraband across U.S. borders and

<sup>5</sup>Federal Aviation Administration: *Researchers Release Report on Drone Airborne Collisions* (Nov. 28, 2017).

<sup>6</sup>*Id.*

<sup>7</sup>Congressional Research Service, *Protecting Against Rogue Drones* (IF11550) (Sept. 3, 2020); See *Drone Operator Blamed for Collision With Helicopter in New York*, Bloomberg (Dec. 14, 2017) (<https://www.bloomberg.com/news/articles/2017-12-14/drone-operator-blamed-for-collision-with-helicopter-in-new-york#xj4y7vzkg>).

<sup>8</sup>*The Mystery of the Gatwick Drone*, The Guardian (Dec. 1 2020) (<https://www.theguardian.com/uk-news/2020/dec/01/the-mystery-of-the-gatwick-drone>).

<sup>9</sup>Congressional Research Service, *Protecting Against Rogue Drones* (IF11550–3) (Sept. 3, 2020).

<sup>10</sup>Senate Committee on Homeland Security and Governmental Affairs, *Testimony Submitted for the Record of Acting Assistant Secretary for Counterterrorism, Threat Prevention, and Law Enforcement Samantha Vinograd, Department of Homeland Security, Hearing on Protecting the Homeland from Unmanned Aircraft Systems*, 117th Cong. (July 14, 2022) (S. Hrg. 117–XX).

<sup>11</sup>*Id.*

<sup>12</sup>*Id.*

<sup>13</sup>*Id.*; *Memo: Drone at Pa. electric substation was first to 'specifically target energy infrastructure'*, ABC7 Los Angeles (Nov. 4, 2021) (<https://abc7.com/drone-threat-pennsylvania-substation-electric-grid-supply/11197345/>).

<sup>14</sup>*Id.*

conduct surveillance of U.S. law enforcement.<sup>15</sup> From August 2021 to May 2022, U.S. Customs and Border Protection (CBP) detected more than 8,000 illegal cross-border drone flights at the southern border, an average of nearly 900 incursions per month.<sup>16</sup>

Outdoor mass gatherings, like open-air sports stadiums, are also particularly vulnerable to drone attacks. For example, in 2022, a defendant was sentenced after using a drone to drop flyers over spectators at two separate National Football League (NFL) games occurring the same afternoon in California.<sup>17</sup> A more nefarious actor could have used the drone to drop explosives or spray deadly chemical agents on the crowd.

Congress originally provided DHS and DOJ with C-UAS authorities as part of the FAA Reauthorization Act of 2018 and, since enactment, DHS has used these authorities over 300 times to protect our nation's facilities and assets from credible UAS threats.<sup>18</sup> In fact, DHS components, including the U.S. Secret Service and the Federal Protective Service, have used UAS detection and C-UAS technologies over 200 times, often in sensitive protective missions. The FBI has used the authority to protect numerous large public events, such as the Super Bowl. Additionally, the FBI has conducted 70 UAS detection and C-UAS protection operations at large events, ranging from the Super Bowl to the New Year's Eve celebration in New York City's Times Square.<sup>19</sup> During those 70 operations, the FBI's C-UAS teams detected 974 unauthorized drones operating in flight restricted areas, located the operator in 279 instances, and attempted mitigation against 50 drones.<sup>20</sup> Those 70 operations represent 0.05 percent of the over 121,000 events during that time for which State, local, and federal officials requested an assessment and Special Events Assessment Rating (SEAR) so that UAS detection and C-UAS support could be provided. According to DOJ, it is clear that the demand for C-UAS support around the country is outpacing the federal government's resources, and they are not able to conduct these operations without support from state and local law enforcement partners.<sup>21</sup> This legislation builds on the existing DHS and DOJ authorities to strengthen the Departments' C-UAS missions in the face of the evolving UAS threat.

In addition to extending the 2018 authorities, this bill will close legal and policy gaps in DHS and DOJ's existing C-UAS authorities that will strengthen the Departments' C-UAS missions. The legislation also retains the requirement for the departments to provide Congressional committees with semi-annual briefings on the use of these authorities. Additionally, S. 4687 terminates C-UAS

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<sup>15</sup>*Id.*

<sup>16</sup>*Id.*

<sup>17</sup>Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Deputy Assistant Attorney General Brad Wiegmann, Department of Justice, *Hearing on Protecting the Homeland from Unmanned Aircraft Systems*, 117th Cong. (July 14, 2022) (S. Hrg. 117-XX).

<sup>18</sup>FAA Reauthorization Act of 2018, Pub. L. No. 115-254, Sec. 1602; Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Acting Assistant Secretary for Counterterrorism, Threat Prevention, and Law Enforcement Samantha Vinograd, Department of Homeland Security, *Hearing on Protecting the Homeland from Unmanned Aircraft Systems*, 117th Cong. (July 14, 2022) (S. Hrg. 117-XX).

<sup>19</sup>Senate Committee on Homeland Security and Governmental Affairs, Testimony Submitted for the Record of Deputy Assistant Attorney General Brad Wiegmann, Department of Justice, *Hearing on Protecting the Homeland from Unmanned Aircraft Systems*, 117th Cong. (July 14, 2022) (S. Hrg. 117-XX).

<sup>20</sup>*Id.*

<sup>21</sup>*Id.*

authorities provided in this legislation 7 years after enactment to ensure Congress is able to consider the continuation of the authorities and examine if any changes should be made. Next, the legislation authorizes TSA to proactively protect transportation infrastructure from UAS threats, which would remedy a current significant gap in DHS C-UAS authorities. This would enable TSA to deploy C-UAS detection and mitigation equipment beyond limited emergency circumstances and provide airports with ongoing and long-term protection from UAS threats.

Additionally, this legislation authorizes SLTT law enforcement entities and owners or operators of airports or critical infrastructure to use certain UAS detection-only capabilities, subject to specified conditions and safeguards in the legislation that allow those entities to close the demand gap between what the federal government is currently able to support and requests for assistance. This will allow to local enforcement agencies across the country to take steps needed to protect their communities from the UAS threat, as well as ensure our nation's critical infrastructure operators are able to protect their own facilities and assets, including large public stadiums. Specifically, critical infrastructure owners and operators can use the detection capabilities provided by this legislation to locate an unauthorized UAS operating nearby and take precautions to protect their facilities, such as proactively seeking help from law enforcement, initiating emergency response plans, and taking safety precautions.

This legislation also creates a limited 6-year pilot program for SLTT law enforcement agencies to mitigate threats in their jurisdictions through federal sponsorship and oversight by DHS and DOJ. Under the pilot program, DHS and DOJ are able to annually designate up to 12 SLTT entities to use the detection and mitigation authorities in this legislation, subject to oversight by DHS and DOJ and approval by the FAA and consistent with the safeguards enumerated in the bill. The SLTT law enforcement agencies participating in the pilot program would be required to receive appropriate training and vetting to enable them to both detect and mitigate UAS threats to covered facilities, including mass gatherings. Additionally, all activities carried out by SLTT law enforcement entities must be coordinated in advance with the federal partners including the FAA, which could withhold approval if the FAA identifies a risk to the national airspace systems from a proposed operation.

In order to ensure SLTT law enforcement agencies participating in the pilot program support and uphold Constitutional First and Fourth Amendment protections, this bill requires personnel of the participating agencies to receive training on protecting privacy and civil liberties before carrying out an authorized C-UAS mission. Each SLTT law enforcement agency designated under the pilot program must also submit a written policy to DHS and DOJ to certify compliance with privacy protections, along with an operational plan that outlines specific activities for each deployment of C-UAS authorities, which must be coordinated with the FAA through DHS and DOJ. Additionally, the legislation requires DHS and DOJ to report to Congress on each use of the authority provided under the pilot program by an SLTT law enforcement agency. Finally, SLTT law enforcement agencies participating in this pilot program are re-

quired to ensure that any communications between C-UAS equipment and a UAS are handled in the same manner as DHS and DOJ communications between their C-UAS equipment and any UAS they encounter.

Under this legislation, all proposed expansions would continue to require safeguards with which DHS and DOJ must continue to comply. Significantly, this legislation requires that DHS, in coordination with DOJ, the FAA, Federal Communications Commission (FCC), and National Telecommunications and Information Administration (NTIA), maintain a list of authorized C-UAS equipment that may be used by entities using the authorities provided under this legislation to detect, identify, monitor, and track UAS. The equipment and systems included on the authorized list must be tested and evaluated by DHS and DOJ, including for potential counterintelligence or cybersecurity risks, and must receive favorable determinations from the FCC and NTIA that the equipment does not adversely impact the communications spectrum, and from the FAA that the equipment would not adversely impact the aviation spectrum or the national airspace system.

The legislation also maintains and expands current DHS and DOJ training requirements by requiring the FBI Director to provide training on UAS mitigation measures to any personnel authorized to conduct mitigation actions, including participants of the SLTT pilot program. DHS and DOJ must also continue conducting risk-based assessments to determine if a covered facility or asset is eligible for protection from an unlawful UAS by the DHS, DOJ, the participant of the SLTT pilot program, or airport and critical infrastructure owner and operator. Additionally, all C-UAS actions taken by entities authorized under this legislation must be coordinated with the FAA to ensure the safety of the U.S. airspace and airport operations nationwide.

Finally, the legislation continues all current civil rights, civil liberties, and privacy protections provided under current authorities, and it adds a new requirement that all risk assessments conducted by an agency prior to using its C-UAS authority must examine the civil rights and civil liberty implications of the potential deployment of technology. The semiannual Congressional briefings required under this legislation also require DHS and DOJ to produce any guidance, policies, or procedures established by the Secretary of Homeland Security or the Attorney General that address privacy, civil rights, and civil liberty concerns that could be raised in response to the actions permitted under this legislation. DHS and DOJ will also have to report to Congress on any changes in guidance, policies, or procedures, or subsequent actions by the Secretary of Homeland Security or the Attorney General that would significantly affect privacy, civil rights, or civil liberty protections.

### III. LEGISLATIVE HISTORY

Senators Gary Peters (D-MI), Ron Johnson (R-WI), Kyrsten Sinema (D-AZ), and Margaret Hassan (D-NH) introduced S. 4687, the *Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2022*, on July 28, 2022. The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs. Senators Rob Portman (R-OH) and Mark



Kelly (D–AZ) joined as cosponsors on August 1, 2022 and August 2, 2022, respectively.

The Committee considered S. 4687 at a business meeting on August 3, 2022. During the business meeting, Senators Peters, Johnson, and Portman offered a substitute amendment that provided C–UAS authorities to DHS Homeland Security Investigations (HSI) in support of their security and protection functions for their facilities, assets, or operations. The substitute amendment also allows SLTT law enforcement entities to use C–UAS authorities to protect disaster response operations. Additionally, the substitute amendment added a requirement that that SLTT law enforcement entities utilizing detection, identification, monitoring tracking authorities notify the Secretary of Homeland Security and the Attorney General if those entities are noncompliant with the privacy protections included in the underlying legislation. Additionally, the substitute amendment modified the SLTT pilot program reporting requirement to require DHS and DOJ to provide an annual briefing to Congress beginning 2 years after the first SLTT law enforcement agency is designated under the pilot program. Finally, the substitute amendment added additional requirements to protect civil rights and civil liberties throughout the bill.

The substitute amendment was adopted *en bloc* by voice vote with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley present for the vote. The Committee ordered the bill, as amended, to be favorably reported by voice vote *en bloc*. Senators present for the vote were: Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Lankford, Romney, Scott, and Hawley.

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

##### *Section 1. Short title*

This section designates the name of the bill as the “Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2022.”

##### *Section 2. Department of Homeland Security Unmanned Aircraft System detection and mitigation authority*

This section amends Subtitle A of Title II of the Homeland Security Act of 2002 by striking section 210G and inserting a new section 210G in its place titled “Protection of Certain Facilities and Assets from Unmanned Aircraft.”

Section 210G, subsection (a) defines the terms “air navigation facility,” “airport,” “appropriate committees of Congress,” “budget,” “covered facility or asset,” “critical infrastructure,” “electronic communication,” “intercept,” “oral communication,” “wire communication,” “homeland security or justice budget materials,” “personnel,” “risk-based assessment,” “unmanned aircraft,” and “unmanned aircraft system.”

Section 210G, subsection (b) allows DHS and DOJ personnel whose duties involve safety, security, or protection of people, facilities, or assets to detect, identify, monitor, track, and mitigate a credible UAS threat. The subsection provides exemptions under section 46502 of title 49, United States Code, or sections 32, 1030,

1367, and chapters 119 and 206 of title 18, United States Code to allow DHS and DOJ to take these actions.

Section 210G, subsection (c) authorizes SLTT law enforcement and the owners and operators of airports or other critical infrastructure, including stadiums that support large sports events, to use UAS detection, identification, and monitoring equipment that may otherwise be prohibited by federal law. To qualify for these exceptions, the equipment must comport with a list of authorized equipment maintained by the Secretary of Homeland Security, Attorney General, FAA Administrator, and Secretary of Defense. The equipment must also have been tested and evaluated by DHS or DOJ and meet further standards of the NTIA, FCC, and FAA.

Section 210G, subsection (d) allows DHS and DOJ to carry out a pilot program whereby a limited number of SLTT law enforcement agencies are able to conduct both UAS detection and mitigation activities. Under the pilot program, DHS and DOJ may designate no more than 12 SLTT law enforcement agencies for participation in the pilot program per year for up to 5 years. The total number of SLTT law enforcement agencies participating in the pilot program may not total more than 60. Subject to federal safeguards and oversight, the pilot program authorized under this subsection would supplement DHS and DOJ's C-UAS missions, which currently lack sufficient equipment and personnel to detect and mitigate UAS activity at all potential high-risk locations or potential targets. Additionally, this subsection provides detailed guidelines on when and how the programs are to be executed. Finally, the subsection requires DHS and DOJ to inform Congress of the use of any of the authorities by an SLTT law enforcement agency participating in this pilot program beginning 2 years after the designation of the first SLTT law enforcement agency, and annually thereafter.

Section 210G, subsection (e) identifies the actions authorized entities may take to protect against drone threats.

Section 210G, subsection (f) directs the DHS, DOJ, and the heads of the law enforcement agencies participating in the pilot program under subsection (d) to study and test emerging UAS technologies and equipment prior to their use. Further, the subsection permits other relevant personnel and contractors to do their own research and testing pursuant to the same criteria that DHS, DOJ, and participating SLTT law enforcements agencies must abide by. The subsection also allows the FBI Director, on behalf of the Attorney General, to conduct trainings and establish training centers on steps to mitigate UAS-related threats. Finally, the subsection requires that DHS, DOJ, and the heads of the participating agencies within the SLTT pilot program coordinate their research, testing, training, and evaluation procedures such that those procedures satisfy FAA standards.

Section 210G, subsection (g) authorizes the forfeiture of lawfully seized UAS or unmanned aircraft by DHS or DOJ, pursuant to the provisions of chapter 46 of title 18, United States Code.

Section 210G, subsection (h) authorizes the Secretaries of Homeland Security and Transportation, and the Attorney General, to regulate and issue guidance for the use of UAS in consultation with the FCC, NTIA, and FAA.

Section 210G, subsection (i) expands and clarifies the requirements in the existing statute for the Secretary of Homeland Security and the Attorney General to coordinate actions with the Administrator of the FAA. It also applies to the heads of the SLTT law enforcement agencies designated under the new SLTT pilot program.

Section 210G, subsection (j) mandates privacy protections in the guidance and regulations issued by DHS and DOJ. This section reiterates that all interception or acquisition of communications or data be consistent with Fourth Amendment protections and applicable Federal laws. This section also limits the keeping of any records intercepted to no more than 180 days unless there is a law enforcement or criminal nexus. Records may not be disclosed outside of the respective Department unless it would support a safety or security function of the respective Department, or the mission of the Department of Defense or law enforcement. For agencies participating in the SLTT pilot program and for entities (outside the departments) acquiring detection-only equipment, the subsection requires comparable privacy protections.

Section 210G, subsection (k) requires the Secretary of Homeland Security and Attorney General to submit to Congress an annual “consolidated funding display” meeting certain conditions.

Section 210G, subsection (l) requires that a federal agency or SLTT law enforcement entity handling federal C-UAS operations keep records in compliance with the Freedom of Information Act. It provides details on what information is included under this provision and how that information may be disclosed.

Section 210G, subsection (m) authorizes DHS and DOJ to receive support provided by public and private sector entities in connection with authorized C-UAS activities. The subsection also authorizes mutual support activities by the departments.

Section 210G, subsection (n) details the semiannual briefings and notifications that the Secretary of Homeland Security and Attorney General, jointly with the Secretary of Transportation, must provide to the appropriate Congressional committees on the activities they have carried out pursuant to this legislation. The subsection also details the content to be conveyed in these briefings, including the gaps in authorities to C-UAS threats and the new federal government database for security-related UAS incidents. The subsection also requires these briefings to be unclassified but may be accompanied by an additional classified briefing. Finally, the subsection requires the Secretary of Homeland Security and the Attorney General, either separately or jointly, to notify appropriate Congressional committees no later than 30 days after an authorized department, agency, or owner or operator of an airport or critical infrastructure deploys new technology to carry out the actions described in subsection (e).

Section 210G, subsection (o) states that this bill does not vest existing authorities of the respective departments to any other department.

Section 210G, subsection (p) terminates the additional limited detection, identification, monitoring, and tracking authorities provided under subsection (c) 5 years and 6 months after the enactment of this legislation. This subsection provides a sunset of 7 years after enactment of the bill.

Section 210G, subsection (q) clarifies that nothing in the legislation gives the Secretary of Homeland Security or the Attorney General with additional authorities beyond those detailed in the legislation or defined under “covered facility or asset.”

Section 210G, subsection (r) authorizes DHS to develop a database of security-related UAS incidents that incur inside the United States. Incidents in the database may include information about UAS that repeatedly violate altitude or other federal aviation regulations in ways that may be dangerous or harmful to national defense or security.

#### 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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 9, 2022.*

Hon. GARY C. PETERS,  
*Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed table summarizing estimated budgetary effects and mandates information for some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress.

If you wish further details, we will be pleased to provide them. The CBO staff contact for each estimate is listed on the enclosed table.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

#### SUMMARY ESTIMATES OF LEGISLATION ORDERED REPORTED

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the Senate Committee on Homeland Security and Governmental Affairs during the 117th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or reve-

nues, CBO estimates. Where possible, the table also provides information about the legislation's estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

**ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION**

Bill Number	Title	Status	Last Action	Budget Function	Direct Spending, 2023-2032	Revenues, 2023-2032	Spending Subject to Appropriation, 2023-2027	Pay-As-You-Go Procedures Apply?	Increases Un-Budget Deficits Beginning in 2033?	Mandates	Contact
S. 4687	Safeguarding the Homeland From the Threats Posed by Unmanned Aircraft Systems Act of 2022	Ordered reported	08/03/22	750	0	0	Not estimated	No	No	No	Jeremy Crimm

S. 4687 would enhance the authority of the Department of Justice and the Department of Homeland Security (DHS) to detect and counter unmanned aircraft systems (UAS). The bill also would authorize a pilot program expanding UAS mitigation authority for certain state and local governments. Finally, the bill would establish a national counter-UAS training center and require DHS to develop a database that tracks UAS-related incidents. CBO estimates that enacting S. 4687 would not affect direct spending or revenues. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

## 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 the bill, 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**

\* \* \* \* \*

**TITLE II—INFORMATION ANALYSIS****Subtitle A—Information and Analysis; Access to Information**

\* \* \* \* \*

**[SEC. 210G. PROTECTION OF CERTAIN FACILITIES AND ASSETS FROM UNMANNED AIRCRAFT.**

[(a) AUTHORITY.—Notwithstanding section 46502 of title 49, United States Code, or sections 32, 1030, 1367 and chapters 119 and 206 of title 18, United States Code, the Secretary and the Attorney General may, for their respective Departments, take, and may authorize personnel with assigned duties that include the security or protection of people, facilities, or assets, to take such actions as are described in subsection (b)(1) that are necessary to mitigate a credible threat (as defined by the Secretary or the Attorney General, in consultation with the Secretary of Transportation) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

**[(b) ACTIONS DESCRIBED.—**

**[(1) IN GENERAL.—**The actions authorized in subsection (a) are the following:

**[(A)** During the operation of the unmanned aircraft system, detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of a wire communication, an oral communication, or an electronic communication used to control the unmanned aircraft system or unmanned aircraft.

**[(B)** Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect physical, electronic, radio, and electromagnetic means.

**[(C)** Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.

**[(D)** Seize or exercise control of the unmanned aircraft system or unmanned aircraft.

[(E) Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.

[(F) Use reasonable force, if necessary, to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.

[(2) REQUIRED COORDINATION.—The Secretary and the Attorney General shall develop for their respective Departments the actions described in paragraph (1) in coordination with the Secretary of Transportation.

[(3) RESEARCH, TESTING, TRAINING, AND EVALUATION.—The Secretary and the Attorney General shall conduct research, testing, training on, and evaluation of any equipment, including any electronic equipment, to determine its capability and utility prior to the use of any such technology for any action described in subsection (b)(1).

[(4) COORDINATION.—The Secretary and the Attorney General shall coordinate with the Administrator of the Federal Aviation Administration when any action authorized by this section might affect aviation safety, civilian aviation and aerospace operations, aircraft airworthiness, or the use of the airspace.

[(c) FORFEITURE.—Any unmanned aircraft system or unmanned aircraft described in subsection (a) that is seized by the Secretary or the Attorney General is subject to forfeiture to the United States.

[(d) REGULATIONS AND GUIDANCE.—

[(1) IN GENERAL.—The Secretary, the Attorney General, and the Secretary of Transportation may prescribe regulations and shall issue guidance in the respective areas of each Secretary or the Attorney General to carry out this section.

[(2) COORDINATION.—

[(A) COORDINATION WITH DEPARTMENT OF TRANSPORTATION.—The Secretary and the Attorney General shall coordinate the development of their respective guidance under paragraph (1) with the Secretary of Transportation.

[(B) EFFECT ON AVIATION SAFETY.—The Secretary and the Attorney General shall respectively coordinate with the Secretary of Transportation and the Administrator of the Federal Aviation Administration before issuing any guidance, or otherwise implementing this section, if such guidance or implementation might affect aviation safety, civilian aviation and aerospace operations, aircraft airworthiness, or the use of airspace.

[(e) PRIVACY PROTECTION.—The regulations or guidance issued to carry out actions authorized under subsection (b) by each Secretary or the Attorney General, as the case may be, shall ensure that—

[(1) the interception or acquisition of, or access to, or maintenance or use of, communications to or from an unmanned aircraft system under this section is conducted in a manner consistent with the First and Fourth Amendments to the Constitution of the United States and applicable provisions of Federal law;

[(2) communications to or from an unmanned aircraft system are intercepted or acquired only to the extent necessary to support an action described in subsection (b)(1);



[(3) records of such communications are maintained only for as long as necessary, and in no event for more than 180 days, unless the Secretary of Homeland Security or the Attorney General determine that maintenance of such records is necessary to investigate or prosecute a violation of law, directly support an ongoing security operation, is required under Federal law, or for the purpose of any litigation;

[(4) such communications are not disclosed outside the Department of Homeland Security or the Department of Justice unless the disclosure—

[(A) is necessary to investigate or prosecute a violation of law;

[(B) would support the Department of Defense, a Federal law enforcement agency, or the enforcement activities of a regulatory agency of the Federal Government in connection with a criminal or civil investigation of, or any regulatory, statutory, or other enforcement action relating to an action described in subsection (b)(1);

[(C) is between the Department of Homeland Security and the Department of Justice in the course of a security or protection operation of either agency or a joint operation of such agencies; or

[(D) is otherwise required by law; and

[(5) to the extent necessary, the Department of Homeland Security and the Department of Justice are authorized to share threat information, which shall not include communications referred to in subsection (b), with State, local, territorial, or tribal law enforcement agencies in the course of a security or protection operation.

[(f) BUDGET.—The Secretary and the Attorney General shall submit to Congress, as a part of the homeland security or justice budget materials for each fiscal year after fiscal year 2019, a consolidated funding display that identifies the funding source for the actions described in subsection (b)(1) within the Department of Homeland Security or the Department of Justice. The funding display shall be in unclassified form, but may contain a classified annex.

[(g) SEMIANNUAL BRIEFINGS AND NOTIFICATIONS.—

[(1) IN GENERAL.—On a semiannual basis during the period beginning 6 months after the date of enactment of this section and ending on the date specified in subsection (i), the Secretary and the Attorney General shall, respectively, provide a briefing to the appropriate congressional committees on the activities carried out pursuant to this section.

[(2) REQUIREMENT.—Each briefing required under paragraph (1) shall be conducted jointly with the Secretary of Transportation.

[(3) CONTENT.—Each briefing required under paragraph (1) shall include—

[(A) policies, programs, and procedures to mitigate or eliminate impacts of such activities to the National Airspace System;

[(B) a description of instances in which actions described in subsection (b)(1) have been taken, including all such in-

stances that may have resulted in harm, damage, or loss to a person or to private property;

[(C) a description of the guidance, policies, or procedures established to address privacy, civil rights, and civil liberties issues implicated by the actions allowed under this section, as well as any changes or subsequent efforts that would significantly affect privacy, civil rights or civil liberties;

[(D) a description of options considered and steps taken to mitigate any identified impacts to the national airspace system related to the use of any system or technology, including the minimization of the use of any technology that disrupts the transmission of radio or electronic signals, for carrying out the actions described in subsection (b)(1);

[(E) a description of instances in which communications intercepted or acquired during the course of operations of an unmanned aircraft system were held for more than 180 days or shared outside of the Department of Justice or the Department of Homeland Security;

[(F) how the Secretary, the Attorney General, and the Secretary of Transportation have informed the public as to the possible use of authorities under this section;

[(G) how the Secretary, the Attorney General, and the Secretary of Transportation have engaged with Federal, State, and local law enforcement agencies to implement and use such authorities.

[(4) UNCLASSIFIED FORM.—Each briefing required under paragraph (1) shall be in unclassified form, but may be accompanied by an additional classified briefing.

[(5) NOTIFICATION.—Within 30 days of deploying any new technology to carry out the actions described in subsection (b)(1), the Secretary and the Attorney General shall, respectively, submit a notification to the appropriate congressional committees. Such notification shall include a description of options considered to mitigate any identified impacts to the national airspace system related to the use of any system or technology, including the minimization of the use of any technology that disrupts the transmission of radio or electronic signals, for carrying out the actions described in subsection (b)(1).

[(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed to—

[(1) vest in the Secretary or the Attorney General any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration;

[(2) vest in the Secretary of Transportation or the Administrator of the Federal Aviation Administration any authority of the Secretary or the Attorney General;

[(3) vest in the Secretary of Homeland Security any authority of the Attorney General;

[(4) vest in the Attorney General any authority of the Secretary of Homeland Security; or

[(5) provide a new basis of liability for any State, local, territorial, or tribal law enforcement officers who participate in the protection of a mass gathering identified by the Secretary or Attorney General under subsection (k)(3)(C)(iii)(II), act within

the scope of their authority, and do not exercise the authority granted to the Secretary and Attorney General by this section.

[(i) TERMINATION.—The authority to carry out this section with respect to a covered facility or asset specified in subsection (k)(3) shall terminate on the date that is 4 years after the date of enactment of this section.

[(j) SCOPE OF AUTHORITY.—Nothing in this section shall be construed to provide the Secretary or the Attorney General with additional authorities beyond those described in subsections (a) and (k)(3)(C)(iii).

[(k) DEFINITIONS.—In this section:

[(1) The term “appropriate congressional committees” means—

[(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary of the Senate; and

[(B) the Committee on Homeland Security, the Committee on Transportation and Infrastructure, the Committee on Energy and Commerce, and the Committee on the Judiciary of the House of Representatives.

[(2) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

[(3) The term “covered facility or asset” means any facility or asset that—

[(A) is identified as high-risk and a potential target for unlawful unmanned aircraft activity by the Secretary or the Attorney General, in coordination with the Secretary of Transportation with respect to potentially impacted airspace, through a risk-based assessment for purposes of this section (except that in the case of the missions described in subparagraph (C)(i)(II) and (C)(iii)(I), such missions shall be presumed to be for the protection of a facility or asset that is assessed to be high-risk and a potential target for unlawful unmanned aircraft activity);

[(B) is located in the United States (including the territories and possessions, territorial seas or navigable waters of the United States); and

[(C) directly relates to one or more—

[(i) missions authorized to be performed by the Department of Homeland Security, consistent with governing statutes, regulations, and orders issued by the Secretary, pertaining to—

[(I) security or protection functions of the U.S. Customs and Border Protection, including securing or protecting facilities, aircraft, and vessels, whether moored or underway;

[(II) United States Secret Service protection operations pursuant to sections 3056(a) and 3056A(a) of title 18, United States Code, and the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

[(III) protection of facilities pursuant to section 1315(a) of title 40, United States Code;

[(ii) missions authorized to be performed by the Department of Justice, consistent with governing statutes, regulations, and orders issued by the Attorney General, pertaining to—

[(I) personal protection operations by—

[(aa) the Federal Bureau of Investigation as specified in section 533 of title 28, United States Code; and

[(bb) the United States Marshals Service of Federal jurists, court officers, witnesses, and other threatened persons in the interests of justice, as specified in section 566(e)(1)(A) of title 28, United States Code;

[(II) protection of penal, detention, and correctional facilities and operations conducted by the Federal Bureau of Prisons; or

[(III) protection of the buildings and grounds leased, owned, or operated by or for the Department of Justice, and the provision of security for Federal courts, as specified in section 566(a) of title 28, United States Code;

[(iii) missions authorized to be performed by the Department of Homeland Security or the Department of Justice, acting together or separately, consistent with governing statutes, regulations, and orders issued by the Secretary or the Attorney General, respectively, pertaining to—

[(I) protection of a National Special Security Event and Special Event Assessment Rating event;

[(II) the provision of support to State, local, territorial, or tribal law enforcement, upon request of the chief executive officer of the State or territory, to ensure protection of people and property at mass gatherings, that is limited to a specified timeframe and location, within available resources, and without delegating any authority under this section to State, local, territorial, or tribal law enforcement; or

[(III) protection of an active Federal law enforcement investigation, emergency response, or security function, that is limited to a specified timeframe and location; and

[(iv) missions authorized to be performed by the United States Coast Guard, including those described in clause (iii) as directed by the Secretary, and as further set forth in section 104 of title 14, United States Code, and consistent with governing statutes, regulations, and orders issued by the Secretary of the Department in which the Coast Guard is operating.

[(4) The terms “electronic communication”, “intercept”, “oral communication”, and “wire communication” have the meaning given those terms in section 2510 of title 18, United States Code.

[(5) The term “homeland security or justice budget materials”, with respect to a fiscal year, means the materials submitted to Congress by the Secretary and the Attorney General in support of the budget for that fiscal year.

[(6) For purposes of subsection (a), the term “personnel” means officers and employees of the Department of Homeland Security or the Department of Justice.

[(7) The terms “unmanned aircraft” and “unmanned aircraft system” have the meanings given those terms in section 44801, of title 49, United States Code.

[(8) For purposes of this section, the term “risk-based assessment” includes an evaluation of threat information specific to a covered facility or asset and, with respect to potential impacts on the safety and efficiency of the national airspace system and the needs of law enforcement and national security at each covered facility or asset identified by the Secretary or the Attorney General, respectively, of each of the following factors:

[(A) Potential impacts to safety, efficiency, and use of the national airspace system, including potential effects on manned aircraft and unmanned aircraft systems, aviation safety, airport operations, infrastructure, and air navigation services related to the use of any system or technology for carrying out the actions described in subsection (b)(1).

[(B) Options for mitigating any identified impacts to the national airspace system related to the use of any system or technology, including minimizing when possible the use of any technology which disrupts the transmission of radio or electronic signals, for carrying out the actions described in subsection (b)(1).

[(C) Potential consequences of the impacts of any actions taken under subsection (b)(1) to the national airspace system and infrastructure if not mitigated.

[(D) The ability to provide reasonable advance notice to aircraft operators consistent with the safety of the national airspace system and the needs of law enforcement and national security.

[(E) The setting and character of any covered facility or asset, including whether it is located in a populated area or near other structures, whether the facility is open to the public, whether the facility is also used for nongovernmental functions, and any potential for interference with wireless communications or for injury or damage to persons or property.

[(F) The setting, character, timeframe, and national airspace system impacts of National Special Security Event and Special Event Assessment Rating events.

[(G) Potential consequences to national security, public safety, or law enforcement if threats posed by unmanned aircraft systems are not mitigated or defeated.

[(1) DEPARTMENT OF HOMELAND SECURITY ASSESSMENT.—

[(1) REPORT.—Not later than 1 year after the date of the enactment of this section, the Secretary shall conduct, in coordination with the Attorney General and the Secretary of Transportation, an assessment to the appropriate congressional committees, including—

[(A) an evaluation of the threat from unmanned aircraft systems to United States critical infrastructure (as defined in this Act) and to domestic large hub airports (as defined in section 40102 of title 49, United States Code);

[(B) an evaluation of current Federal and State, local, territorial, or tribal law enforcement authorities to counter the threat identified in subparagraph (A), and recommendations, if any, for potential changes to existing authorities to allow State, local, territorial, and tribal law enforcement to assist Federal law enforcement to counter the threat where appropriate;

[(C) an evaluation of the knowledge of, efficiency of, and effectiveness of current procedures and resources available to owners of critical infrastructure and domestic large hub airports when they believe a threat from unmanned aircraft systems is present and what additional actions, if any, the Department of Homeland Security or the Department of Transportation could implement under existing authorities to assist these entities to counter the threat identified in subparagraph (A);

[(D) an assessment of what, if any, additional authorities are needed by each Department and law enforcement to counter the threat identified in subparagraph (A); and

[(E) an assessment of what, if any, additional research and development the Department needs to counter the threat identified in subparagraph (A).

[(2) UNCLASSIFIED FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.]

**SEC. 210G. PROTECTION OF CERTAIN FACILITIES AND ASSETS FROM UNMANNED AIRCRAFT.**

(a) *DEFINITIONS.—In this section:*

(1) *The term ‘air navigation facility’ has the meaning given the term in section 40102(a)(4) of title 49, United States Code.*

(2) *The term ‘airport’ has the meaning given the term in section 47102(2) of title 49, United States Code.*

(3) *The term ‘appropriate committees of Congress’ means—*

*(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary of the Senate; and*

*(B) the Committee on Homeland Security, the Committee on Transportation and Infrastructure, the Committee on Oversight and Reform, the Committee on Energy and Commerce, and the Committee on the Judiciary of the House of Representatives.*

(4) *The term ‘budget’, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31, United States Code.*

(5) *The term ‘covered facility or asset’ means any facility or asset that—*

*(A) is identified as high-risk and a potential target for unlawful unmanned aircraft or unmanned aircraft system activity by the Secretary or the Attorney General, or by the chief executive of the jurisdiction in which a State, local,*

*Tribal, or territorial law enforcement agency designated pursuant to subsection (d)(2) operates after review and approval of the Secretary or the Attorney General, in coordination with the Secretary of Transportation with respect to potentially impacted airspace, through a risk-based assessment for purposes of this section (except that in the case of the missions described in clauses (i)(II) and (iii)(I) of subparagraph (C), such missions shall be presumed to be for the protection of a facility or asset that is assessed to be high-risk and a potential target for unlawful unmanned aircraft or unmanned aircraft system activity);*

*(B) is located in the United States; and*

*(C) directly relates to 1 or more—*

*(i) missions authorized to be performed by the Department, consistent with governing statutes, regulations, and orders issued by the Secretary, pertaining to—*

*(I) security or protection functions of the U.S. Customs and Border Protection, including securing or protecting facilities, aircraft, and vessels, whether moored or underway;*

*(II) United States Secret Service protection operations pursuant to sections 3056(a) and 3056A(a) of title 18, United States Code, and the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note);*

*(III) protection of facilities pursuant to section 1315(a) of title 40, United States Code;*

*(IV) transportation security functions of the Transportation Security Administration; or*

*(V) the security or protection functions for facilities, assets, and operations of Homeland Security Investigations;*

*(ii) missions authorized to be performed by the Department of Justice, consistent with governing statutes, regulations, and orders issued by the Attorney General, pertaining to—*

*(I) personal protection operations by—*

*(aa) the Federal Bureau of Investigation as specified in section 533 of title 28, United States Code; or*

*(bb) the United States Marshals Service as specified in section 566 of title 28, United States Code;*

*(II) protection of penal, detention, and correctional facilities and operations conducted by the Federal Bureau of Prisons and prisoner operations and transport conducted by the United States Marshals Service;*

*(III) protection of the buildings and grounds leased, owned, or operated by or for the Department of Justice, and the provision of security for Federal courts, as specified in section 566 of title 28, United States Code; or*

(IV) protection of an airport or air navigation facility;

(iii) missions authorized to be performed by the Department or the Department of Justice, acting together or separately, consistent with governing statutes, regulations, and orders issued by the Secretary or the Attorney General, respectively, pertaining to—

(I) protection of a National Special Security Event and Special Event Assessment Rating event;

(II) the provision of support to a State, local, Tribal, or territorial law enforcement agency, upon request of the chief executive officer of the State or territory, to ensure protection of people and property at mass gatherings, that is limited to a specified duration and location, within available resources, and without delegating any authority under this section to State, local, Tribal, or territorial law enforcement;

(III) protection of an active Federal law enforcement investigation, emergency response, or security function, that is limited to a specified duration and location; or

(IV) the provision of security or protection support to critical infrastructure owners or operators, for static critical infrastructure facilities and assets upon the request of the owner or operator;

(iv) missions authorized to be performed by the United States Coast Guard, including those described in clause (iii) as directed by the Secretary, and as further set forth in section 528 of title 14, United States Code, and consistent with governing statutes, regulations, and orders issued by the Secretary of the Department in which the Coast Guard is operating; and

(v) responsibilities of State, local, Tribal, and territorial law enforcement agencies designated pursuant to subsection (d)(2) pertaining to—

(I) protection of National Special Security Event and Special Event Assessment Rating events or other mass gatherings in the jurisdiction of the State, local, Tribal, or territorial law enforcement agency;

(II) protection of critical infrastructure assessed by the Secretary as high-risk for unmanned aircraft systems or unmanned aircraft attack or disruption, including airports in the jurisdiction of the State, local, Tribal, or territorial law enforcement agency;

(III) protection of government buildings, assets, or facilities in the jurisdiction of the State, local, Tribal, or territorial law enforcement agency; or

(IV) protection of disaster response in the jurisdiction of the State, local, Tribal, or territorial law enforcement agency.



(6) *The term ‘critical infrastructure’ has the meaning given the term in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e)).*

(7) *The terms ‘electronic communication’, ‘intercept’, ‘oral communication’, and ‘wire communication’ have the meanings given those terms in section 2510 of title 18, United States Code.*

(8) *The term ‘homeland security or justice budget materials’, with respect to a fiscal year, means the materials submitted to Congress by the Secretary and the Attorney General in support of the budget for that fiscal year.*

(9)(A) *The term ‘personnel’ means—*

*(i) an officer, employee, or contractor of the Department or the Department of Justice, who is authorized to perform duties that include safety, security, or protection of people, facilities, or assets; or*

*(ii) an employee who—*

*(I) is authorized to perform law enforcement and security functions on behalf of a State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2); and*

*(II) is trained and certified to perform those duties, including training specific to countering unmanned aircraft threats and mitigating risks in the national airspace, including with respect to protecting privacy and civil liberties.*

*(B) To qualify for use of the authorities described in subsection (b) or (c), respectively, a contractor conducting operations described in those subsections must—*

*(i) be directly contracted by the Department or the Department of Justice;*

*(ii) operate at a government-owned or government-leased facility or asset;*

*(iii) not conduct inherently governmental functions;*

*(iv) be trained to safeguard privacy and civil liberties;*

*and*

*(v) be trained and certified by the Department or the Department of Justice to meet the established guidance and regulations of the Department or the Department of Justice, respectively.*

*(C) For purposes of subsection (c)(1), the term ‘personnel’ includes any officer, employee, or contractor who is authorized to perform duties that include the safety, security, or protection of people, facilities, or assets, of—*

*(i) a State, local, Tribal, or territorial law enforcement agency; and*

*(ii) an owner or operator of an airport or critical infrastructure.*

(10) *The term ‘risk-based assessment’ means an evaluation of threat information specific to a covered facility or asset and, with respect to potential impacts on the safety and efficiency of the national airspace system and the needs of law enforcement and national security at each covered facility or asset identified by the Secretary or the Attorney General, respectively, of each of the following factors:*

(A) *Potential impacts to safety, efficiency, and use of the national airspace system, including potential effects on manned aircraft and unmanned aircraft systems or unmanned aircraft, aviation safety, airport operations, infrastructure, and air navigation services relating to the use of any system or technology for carrying out the actions described in subsection (e)(2).*

(B) *Options for mitigating any identified impacts to the national airspace system relating to the use of any system or technology, including minimizing, when possible, the use of any technology that disrupts the transmission of radio or electronic signals, for carrying out the actions described in subsection (e)(2).*

(C) *Potential consequences of the impacts of any actions taken under subsection (e)(1) to the national airspace system and infrastructure if not mitigated.*

(D) *The ability to provide reasonable advance notice to aircraft operators consistent with the safety of the national airspace system and the needs of law enforcement and national security.*

(E) *The setting and character of any covered facility or asset, including—*

*(i) whether the covered facility or asset is located in a populated area or near other structures;*

*(ii) whether the covered facility or asset is open to the public;*

*(iii) whether the covered facility or asset is used for nongovernmental functions; and*

*(iv) any potential for interference with wireless communications or for injury or damage to persons or property.*

(F) *The setting, character, duration, and national airspace system impacts of National Special Security Event and Special Event Assessment Rating events, to the extent not already discussed in the National Special Security Event and Special Event Assessment Rating nomination process.*

(G) *Potential consequences to national security, public safety, or law enforcement if threats posed by unmanned aircraft systems or unmanned aircraft are not mitigated or defeated.*

(H) *Civil rights and civil liberties guaranteed by the First and Fourth Amendments to the Constitution of the United States.*

(11) *The terms ‘unmanned aircraft’ and ‘unmanned aircraft system’ have the meanings given those terms in section 44801 of title 49, United States Code.*

(b) **AUTHORITY OF THE DEPARTMENT OF HOMELAND SECURITY AND DEPARTMENT OF JUSTICE.**—*Notwithstanding section 46502 of title 49, United States Code, or sections 32, 1030, 1367, and chapters 119 and 206 of title 18, United States Code, the Secretary and the Attorney General may, for their respective Departments, take, and may authorize personnel with assigned duties that include the safety, security, or protection of people, facilities, or assets to take, actions described in subsection (e)(2) that are necessary to detect, iden-*

*tify, monitor, track, and mitigate a credible threat (as defined by the Secretary and the Attorney General, in consultation with the Secretary of Transportation through the Administrator of the Federal Aviation Administration) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.*

*(c) ADDITIONAL LIMITED AUTHORITY FOR DETECTION, IDENTIFICATION, MONITORING, AND TRACKING.—*

*(1) IN GENERAL.—Subject to paragraphs (2) and (3), and notwithstanding sections 1030 and 1367 and chapters 119 and 206 of title 18, United States Code, any State, local, Tribal, or territorial law enforcement agency, the Department of Justice, the Department, and any owner or operator of an airport or critical infrastructure may authorize personnel, with assigned duties that include the safety, security, or protection of people, facilities, or assets, to use equipment authorized under this subsection to take actions described in subsection (e)(1) that are necessary to detect, identify, monitor, or track an unmanned aircraft system or unmanned aircraft within the respective areas of responsibility or jurisdiction of the authorized personnel.*

*(2) AUTHORIZED EQUIPMENT.—Equipment authorized for unmanned aircraft system detection, identification, monitoring, or tracking under this subsection shall be limited to systems or technologies—*

*(A) tested and evaluated by the Department or the Department of Justice, including evaluation of any potential counterintelligence or cybersecurity risks;*

*(B) that are annually reevaluated for any changes in risks, including counterintelligence and cybersecurity risks;*

*(C) determined by the Federal Communications Commission and the National Telecommunications and Information Administration not to adversely impact the use of the communications spectrum;*

*(D) determined by the Federal Aviation Administration not to adversely impact the use of the aviation spectrum or otherwise adversely impact the national airspace system; and*

*(E) that are included on a list of authorized equipment maintained by the Department, in coordination with the Department of Justice, the Federal Aviation Administration, the Federal Communications Commission, and the National Telecommunications and Information Administration.*

*(3) STATE, LOCAL, TRIBAL, AND TERRITORIAL COMPLIANCE.—Each State, local, Tribal, or territorial law enforcement agency or owner or operator of an airport or critical infrastructure acting pursuant to this subsection shall—*

*(A) prior to any such action, issue a written policy certifying compliance with the privacy protections of subparagraphs (A) through (D) of subsection (j)(2);*

*(B) certify compliance with such policy to the Secretary and the Attorney General annually, and immediately notify the Secretary and Attorney General of any noncompliance*

with such policy or the privacy protections of subparagraphs (A) through (D) of subsection (j)(2); and

(C) comply with any additional guidance issued by the Secretary or the Attorney General relating to implementation of this subsection.

(4) PROHIBITION.—Nothing in this subsection shall be construed to authorize the taking of any action described in subsection (e) other than the actions described in paragraph (1) of that subsection.

(d) PILOT PROGRAM FOR STATE, LOCAL, TRIBAL, AND TERRITORIAL LAW ENFORCEMENT.—

(1) IN GENERAL.—The Secretary and the Attorney General may carry out a pilot program to evaluate the potential benefits of State, local, Tribal, and territorial law enforcement agencies taking actions that are necessary to mitigate a credible threat (as defined by the Secretary and the Attorney General, in consultation with the Secretary of Transportation through the Administrator of the Federal Aviation Administration) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

(2) DESIGNATION.—

(A) IN GENERAL.—The Secretary or the Attorney General, with the concurrence of the Secretary of Transportation (through the Administrator of the Federal Aviation Administration), may, under the pilot program established under paragraph (1), designate 1 or more State, local, Tribal, or territorial law enforcement agencies approved by the respective chief executive officer of the State, local, Tribal, or territorial law enforcement agency to engage in the activities authorized in paragraph (4) under the direct oversight of the Department or the Department of Justice, in carrying out the responsibilities authorized under subsection (a)(5)(C)(v).

(B) DESIGNATION PROCESS.—

(i) NUMBER OF AGENCIES AND DURATION.—On and after the date that is 180 days after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2022, the Secretary and the Attorney General, pursuant to subparagraph (A), may designate not more than 12 State, local, Tribal, and territorial law enforcement agencies for participation in the pilot program, and may designate 12 additional State, local, Tribal, and territorial law enforcement agencies each year thereafter, provided that not more than 60 State, local, Tribal, and territorial law enforcement agencies in total may be designated during the 5-year period of the pilot program.

(ii) REVOCATION.—The Secretary and the Attorney General, in consultation with the Secretary of Transportation (through the Administrator of the Federal Aviation Administration)—

(I) may revoke a designation under subparagraph (A) if the Secretary, Attorney General, and Secretary of Transportation (through the Adminis-

trator of the Federal Aviation Administration) concur in the revocation; and

(II) shall revoke a designation under subparagraph (A) if the Secretary, the Attorney General, or the Secretary of Transportation (through the Administrator of the Federal Aviation Administration) withdraws concurrence.

(3) **TERMINATION OF PILOT PROGRAM.**—

(A) **DESIGNATION.**—The authority to designate an agency for inclusion in the pilot program established under this subsection shall terminate after the 5-year period beginning on the date that is 180 days after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2022.

(B) **AUTHORITY OF PILOT PROGRAM AGENCIES.**—The authority of an agency designated under the pilot program established under this subsection to exercise any of the authorities granted under the pilot program shall terminate not later than 6 years after the date that is 180 days after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2022, or upon revocation pursuant to paragraph (2)(B)(ii).

(4) **AUTHORIZATION.**—Notwithstanding section 46502 of title 49, United States Code, or sections 32, 1030, 1367 and chapters 119 and 206 of title 18, United States Code, any State, local, Tribal, or territorial law enforcement agency designated pursuant to paragraph (2) may authorize personnel with assigned duties that include the safety, security, or protection of people, facilities, or assets to take such actions as are described in subsection (e)(2) that are necessary to detect, identify, monitor, track, or mitigate a credible threat (as defined by the Secretary and the Attorney General, in consultation with the Secretary of Transportation, through the Administrator of the Federal Aviation Administration) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset under subsection (a)(5)(C)(v).

(5) **EXEMPTION.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the Chair of the Federal Communications Commission, in consultation with the Administrator of the National Telecommunications and Information Administration, shall implement a process for considering the exemption of 1 or more law enforcement agencies designated under paragraph (2), or any station operated by the agency, from any provision of title III of the Communications Act of 1934 (47 U.S.C. 151 et seq.) to the extent that the designated law enforcement agency takes such actions as are described in subsection (e)(2) and may establish conditions or requirements for such exemption.

(B) **REQUIREMENTS.**—The Chair of the Federal Communications Commission, in consultation with the Administrator of the National Telecommunications and Information Administration, may grant an exemption under subparagraph (A) only if the Chair of the Federal Communications

*Commission in consultation with the Administrator of the National Telecommunications and Information Administration finds that the grant of an exemption—*

*(i) is necessary to achieve the purposes of this subsection; and*

*(ii) will serve the public interest.*

*(C) REVOCATION.—Any exemption granted under subparagraph (A) shall terminate automatically if the designation granted to the law enforcement agency under paragraph (2)(A) is revoked by the Secretary or the Attorney General under paragraph (2)(B)(ii) or is terminated under paragraph (3)(B).*

*(6) REPORTING.—Not later than 2 years after the date on which the first law enforcement agency is designated under paragraph (2), and annually thereafter for the duration of the pilot program, the Secretary and the Attorney General shall inform the appropriate committees of Congress in writing of the use by any State, local, Tribal, or territorial law enforcement agency of any authority granted pursuant to paragraph (4), including a description of any privacy or civil liberties complaints known to the Secretary or Attorney General in connection with the use of that authority by the designated agencies.*

*(7) RESTRICTIONS.—Any entity acting pursuant to the authorities granted under this subsection—*

*(A) may do so only using equipment authorized by the Department, in coordination with the Department of Justice, the Federal Communications Commission, the National Telecommunications and Information Administration, and the Department of Transportation (through the Federal Aviation Administration) according to the criteria described in subsection (c)(2);*

*(B) shall, prior to any such action, issue a written policy certifying compliance with the privacy protections of subparagraphs (A) through (D) of subsection (j)(2);*

*(C) shall ensure that all personnel undertaking any actions listed under this subsection are properly trained in accordance with the criteria that the Secretary and Attorney General shall collectively establish, in consultation with the Secretary of Transportation, the Administrator of the Federal Aviation Administration, the Chair of the Federal Communications Commission, the Assistant Secretary of Commerce for Communications and Information, and the Administrator of the National Telecommunications and Information Administration; and*

*(D) shall comply with any additional guidance relating to compliance with this subsection issued by the Secretary or Attorney General.*

*(e) ACTIONS DESCRIBED.—*

*(1) IN GENERAL.—The actions authorized under subsection (c) that may be taken by a State, local, Tribal, or territorial law enforcement agency, the Department, the Department of Justice, and any owner or operator of an airport or critical infrastructure, are limited to actions during the operation of an unmanned aircraft system, to detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of*

*a wire communication, an oral communication, or an electronic communication used to control the unmanned aircraft system or unmanned aircraft.*

(2) *CLARIFICATION.—The actions authorized in subsections (b) and (d)(4) are the following:*

(A) *During the operation of the unmanned aircraft system or unmanned aircraft, detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of a wire communication, an oral communication, or an electronic communication used to control the unmanned aircraft system or unmanned aircraft.*

(B) *Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect, physical, electronic, radio, and electromagnetic means.*

(C) *Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent of the operator of the unmanned aircraft system or unmanned aircraft, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.*

(D) *Seize or exercise control of the unmanned aircraft system or unmanned aircraft.*

(E) *Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.*

(F) *Use reasonable force, if necessary, to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.*

(f) *RESEARCH, TESTING, TRAINING, AND EVALUATION.—*

(1) *REQUIREMENT.—*

(A) *IN GENERAL.—Notwithstanding section 46502 of title 49, United States Code, or any provision of title 18, United States Code, the Secretary, the Attorney General, and the heads of the State, local, Tribal, or territorial law enforcement agencies designated pursuant to subsection (d)(2) shall conduct research, testing, training on, and evaluation of any equipment, including any electronic equipment, to determine the capability and utility of the equipment prior to the use of the equipment in carrying out any action described in subsection (e).*

(B) *COORDINATION.—Personnel and contractors who do not have duties that include the safety, security, or protection of people, facilities, or assets may engage in research, testing, training, and evaluation activities pursuant to subparagraph (A).*

(2) *TRAINING OF FEDERAL, STATE, LOCAL, TERRITORIAL, AND TRIBAL LAW ENFORCEMENT PERSONNEL.—The Attorney General, through the Director of the Federal Bureau of Investigation, may—*

(A) *provide training relating to measures to mitigate a credible threat that an unmanned aircraft or unmanned aircraft system poses to the safety or security of a covered*

facility or asset to any personnel who are authorized to take such measures, including personnel authorized to take the actions described in subsection (e); and

(B) establish or designate 1 or more facilities or training centers for the purpose described in subparagraph (A).

(3) COORDINATION FOR RESEARCH, TESTING, TRAINING, AND EVALUATION.—

(A) IN GENERAL.—The Secretary, the Attorney General, and the heads of the State, local, Tribal, or territorial law enforcement agencies designated pursuant to subsection (d)(2) shall coordinate procedures governing research, testing, training, and evaluation to carry out any provision under this subsection with the Administrator of the Federal Aviation Administration before initiating such activity in order that the Administrator of the Federal Aviation Administration may ensure the activity does not adversely impact or interfere with safe airport operations, navigation, air traffic services, or the safe and efficient operation of the national airspace system.

(B) STATE, LOCAL, TRIBAL, AND TERRITORIAL LAW ENFORCEMENT AGENCY COORDINATION.—Each head of a State, local, Tribal, or territorial law enforcement agency designated pursuant to subsection (d)(2) shall coordinate the procedures governing research, testing, training, and evaluation of the law enforcement agency through the Secretary and the Attorney General, in coordination with the Federal Aviation Administration.

(g) FORFEITURE.—Any unmanned aircraft system or unmanned aircraft that is lawfully seized by the Secretary or the Attorney General pursuant to subsection (b) is subject to forfeiture to the United States pursuant to the provisions of chapter 46 of title 18, United States Code.

(h) REGULATIONS AND GUIDANCE.—The Secretary, the Attorney General, and the Secretary of Transportation—

(1) may prescribe regulations and shall issue guidance in the respective areas of each Secretary or the Attorney General to carry out this section; and

(2) in developing regulations and guidance described in subparagraph (A), consult the Chair of the Federal Communications Commission, the Administrator of the National Telecommunications and Information Administration, and the Administrator of the Federal Aviation Administration.

(i) Coordination.—

(1) IN GENERAL.—The Secretary and the Attorney General shall coordinate with the Administrator of the Federal Aviation Administration before carrying out any action authorized under this section in order that the Administrator may ensure the action does not adversely impact or interfere with—

(A) safe airport operations;

(B) navigation;

(C) air traffic services; or

(D) the safe and efficient operation of the national airspace system.



(2) *GUIDANCE.*—*Before issuing any guidance, or otherwise implementing this section, the Secretary or the Attorney General shall, respectively, coordinate with—*

(A) *the Secretary of Transportation in order that the Secretary of Transportation may ensure the guidance or implementation does not adversely impact or interfere with any critical infrastructure relating to transportation; and*

(B) *the Administrator of the Federal Aviation Administration in order that the Administrator may ensure the guidance or implementation does not adversely impact or interfere with—*

(i) *safe airport operations;*

(ii) *navigation;*

(iii) *air traffic services; or*

(iv) *the safe and efficient operation of the national airspace system.*

(3) *COORDINATION WITH THE FAA.*—*The Secretary and the Attorney General shall coordinate the development of their respective guidance under subsection (h) with the Secretary of Transportation (through the Administrator of the Federal Aviation Administration).*

(4) *COORDINATION WITH THE DEPARTMENT OF TRANSPORTATION AND NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION.*—*The Secretary and the Attorney General, and the heads of any State, local, Tribal, or territorial law enforcement agencies designated pursuant to subsection (d)(2), through the Secretary and the Attorney General, shall coordinate the development for their respective departments or agencies of the actions described in subsection (e) with the Secretary of Transportation (through the Administrator of the Federal Aviation Administration), the Assistant Secretary of Commerce for Communications and Information, and the Administrator of the National Telecommunications and Information Administration.*

(5) *STATE, LOCAL, TRIBAL, AND TERRITORIAL IMPLEMENTATION.*—*Prior to taking any action authorized under subsection (d)(4), each head of a State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2) shall coordinate, through the Secretary and the Attorney General—*

(A) *with the Secretary of Transportation in order that the Administrators of non-aviation modes of the Department of Transportation may evaluate whether the action may have adverse impacts on critical infrastructure relating to non-aviation transportation;*

(B) *with the Administrator of the Federal Aviation Administration in order that the Administrator may ensure the action will have no adverse impact, or will not, interfere with—*

(i) *safe airport operations;*

(ii) *navigation;*

(iii) *air traffic services; or*

(iv) *the safe and efficient operation of the national airspace system; and*

(C) *to allow the Department and the Department of Justice to ensure that any action authorized by this section is*

consistent with Federal law enforcement and in the interest of national security.

(j) *PRIVACY PROTECTION.*—

(1) *IN GENERAL.*—Any regulation or guidance issued to carry out an action under subsection (e) by the Secretary or the Attorney General, respectively, shall ensure for the Department or the Department of Justice, respectively, that—

(A) the interception of, acquisition of, access to, maintenance of, or use of any communication to or from an unmanned aircraft system or unmanned aircraft under this section is conducted in a manner consistent with the First and Fourth Amendments to the Constitution of the United States and any applicable provision of Federal law;

(B) any communication to or from an unmanned aircraft system or unmanned aircraft are intercepted or acquired only to the extent necessary to support an action described in subsection (e);

(C) any record of a communication described in subparagraph (B) is maintained only for as long as necessary, and in no event for more than 180 days, unless the Secretary or the Attorney General, as applicable, determines that maintenance of the record is—

(i) required under Federal law;

(ii) necessary for the purpose of litigation; and

(iii) necessary to investigate or prosecute a violation of law, including by—

(I) directly supporting an ongoing security operation; or

(II) protecting against dangerous or unauthorized activity by unmanned aircraft systems or unmanned aircraft; and

(D) a communication described in subparagraph (B) is not disclosed to any person not employed or contracted by the Department or the Department of Justice unless the disclosure—

(i) is necessary to investigate or prosecute a violation of law;

(ii) will support—

(I) the Department of Defense;

(II) a Federal law enforcement, intelligence, or security agency;

(III) a State, local, Tribal, or territorial law enforcement agency; or

(IV) another relevant entity or person if the entity or person is engaged in a security or protection operation;

(iii) is necessary to support a department or agency listed in clause (ii) in investigating or prosecuting a violation of law;

(iv) will support the enforcement activities of a Federal regulatory agency relating to a criminal or civil investigation of, or any regulatory, statutory, or other enforcement action relating to, an action described in subsection (e);

(v) is between the Department and the Department of Justice in the course of a security or protection operation of either department or a joint operation of those departments; or

(vi) is otherwise required by law.

(2) LOCAL PRIVACY PROTECTION.—In exercising any authority described in subsection (c) or (d), a State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2) or owner or operator of an airport or critical infrastructure shall ensure that—

(A) the interception of, acquisition of, access to, maintenance of, or use of communications to or from an unmanned aircraft system or unmanned aircraft under this section is conducted in a manner consistent with—

(i) the First and Fourth Amendments to the Constitution of the United States; and

(ii) applicable provisions of Federal, and where required, State, local, Tribal, and territorial law;

(B) any communication to or from an unmanned aircraft system or unmanned aircraft is intercepted or acquired only to the extent necessary to support an action described in subsection (e);

(C) any record of a communication described in subparagraph (B) is maintained only for as long as necessary, and in no event for more than 180 days, unless the Secretary, the Attorney General, or the head of a State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2) determines that maintenance of the record is—

(i) required to be maintained under Federal, State, local, Tribal, or territorial law;

(ii) necessary for the purpose of any litigation; or

(iii) necessary to investigate or prosecute a violation of law, including by—

(I) directly supporting an ongoing security or protection operation; or

(II) protecting against dangerous or unauthorized activity by an unmanned aircraft system or unmanned aircraft; and

(D) the communication is not disclosed outside the agency or entity unless the disclosure—

(i) is necessary to investigate or prosecute a violation of law;

(ii) would support the Department of Defense, a Federal law enforcement, intelligence, or security agency, or a State, local, Tribal, or territorial law enforcement agency;

(iii) would support the enforcement activities of a Federal regulatory agency in connection with a criminal or civil investigation of, or any regulatory, statutory, or other enforcement action relating to, an action described in subsection (e);

(iv) is to the Department or the Department of Justice in the course of a security or protection operation of either the Department or the Department of Justice,

or a joint operation of the Department and Department of Justice; or

(v) is otherwise required by law.

(k) BUDGET.—

(1) IN GENERAL.—The Secretary and the Attorney General shall submit to Congress, as a part of the homeland security or justice budget materials for each fiscal year after fiscal year 2023, a consolidated funding display that identifies the funding source for the actions described in subsection (e) within the Department and the Department of Justice.

(2) Classification.—Each funding display submitted under paragraph (1) shall be in unclassified form but may contain a classified annex.

(l) PUBLIC DISCLOSURES.—

(1) IN GENERAL.—Notwithstanding any provision of State, local, Tribal, or territorial law, information shall be governed by the disclosure obligations set forth in section 552 of title 5, United States Code (commonly known as the ‘Freedom of Information Act’), if the information relates to—

(A) any capability, limitation, or sensitive detail of the operation of any technology used to carry out an action described in subsection (e)(1) of this section; or

(B) an operational procedure or protocol used to carry out this section.

(2) STATE, LOCAL, TRIBAL, OR TERRITORIAL AGENCY USE.—

(A) CONTROL.—Information described in paragraph (1) that is obtained by a State, local, Tribal, or territorial law enforcement agency from a Federal agency under this section—

(i) shall remain subject to the control of the Federal agency, notwithstanding that the State, local, Tribal, or territorial law enforcement agency has the information described in paragraph (1) in the possession of the State, local, Tribal, or territorial law enforcement agency; and

(ii) shall not be subject to any State, local, Tribal, or territorial law authorizing or requiring disclosure of the information described in paragraph (1).

(B) ACCESS.—Any request for public access to information described in paragraph (1) shall be submitted to the originating Federal agency, which shall process the request as required under section 552(a)(3) of title 5, United States Code.

(m) ASSISTANCE AND SUPPORT.—

(1) FACILITIES AND SERVICES OF OTHER AGENCIES AND NON-FEDERAL ENTITIES.—

(A) IN GENERAL.—The Secretary and the Attorney General are authorized to use or accept from any other Federal agency, or any other public or private entity, any supply or service to facilitate or carry out any action described in subsection (e).

(B) REIMBURSEMENT.—In accordance with subparagraph (A), the Secretary and the Attorney General may accept any supply or service with or without reimbursement to the entity providing the supply or service and notwithstanding

any provision of law that would prevent the use or acceptance of the supply or service.

(C) *AGREEMENTS.*—To implement the requirements of subsection (a)(5)(C), the Secretary or the Attorney General may enter into 1 or more agreements with the head of another executive agency or with an appropriate official of a non-Federal public or private agency or entity, as may be necessary and proper to carry out the responsibilities of the Secretary and Attorney General under this section.

(2) *MUTUAL SUPPORT.*—

(A) *IN GENERAL.*—Subject to subparagraph (B), the Secretary and the Attorney General are authorized to provide support or assistance, upon the request of a Federal agency or department conducting—

- (i) a mission described in subsection (a)(5)(C);
- (ii) a mission described in section 130i of title 10, United States Code; or
- (iii) a mission described in section 4510 of the Atomic Energy Defense Act (50 U.S.C. 2661).

(B) *REQUIREMENTS.*—Any support or assistance provided by the Secretary or the Attorney General shall only be granted—

- (i) for the purpose of fulfilling the roles and responsibilities of the Federal agency or department that made the request for the mission for which the request was made;
- (ii) when exigent circumstances exist;
- (iii) for a specified duration and location;
- (iv) within available resources;
- (v) on a non-reimbursable basis; and
- (vi) in coordination with the Administrator of the Federal Aviation Administration.

(n) *SEMIANNUAL BRIEFINGS AND NOTIFICATIONS.*—

(1) *IN GENERAL.*—On a semiannual basis beginning 180 days after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2022, the Secretary and the Attorney General shall, respectively, provide a briefing to the appropriate committees of Congress on the activities carried out pursuant to this section.

(2) *REQUIREMENT.*—The Secretary and the Attorney General each shall conduct the briefing required under paragraph (1) jointly with the Secretary of Transportation.

(3) *CONTENT.*—Each briefing required under paragraph (1) shall include—

(A) policies, programs, and procedures to mitigate or eliminate impacts of activities carried out pursuant to this section to the national airspace system and other critical infrastructure relating to national transportation;

(B) a description of—

- (i) each instance in which any action described in subsection (e) has been taken, including any instances that may have resulted in harm, damage, or loss to a person or to private property;
- (ii) the guidance, policies, or procedures established by the Secretary or the Attorney General to address pri-

vacy, civil rights, and civil liberties issues implicated by the actions permitted under this section, as well as any changes or subsequent efforts by the Secretary or the Attorney General that would significantly affect privacy, civil rights, or civil liberties;

(iii) options considered and steps taken by the Secretary or the Attorney General to mitigate any identified impacts to the national airspace system relating to the use of any system or technology, including the minimization of the use of any technology that disrupts the transmission of radio or electronic signals, for carrying out the actions described in subsection (e)(2); and

(iv) each instance in which a communication intercepted or acquired during the course of operations of an unmanned aircraft system or unmanned aircraft was—

(I) held in the possession of the Department or the Department of Justice for more than 180 days; or

(II) shared with any entity other than the Department or the Department of Justice;

(C) an explanation of how the Secretary, the Attorney General, and the Secretary of Transportation have—

(i) informed the public as to the possible use of authorities granted under this section; and

(ii) engaged with Federal, State, local, Tribal, and territorial law enforcement agencies to implement and use authorities granted under this section;

(D) an assessment of whether any gaps or insufficiencies remain in laws, regulations, and policies that impede the ability of the Federal Government or State, local, Tribal, and territorial governments and owners or operators of critical infrastructure to counter the threat posed by the malicious use of unmanned aircraft systems and unmanned aircraft;

(E) an assessment of efforts to integrate unmanned aircraft system threat assessments within National Special Security Event and Special Event Assessment Rating planning and protection efforts;

(F) recommendations to remedy any gaps or insufficiencies described in subparagraph (D), including recommendations relating to necessary changes in law, regulations, or policies;

(G) a description of the impact of the authorities granted under this section on—

(i) lawful operator access to national airspace; and

(ii) unmanned aircraft systems and unmanned aircraft integration into the national airspace system; and

(H) a summary from the Secretary of any data and results obtained pursuant to subsection (r), including an assessment of—

(i) how the details of the incident were obtained; and

(ii) whether the operation involved a violation of Federal Aviation Administration aviation regulations.

(4) *UNCLASSIFIED FORM.*—Each briefing required under paragraph (1) shall be in unclassified form but may be accompanied by an additional classified briefing.

(5) *NOTIFICATION.*—

(A) *IN GENERAL.*—Not later than 30 days after an authorized department, agency, or owner or operator of an airport or critical infrastructure deploys any new technology to carry out the actions described in subsection (e), the Secretary and the Attorney General shall, respectively or jointly, as appropriate, submit a notification of the deployment to the appropriate committees of Congress.

(B) *CONTENTS.*—Each notification submitted pursuant to subparagraph (A) shall include a description of options considered to mitigate any identified impacts to the national airspace system relating to the use of any system or technology, including the minimization of the use of any technology that disrupts the transmission of radio or electronic signals in carrying out the actions described in subsection (e).

(o) *RULE OF CONSTRUCTION.*—Nothing in this section shall be construed to—

(1) vest in the Secretary, the Attorney General, or any State, local, Tribal, or territorial law enforcement agency, authorized under subsection (c) or designated under subsection (d)(2) any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration;

(2) vest in the Secretary of Transportation, the Administrator of the Federal Aviation Administration, or any State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2) any authority of the Secretary or the Attorney General;

(3) vest in the Secretary any authority of the Attorney General;

(4) vest in the Attorney General any authority of the Secretary; or

(5) provide a new basis of liability with respect to an officer of a State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2) or who participates in the protection of a mass gathering identified by the Secretary or Attorney General under subsection (a)(5)(C)(iii)(II), who—

(A) is acting in the official capacity of the individual as an officer; and

(B) does not exercise the authority granted to the Secretary and the Attorney General by this section.

(p) *TERMINATION.*—

(1) *TERMINATION OF ADDITIONAL LIMITED AUTHORITY FOR DETECTION, IDENTIFICATION, MONITORING, AND TRACKING.*—The authority to carry out any action authorized under subsection (c), if performed by a non-Federal entity, shall terminate on the date that is 5 years and 6 months after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2022 and the authority for the pilot program established under subsection (d) shall terminate as provided for in paragraph (3) of that subsection.

(2) *TERMINATION OF AUTHORITIES WITH RESPECT TO COVERED FACILITIES AND ASSETS.*—The authority to carry out this section with respect to a covered facility or asset shall terminate on the date that is 7 years after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2022.

(q) *SCOPE OF AUTHORITY.*—Nothing in this section shall be construed to provide the Secretary or the Attorney General with any additional authority other than the authorities described in subsections (a)(5)(C)(iii), (b), (c), (d), and (f).

(r) *UNITED STATES GOVERNMENT DATABASE.*—

(1) *AUTHORIZATION.*—The Department is authorized to develop a Federal database to enable the transmission of data concerning security-related incidents in the United States involving unmanned aircraft and unmanned aircraft systems between Federal, State, local, Tribal, and territorial law enforcement agencies for purposes of conducting analyses of such threats in the United States.

(2) *POLICIES, PLANS, AND PROCEDURES.*—

(A) *COORDINATION AND CONSULTATION.*—Before implementation of the database developed under paragraph (1), the Secretary shall develop policies, plans, and procedures for the implementation of the database—

(i) in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Transportation (through the Administrator of the Federal Aviation Administration); and

(ii) in consultation with State, local, Tribal, and territorial law enforcement agency representatives, including representatives of fusion centers.

(B) *REPORTING.*—The policies, plans, and procedures developed under subparagraph (A) shall include criteria for Federal, State, local, Tribal, and territorial reporting of unmanned aircraft systems or unmanned aircraft incidents.

(C) *DATA RETENTION.*—The policies, plans, and procedures developed under subparagraph (A) shall ensure that data on security-related incidents in the United States involving unmanned aircraft and unmanned aircraft systems that is retained as criminal intelligence information is retained based on the reasonable suspicion standard, as permitted under part 23 of title 28, Code of Federal Regulations.

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