

OFFICES OF COUNTERING WEAPONS
OF MASS DESTRUCTION AND HEALTH
SECURITY ACT OF 2023

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1798

TO ESTABLISH A COUNTERING WEAPONS OF MASS
DESTRUCTION OFFICE AND AN OFFICE OF HEALTH
SECURITY IN THE DEPARTMENT OF HOMELAND SECURITY,
AND FOR OTHER PURPOSES



DECEMBER 11, 2023.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

GARY C. PETERS, Michigan, *Chairman*

THOMAS R. CARPER, Delaware	RAND PAUL, Kentucky
MAGGIE HASSAN, New Hampshire	RON JOHNSON, Wisconsin
KYRSTEN SINEMA, Arizona	JAMES LANKFORD, Oklahoma
JACKY ROSEN, Nevada	MITT ROMNEY, Utah
JON OSSOFF, Georgia	RICK SCOTT, Florida
RICHARD BLUMENTHAL, Connecticut	JOSH HAWLEY, Missouri
LAPHONZA R. BUTLER, California	ROGER MARSHALL, Kansas

DAVID M. WEINBERG, *Staff Director*

CHRISTOPHER J. MULKINS, *Director of Homeland Security*

SAPANA R. VORA, *Senior Professional Staff Member*

WILLIAM E. HENDERSON III, *Minority Staff Director*

CHRISTINA N. SALAZAR, *Minority Chief Counsel*

MEGAN M. KRYNEN, *Minority Professional Staff Member*

LAURA W. KILBRIDE, *Chief Clerk*

Calendar No. 268

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 118-124

**OFFICES OF COUNTERING WEAPONS OF MASS
DESTRUCTION AND HEALTH SECURITY ACT OF 2023**

DECEMBER 11, 2023.—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. 1798]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1798), to establish a Countering Weapons of Mass Destruction Office and an Office of Health Security in the Department of Homeland Security, and for other purposes, reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	5
IV. Section-by-Section Analysis of the Bill, as Reported	6
V. Evaluation of Regulatory Impact	8
VI. Congressional Budget Office Cost Estimate	9
VII. Changes in Existing Law Made by the Bill, as Reported	11

I. PURPOSE AND SUMMARY

The *Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023* re-authorizes the Countering Weapons of Mass Destruction (CWMD) Office and authorizes the newly formed Office of Health Security (OHS) at the Department of Homeland Security (DHS).

The legislation more clearly defines CWMD Office responsibilities, including coordination with DHS components and state, local, tribal, and territorial entities to safeguard against weapons of mass

destruction, non-medical aspects of chemical, biological, radiological, nuclear (CBRN), and other related emerging threats, and further clarifies specific chemical and biological responsibilities the office should perform. The bill expands oversight of the CWMD Office by requiring a Government Accountability Office (GAO) assessment of the programs and activities that execute the CWMD Office's mission and a report from the National Academies of Sciences, Engineering, and Medicine focused on biodetection, bio-surveillance, and health security. This bill also charges the CWMD Office with producing a Department-wide strategy to counter weapons of mass destruction, CBRN, and other related emerging threats that will be reported to Congress and updated every four years, a biodefense review and subsequent strategy and implementation plan that will be briefed to Congress and reviewed by DHS every five years, and a strategy and implementation plan to improve employee morale at the CWMD Office, which is amongst the lowest of any agency component in the federal government.

The bill also authorizes the newly formed OHS and lays out its responsibilities. The new office is headed by the Chief Medical Officer that will be dually appointed as the Assistant Secretary for Health Security. The bill requires the office to support and advise on all medical and workforce health activities of the Department, including direct patient care, employee health, and coordinating with federal, state, local, tribal, and territorial governments, the medical community, and others within and outside the Department.¹

II. BACKGROUND AND NEED FOR THE LEGISLATION

CBRN weapons and other related emerging threats have the potential to cause mass casualties and disruption to society. Technological advances combined with nefarious intent by various groups have increased the risk of CBRN weapons being used against the U.S. homeland.² Ensuring the nation is prepared to prevent potential attacks and effectively respond in a worst-case scenario requires engagement at all levels of government between the federal government and state, local, tribal, and territorial entities.

Chemical weapons have been used in the past decade in assassination attempts and on civilian populations. For instance, the Assad regime in Syria released the nerve agent sarin on its own people, killing more than 1,400 individuals, many of them children.³ In 2018, the Organisation for the Prohibition of Chemical Weapons determined that Russia was responsible for using a chemical weapon, specifically an advanced nerve agent, in an assassination attempt in the United Kingdom.⁴ In addition, the United States determined that the government of North Korea was responsible for the lethal 2017 nerve agent attack on Kim Jong Nam, the

¹ On August 3, 2022, the Committee approved S. 4465, the *Offices of Countering Weapons of Mass Destruction and Health Security Act of 2022*. That bill is substantially similar to S. 1798. Accordingly, this committee report is, in many respects, similar to the committee report for S. 4465. See S. Rept. 117-276.

² U.S. Department of Homeland Security, *Homeland Threat Assessment* (Oct. 2020).

³ U.S. Department of State, *Syria: Eighth Anniversary of the Ghouta Chemical Weapons Attack* (Aug. 21, 2021).

⁴ Organisation for the Prohibition of Chemical Weapons, *Statement by H.E. Ambassador Joseph Manso Permanent Representative of the United States of America to the OPCW at the Ninety-Sixth Session of the Executive Council* (Mar. 12, 2021).

half-brother of North Korean leader Kim Jong-un, in Malaysia.⁵ In 2015, the United States also confirmed that the Islamic State of Iraq and Syria used crude formulations of chlorine and sulfur mustard, made from industrial and commercially available chemicals, to attack areas in northeastern Syria, which resulted in reported cases of chemical burns and respiratory distress.⁶ These examples of chemical attacks illustrate a worrying trend in use by state and non-state actors.

The United States also faces naturally occurring, accidental, and man-made biological threats. Biological weapons are any number of disease-causing agents such as bacteria, viruses, or toxins that can be used as weapons against humans, plants or animals.⁷ In 1984, the Rajneeshees, a religious cult, used *Salmonella* to poison 751 people in Oregon immediately before an election to prevent people from voting.⁸ Public concern over biological terrorism reached greater heights in 2001, when a week after the 9/11 attacks, weapons grade anthrax was mailed to two Democratic Senators and several news media organizations.⁹ These attacks (also referred to as Amerithrax) ended up killing five people and injuring an additional 17 and showed that biological agents can be misused to intentionally harm individuals.¹⁰ Costs to decontaminate the facilities infected during Amerithrax were estimated to be at least \$320 million.¹¹ The threat of bioterrorism still remains today and there is concern that in addition to terrorist groups developing biological weapons in isolation, they may receive help from states with suspected biological weapons programs.¹²

The current war in Ukraine highlights nuclear and radiological threats. Recent security threats have raised concerns that radioactive materials could be stolen and used in a United States domestic attack and according to Nuclear Regulatory Commission officials, there is a general credible threat regarding the malevolent use of radioactive materials in the United States.¹³ The International Atomic Energy Agency reported 3,068 unauthorized activities and events worldwide involving nuclear and radioactive material from 1993 to 2016, including incidents of trafficking and malicious use.¹⁴ For example, in April 2019, a technician was arrested after stealing three radioactive devices from his workplace in Arizona. According to a court filing, the technician intended to release

⁵Department of State, *Bureau of International Security and Nonproliferation; Determinations Regarding Use of Chemical Weapons by North Korea Under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991*, 83 Fed. Reg. 9362 (Mar. 5, 2018) (notice).

⁶C.J. Chivers and Eric Schmitt, *Islamic State Ordnance Shows Traces of Chemical Agents, U.S. Says*, New York Times (Sept. 11, 2015).

⁷World Health Organization, *Biological Weapons*.

⁸Thomas J. Torok, et al., *A Large Community Outbreak of Salmonellosis Caused by Intentional Contamination of Restaurant Salad Bars*, Journal of the American Medical Association (Aug. 6, 1997).

⁹David A. Rasko, et al., *Bacillus anthracis comparative genome analysis in support of the Amerithrax investigation*, Proceedings of the National Academy of Science (Mar. 7, 2011).

¹⁰*Id.*

¹¹Ketra Schmitt and Nicolas A. Zachia, *Total Decontamination Cost of the Anthrax Letter Attacks*, Biosecurity and Bioterrorism: Biodefense Strategy, Practice, and Science (Mar. 2012).

¹²Gregory B. Knudson, *Nuclear, Biological, and Chemical Training in the U.S. Army Reserves: Mitigating Psychological Consequences of Weapons of Mass Destruction*, Military Medicine (Dec. 1, 2001); Manfred S. Green, et al., *Confronting the threat of bioterrorism: realities, challenges, and defensive strategies*, The Lancet Infectious Diseases (Oct. 16, 2018).

¹³Government Accountability Office, *Combating Nuclear Terrorism: NRC Needs to Take Additional Actions to Ensure the Security of High-Risk Radioactive Material* (GAO-19-468) (Apr. 2019).

¹⁴Government Accountability Office, *Security of Radioactive Materials* (GAO-22-105498) (Apr. 2022).

the radioactive materials at a shopping mall, but local law enforcement and the Federal Bureau of Investigation arrested him before he could do so.¹⁵

The *Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023* clarifies and refines the Countering Weapons of Mass Destruction Act of 2018 that established the CWMD Office to serve as a focal point at DHS to counter weapons of mass destruction threats, strengthen DHS-wide coordination and federal interagency cooperation for this mission, and provide direct support to DHS, federal interagency, and state, local, tribal, and territorial partners. Since its establishment, the CWMD Office has maintained its original mission while also focusing on CBRN threats to address the wide range of threats the homeland faces. The *Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023* better defines CWMD Office responsibilities, including coordination with DHS components and state, local, and tribal entities to prevent, detect, protect against, and mitigate the impacts of weapons of mass destruction or CBRN and other related emerging threats, and clarifies specific chemical and biological responsibilities the office should perform to address a gap in the original authorization. The office's updated responsibilities would include providing expert guidance and advice on weapons of mass destruction and CBRN and other related emerging threats issues across the Department. In addition, the office would be responsible for coordinating with DHS components on developing policies and strategies, providing intelligence and information analysis, assessing risks, and funding research and development activities. Furthermore, the bill requires the office to lead development and prioritization of the requirements to counter weapons of mass destruction and CBRN and other related emerging threats, as well as conduct testing to ensure that technologies meet the requirements. The bill also requires the CWMD Office to support and enhance information sharing with various stakeholders (e.g., law enforcement, state, local, and tribal governments) to ensure they are better informed of information on CBRN and other related emerging threats. The legislation further details specific chemical and biological responsibilities that the office should perform that was seen as a gap in the original authorization.

The bill also expands oversight over the CWMD Office by Congress and independent entities. For instance, the Department will be tasked with producing and regularly updating a Department-wide strategy to counter weapons of mass destruction and CBRN and other related emerging threats that will be reported to Congress. In addition, the bill requires that the CWMD Office produce a strategy and implementation plan to continue improving employee morale. The legislation also requires that GAO conduct an assessment of the programs and activities that execute the CWMD Office mission and establishes an advisory committee that will help leadership of the CWMD Office address weapons of mass destruction, CBRN, and other related emerging threats. Additionally, in response to Congressional concern over the status of aerosolized environmental biological detection performed by DHS, this bill re-

¹⁵*Id.*

quires a Department-wide biodefense review and strategy. The legislation also requires the National Academies of Sciences, Engineering, and Medicine to perform a consensus study on biodetection, biosurveillance, and health security at DHS. The legislation leaves the flexibility for DHS to transition to updated technology if it is determined there is a more effective mechanism that DHS could use to help reduce the impact of a biological terrorism attack (including through early detection).

The bill also authorizes the newly formed OHS and lays out the responsibilities of the new office. OHS was created on July 18, 2022 through the *Homeland Security Act of 2002*, section 872 authority to reorganize the mission of the Chief Medical Officer from the CWMD Office to report to the Secretary of DHS.¹⁶ According to DHS, OHS was established to make improvements to the operating structure with regards to health and safety of Department personnel and addressing medical and public health issues across the DHS enterprise.¹⁷ This bill will require the new office to be headed by the Chief Medical Officer that will also be dually appointed as the Assistant Secretary for Health Security, and the legislation details the qualifications for the position. The office will support medical activities of the Department and all workforce-focused health and safety activities of the Department. In addition, the legislation includes responsibilities related to psychological health counseling and assistance programs of the Department. The bill provides the authority granted to other Departments with regards to confidentiality of medical records which protects medical records from disclosure to enable rapid identification of health issues, identify best practices, and develop new training. To help ensure proper Congressional oversight, the legislation requires that OHS publish a Department-wide strategy and implementation plan to address health threats and provided a briefing to relevant congressional committees on the organizational transformations of OHS.

III. LEGISLATIVE HISTORY

Senator Gary Peters (D–MI) introduced S. 1798, the *Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023*, on June 1, 2023, with original cosponsor Senator John Cornyn (R–TX). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1798 at a business meeting on June 14, 2023. At the business meeting, Senator Peters offered a substitute amendment to the bill, as well as a modification to the substitute amendment. The Peters substitute amendment, as modified, incorporated technical drafting assistance from DHS and added an assessment of the risk of high-risk gain-of-function research to homeland security and identification of the gaps in the DHS response to that risk. The Peters substitute amendment, as modified, also added provisions to ensure members of the advisory council for the office uphold ethical standards and avoid conflicts of interest. The Committee adopted the modification to the Peters

¹⁶Section 872 of the *Homeland Security Act of 2002* gives the Secretary of the Department of Homeland Security (DHS) the authority to reorganize functions and organizational units within DHS, subject to specified limits.

¹⁷Department of Homeland Security, *DHS Establishes New Office of Health Security* (July 19, 2022).

substitute amendment by unanimous consent with Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Paul, Lankford, Romney, Scott, Hawley, and Marshall present. The Committee adopted the Peters substitute amendment as modified by voice vote with Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Paul, Lankford, Romney, Scott, Hawley, and Marshall present.

Senator Paul offered an amendment to the bill to require DHS to carry out a risk assessment of gain-of-function research, submit that assessment to Congress, and a GAO review of the assessment once complete. The Committee did not adopt the Paul amendment by voice vote with Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Paul, Lankford, Romney, Scott, Hawley, and Marshall present. Senator Paul offered an amendment to the bill requiring DHS provide all intelligence assessments related to the origins of the COVID-19 pandemic to Congress. The Committee did not adopt the Paul amendment by a roll call vote of 7 yeas and 8 nays, with Senators Paul, Lankford, Romney, Scott, Hawley, and Marshall voting in the affirmative, and Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, and Blumenthal voting in the negative. Senator Johnson voted yea by proxy.

The bill, as amended by the Peters substitute amendment as modified, was ordered reported favorably by roll call vote of 12 yeas to 2 nays, with Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Lankford, Romney, Scott, and Hawley voting in the affirmative, and Senators Paul and Marshall voting in the negative. Senator Johnson voted yea by proxy, for the record only.

Consistent with Committee Rule 3(G), the Committee reports the bill with a technical amendment by mutual agreement of the Chairman and Ranking Member.

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

Section 1. Short title, Table of contents

Subsection (a) establishes the short title of the bill as the “Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023.”

Subsection (b) provides the table of contents for the bill.

TITLE I—COUNTERING WEAPONS OF MASS DESTRUCTION OFFICE

Section 101. Countering Weapons of Mass Destruction Office

This section amends the *Homeland Security Act of 2002* by reauthorizing the CWMD Office at DHS. This section adds language to the *Homeland Security Act of 2002* detailing the mission of the CWMD Office to coordinate efforts across DHS to counter weapons of mass destruction as well as CBRN and other related emerging threats. The mission of the Office also includes enhancing the ability of every level of government to prevent, detect, and protect against attacks using these threats. The legislation also clarifies the CWMD Office’s responsibilities to include providing expertise and guidance to Department leadership on non-medical aspects of CBRN and other related emerging threats; identifying, assessing, and prioritizing any gaps that DHS has in regards to weapons of

mass destruction; its CBRN detection and reporting responsibilities; improving coordination related to—and prevention, detection, mitigation, and protection against—chemical and biological threats (including leading DHS in developing and operating a national biological detection system that improves over time); and lead the development and prioritization of Department requirements for countering weapons of mass destruction and CBRN and other related emerging threats.

The section states how DHS should work with different DHS components. For instance, the CWMD Office will coordinate with the DHS Office of Strategy, Policy and Plans to lead the development of policies and strategies on weapons of mass destruction, CBRN, and other related emerging threats. The CWMD Office will coordinate with the DHS Office of Intelligence and Analysis to provide intelligence and information analysis on weapons of mass destruction, CBRN, and other related emerging threats. Furthermore, the CWMD Office will consult with the DHS Science and Technology Directorate to assess risks from weapons of mass destruction and direct, fund, and coordinate capability development activities including the ability to detect and report these types of threats. The CWMD Office will coordinate with the newly authorized OHS to support federal, state, local, and tribal partners on CBRN and other related emerging threats health matters. The legislation calls for the CWMD Office to consult with other Federal agencies and state, local, and tribal governments.

The legislation includes an accountability section that requires DHS to produce a Department-wide strategy and implementation plan to counter CBRN and other related threats, as well as Department-wide review, strategy, and implementation plans specifically focused on biodefense. These strategies will be reviewed updated as necessary at least every four and five years, respectively, and the Office will provide a report or briefing to Congress on those strategies and implementation plans. The CWMD Office also is required to conduct a review of the employee morale and brief the appropriate congressional committees on the findings. As an additional oversight measure, the bill requires GAO to conduct a review no later than one year after the enactment of this bill to examine whether the CWMD Office is making improvements in carrying out its mission, including how it is prioritizing programmatic activities and other efforts, effectively coordinating and collaborating with relevant stakeholders across the Department (including operational and support components such as those mentioned above), and managing research and development cycles. The legislation also includes a study by the National Academies of Sciences, Engineering, and Medicine to perform a consensus study on the role of DHS in preparing, detecting, and responding to biological threats to the homeland, recommendations to improve biosurveillance efforts, and feasibility of different biological detection technologies. After the study is released, the Office will brief the appropriate congressional committees on its implementation of the study recommendations and status of biological detection in the Department. The bill authorizes an advisory council provide guidance, input, and advice on aspects of countering weapons of mass destruction.

Section 102. Rule of construction

This section states that no amendments made in this title shall be construed as modifying any existing authority under any provision of law not expressly amended by this title.

TITLE II—OFFICE OF HEALTH SECURITY

Section 201. Office of Health Security

This section establishes the OHS within DHS. OHS is to be headed by a chief medical officer whose role will be the Assistant Secretary for Health Security and the Chief Medical Officer for the Department, whose responsibilities and qualifications this section provides. Responsibilities of the Office include overseeing medical and public health activities of DHS; advising on the collection, storage and oversight of medical records. OHS must advise the heads of DHS components that deliver direct patient care on the recruitment and appointment of chief medical officers. OHS shall advise on psychological health counseling and assistance programs, and: (1) ensure such programs have appropriate safeguards in place related to adverse actions and referral processes; (2) increase availability of psychological health professionals; (3) establish behavioral health curriculum and training programs; and (4) improve existing and create employee support programs. This section establishes a Privacy Officer in OHS and describes its responsibilities. OHS is responsible for a strategy and implementation plan to address medical activities of, and the workforce health and safety matters under the purview of, the Department, and a briefing to appropriate congressional committees on the creation of the office.

Section 202. Confidentiality of medical quality assurance records

This section adds new definitions for “health care provider,” “medical quality assurance program,” and “medical quality assurance record of the Department” to Title XXIII of the *Homeland Security Act of 2002*. It also regulates disclosure and testimony regarding a medical quality assurance record and would ensure confidentiality of medical quality and assurance records is similar to other Federal government agencies that provide medical care. This section provides authority safeguards while protecting medical quality information which can be used as a learning system to: (1) enable rapid identification of health care issues; (2) identify best practices and implementation of corrective actions; (3) develop new training curricula; and (4) assist in the timely detection of emerging threats. Privilege and confidential protections are a health care industry standard for medical quality and assurance records.

Section 203. Technical and conforming amendments

This section makes technical and conforming amendments to the *Homeland Security Act of 2002*.

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 state-

ment 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

At a Glance			
S. 1798, Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on June 14, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	1,622	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? Yes	
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

The bill would:

- Permanently reauthorize the Department of Homeland Security's (DHS's) Countering Weapons of Mass Destruction Office (CWMD)
- Create an Office of Health Security (OHS), responsible for all of DHS's medical and public health activities
 - Protect any medical record created by DHS from disclosure, with certain exceptions, and create new penalties for violating the confidentiality of such a record
 - Require new reports from DHS and the Government Accountability Office

Estimated budgetary effects would mainly stem from:

- Administrative costs associated with reauthorizing CWMD and complying with new reporting requirements
- Administrative costs for OHS
- Revenues from penalties resulting in the unlawful disclosure of medical records

Bill summary: S. 1798 would permanently reauthorize the Countering Weapons of Mass Destruction Office (CWMD) within the Department of Homeland Security (DHS). CWMD leads DHS's efforts to prevent the use of chemical, biological, radiological, or nuclear weapons, and promotes readiness against such attacks by coordinating with federal, state, local, tribal, and territorial governments, as well as the private sector. Under current law, CWMD's authorization expires on December 21, 2023.

S. 1798 also would create an Office of Health Security (OHS) within DHS. That office would assume responsibility for all of the

department’s medical and public health activities that are currently handled by other offices, including food, agriculture, and veterinary defense, as well as workforce health and safety. The bill also would protect any medical record created by DHS from disclosure, with certain exceptions, and create new fines for any person who willfully discloses such a record.

S. 1798 would require the National Academies of Sciences, Engineering and Medicine to study DHS’s role in preparing for biological and health security threats and the Government Accountability Office to review CWMD’s efforts and effectiveness.

Estimated Federal cost: The estimated budgetary effect of S. 1798 is shown in Table 1. The costs of the legislation fall within budget function 750 (administration of justice).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 1798

	By fiscal year, millions of dollars—						
	2023	2024	2025	2026	2027	2028	2023–2028
Office of Countering Weapons of Mass Destruction:							
Estimated Authorization	0	336	455	466	477	487	2,221
Estimated Outlays	0	77	225	351	421	457	1,531
Office of Health Security:							
Estimated Authorization	0	17	23	24	24	25	113
Estimated Outlays	0	7	17	21	22	24	91
Total Changes:							
Estimated Authorization	0	353	478	490	501	512	2,334
Estimated Outlays	0	84	242	372	443	481	1,622

CBO estimates that enacting S. 1798 would increase revenues by less than \$500,000 over the 2023–2033 period.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2023 and that the estimated amounts will be provided for each year beginning in 2024.

Spending subject to appropriation: CBO estimates that implementing S. 1798 would cost \$1.6 billion over the 2024–2028 period.

Office of Countering Weapons of Mass Destruction. The Congress appropriated \$431 million for CWMD in 2023 for operations and support; procurement and maintenance of chemical, biological and radiological detection equipment; research and development; and assistance to state, local, tribal, and territorial governments. Another \$21 million was transferred for purposes that would fall under the jurisdiction of OHS. Accounting for anticipated inflation, the transfer of funds to OHS, CWMD’s current authorization through December 2023, and the cost of similar reports, CBO estimates implementing this provision would cost \$1.5 billion over the 2023–2028 period, assuming appropriation of the estimated amounts.

Office of Health Security. S. 1798 would consolidate medical and public health efforts into OHS. Many of those activities are permanently authorized but the agency’s activities related to veterinary defense and food and agriculture security are part of CWMD and their authority expires in December 2023. Using information from the office, CBO estimates that S. 1798 would effectively transfer 35 existing employees and \$21 million to the new Office of Health Security and permanently reauthorize those activities. Accounting for anticipated inflation and the cost of the activities that are not permanently authorized, CBO estimates that creating OHS would cost

\$91 million over the 2024–2028 period, assuming appropriation of the estimated amounts.

Revenues: S. 1798 would create a new \$3,000 civil fine for anyone who willfully discloses a DHS medical record. The fine for subsequent offenses would increase to \$20,000 per violation. Any penalties would be transferred to the Treasury and could not be spent by DHS without further appropriation. Using information from DHS about the expected number of offenses, CBO estimates that S. 1798 would increase revenues by an insignificant amount each year and in total over the 2023–2033 period.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting the bill would increase revenues by less than \$500,000 over the 2023–2033 period.

Increase in long-term net direct spending and deficits: None.

Mandates: None.

Previous CBO estimate: On June 6, 2023, CBO transmitted a cost estimate for H.R. 3224, the Countering Weapons of Mass Destruction Extension Act of 2023, as ordered reported by the House Committee on Homeland Security on May 17, 2023. The two bills are similar, and CBO’s estimates of the cost of authorizing CWMD are similar. S. 1798 would require additional reporting requirements within CWMD, would create the Office of Health Security, and would impose new fines on people who willfully disclose a medical record created by DHS. CBO’s estimate of S. 1798 reflects those differences.

Estimate prepared by: Federal costs: Jeremy Crimm; Mandates: Rachel Austin.

Estimate reviewed by: Justin Humphrey, Chief, Finance, Housing, and Education Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; Christina Hawley Anthony, Deputy Director of Budget Analysis; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

* * * * *

TITLE V—NATIONAL EMERGENCY MANAGEMENT

* * * * *

【Sec. 528. Coordination of Department of Homeland Security efforts related to food, agriculture, and veterinary defense against terrorism.】
 【Sec. 529. Transfer of equipment during a public health emergency.】
Sec. 528. Transfer of equipment during a public health emergency.

* * * * *

TITLE VII—MANAGEMENT

* * * * *

【Sec. 710. Workforce health and medical support.】
 【Sec. 711. Employee engagement.】
 【Sec. 712. Annual employee award program.】
 【Sec. 713. Acquisition professional career program.】
Sec. 710. Employee engagement.
Sec. 711. Annual employee award program.
Sec. 712. Acquisition professional career program.

* * * * *

TITLE XIX—COUNTERING WEAPONS OF MASS DESTRUCTION OFFICE

* * * * *

Subtitle B—Mission of the Office

* * * * *

Sec. 1921. Mission of the Office.

* * * * *

Sec. 1928. Securing the Cities program.
Sec. 1929. Accountability.

【Subtitle C—Chief Medical Officer】

【Sec. 1931. Chief Medical Officer.】
 【Sec. 1932. Medical countermeasures.】

* * * * *

TITLE XXIII—OFFICE OF HEALTH SECURITY

Sec. 2301. Office of Health Security.
Sec. 2302. Workforce health and 【medical support】 safety.
Sec. 2303. Coordination of Department of Homeland Security efforts related to food, agriculture, and veterinary defense against terrorism.
Sec. 2304. Medical countermeasures.
Sec. 2305. Rules of construction.
Sec. 2306. Confidentiality of medical quality assurance records.

* * * * *

TITLE I—DEPARTMENT OF HOMELAND SECURITY

* * * * *

SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—

- (1) * * *
- (A) * * *
- (B) * * *

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

- (b) * * *
- (c) * * *
- (d) * * *
- (1) * * *
- (2) * * *
- (3) * * *
- (4) * * *
- (5) * * *
- (6) *A Chief Medical Officer.*

* * * * *

TITLE V—NATIONAL EMERGENCY MANAGEMENT

* * * * *

[SEC. 528. COORDINATION OF DEPARTMENT OF HOMELAND SECURITY EFFORTS RELATED TO FOOD, AGRICULTURE, AND VETERINARY DEFENSE AGAINST TERRORISM.

[(a) PROGRAM REQUIRED.—The Secretary, acting through the Assistant Secretary for the Countering Weapons of Mass Destruction Office, shall carry out a program to coordinate the Department’s efforts related to defending the food, agriculture, and veterinary systems of the United States against terrorism and other high-consequence events that pose a high risk to homeland security.

[(b) PROGRAM ELEMENTS.—The coordination program required by subsection (a) shall include, at a minimum, the following:

[(1) Providing oversight and management of the Department’s responsibilities pursuant to Homeland Security Presidential Directive 9—Defense of United States Agriculture and Food.

[(2) Providing oversight and integration of the Department’s activities related to veterinary public health, food defense, and agricultural security.

[(3) Leading the Department’s policy initiatives relating to food, animal, and agricultural incidents, and the impact of such incidents on animal and public health.

[(4) Leading the Department’s policy initiatives relating to overall domestic preparedness for and collective response to agricultural terrorism.

[(5) Coordinating with other Department components, including U.S. Customs and Border Protection, as appropriate, on activities related to food and agriculture security and screening procedures for domestic and imported products.

[(6) Coordinating with appropriate Federal departments and agencies.

[(7) Other activities as determined necessary by the Secretary.

[(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed as altering or superseding the authority of the Secretary of Agriculture or the Secretary of Health and Human Services.]

SEC. [529.] 528. TRANSFER OF EQUIPMENT DURING A PUBLIC HEALTH EMERGENCY.

* * * * *

TITLE VII—MANAGEMENT

* * * * *

SEC. 704. CHIEF HUMAN CAPITAL OFFICER.

(a) **IN GENERAL.**—The Chief Human Capital Officer shall report directly to the Under Secretary for Management.

(b) * * *

(c) * * *

(d) * * *

(e) * * *

(1) * * *

(2) * * *

(3) * * *

(4) information on the activities of the steering committee established pursuant to **[section 711(a)]** *section 710(a)*, including the number of meetings, types of materials developed and distributed, and recommendations made to the Secretary;

* * * * *

[SEC. 710. WORKFORCE HEALTH AND MEDICAL SUPPORT.

[(a) IN GENERAL.—The Under Secretary for Management shall be responsible for workforce-focused health and medical activities of the Department. The Under Secretary for Management may further delegate responsibility for those activities, as appropriate.

[(b) RESPONSIBILITIES.—The Under Secretary for Management, in coordination with the Chief Medical Officer, shall—

[(1) provide oversight and coordinate the medical and health activities of the Department for the human and animal personnel of the Department;

[(2) establish medical, health, veterinary, and occupational health exposure policy, guidance, strategies, and initiatives for the human and animal personnel of the Department;

[(3) as deemed appropriate by the Under Secretary, provide medical liaisons to the components of the Department, on a reimbursable basis, to provide subject matter expertise on occupational medical and public health issues;

[(4) serve as the primary representative for the Department on agreements regarding the detail of Commissioned Corps officers of the Public Health Service of the Department of Health and Human Services to the Department, except that components of the Department shall retain authority for funding, determination of specific duties, and supervision of such detailed Commissioned Corps officers; and

[(5) perform such other duties relating to the responsibilities described in this subsection as the Secretary may require.]

* * * * *

SEC. [711] 710. EMPLOYEE ENGAGEMENT.

* * * * *

SEC. [712] 711. ANNUAL EMPLOYEE AWARD PROGRAM.

* * * * *

SEC. [713] 712. ACQUISITION PROFESSIONAL CAREER PROGRAM.

* * * * *

[SEC. 1932. MEDICAL COUNTERMEASURES.

[(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall, as appropriate, establish a medical countermeasures program within the components of the Department to—

[(1) facilitate personnel readiness and protection for the employees and working animals of the Department in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, other event impacting health, or pandemic; and

[(2) support the mission continuity of the Department.

[(b) OVERSIGHT.—The Secretary, acting through the Chief Medical Officer of the Department, shall—

[(1) provide programmatic oversight of the medical countermeasures program established under subsection (a); and

[(2) develop standards for—

[(A) medical countermeasure storage, security, dispensing, and documentation;

[(B) maintaining a stockpile of medical countermeasures, including antibiotics, antivirals, antidotes, therapeutics, and radiological countermeasures, as appropriate;

[(C) ensuring adequate partnerships with manufacturers and executive agencies that enable advance prepositioning by vendors of inventories of appropriate medical countermeasures in strategic locations nationwide, based on risk and employee density, in accordance with applicable Federal statutes and regulations;

[(D) providing oversight and guidance regarding the dispensing of stockpiled medical countermeasures;

[(E) ensuring rapid deployment and dispensing of medical countermeasures in a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, other event impacting health, or pandemic;

[(F) providing training to employees of the Department on medical countermeasures; and

[(G) supporting dispensing exercises.

[(c) MEDICAL COUNTERMEASURES WORKING GROUP.—The Secretary, acting through the Chief Medical Officer of the Department, shall establish a medical countermeasures working group comprised of representatives from appropriate components and offices of the Department to ensure that medical countermeasures standards are maintained and guidance is consistent.

[(d) MEDICAL COUNTERMEASURES MANAGEMENT.—Not later than 120 days after the date on which appropriations are made available to carry out subsection (a), the Chief Medical Officer shall develop and submit to the Secretary an integrated logistics support plan for medical countermeasures, including—

[(1) a methodology for determining the ideal types and quantities of medical countermeasures to stockpile and how frequently such methodology shall be reevaluated;

[(2) a replenishment plan; and

[(3) inventory tracking, reporting, and reconciliation procedures for existing stockpiles and new medical countermeasure purchases.

[(e) TRANSFER.—Not later than 120 days after the date of enactment of this section, the Secretary shall transfer all medical countermeasures-related programmatic and personnel resources from the Under Secretary for Management to the Chief Medical Officer.

[(f) STOCKPILE ELEMENTS.—In determining the types and quantities of medical countermeasures to stockpile under subsection (d), the Secretary, acting through the Chief Medical Officer of the Department—

[(1) shall use a risk-based methodology for evaluating types and quantities of medical countermeasures required; and

[(2) may use, if available—

[(A) chemical, biological, radiological, and nuclear risk assessments of the Department; and

[(B) guidance on medical countermeasures of the Office of the Assistant Secretary for Preparedness and Response and the Centers for Disease Control and Prevention.

[(g) BRIEFING.—Not later than 180 days after the date of enactment of this section, the Secretary shall provide a briefing to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding—

[(1) the plan developed under subsection (d); and

[(2) implementation of the requirements of this section.

[(h) DEFINITION.—In this section, the term “medical countermeasures” means antibiotics, antivirals, antidotes, therapeutics, radiological countermeasures, and other countermeasures that may be deployed to protect the employees and working animals of the Department in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, other event impacting health, or pandemic.]

* * * * *

TITLE XIX—COUNTERING WEAPONS OF MASS DESTRUCTION OFFICE

Subtitle A—Countering Weapons of Mass Destruction Office

SEC. 1901. COUNTERING WEAPONS OF MASS DESTRUCTION OFFICE.

(a) * * *

(b) * * *

(c) RESPONSIBILITIES.—The Assistant Secretary shall serve as the Secretary’s principal advisor on—

[(1) weapons of mass destruction matters and strategies; and

[(2) coordinating the efforts of the Department to counter weapons of mass destruction.]

(1) *matters and strategies pertaining to—*

(A) *weapons of mass destruction; and*

(B) *non-medical aspects of chemical, biological, radiological, nuclear, and other related emerging threats;*

(2) *coordinating the efforts of the Department to counter—*

(A) *weapons of mass destruction; and*

(B) *non-medical aspects of chemical, biological, radiological, nuclear, and other related emerging threats; and*

(3) *enhancing the ability of Federal, State, local, and Tribal partners to prevent, detect, protect against, and mitigate the impacts of terrorist attacks in the United States to counter—*

(A) *weapons of mass destruction; and*

(B) *non-medical aspects of use of unauthorized chemical, biological, radiological, and nuclear materials, devices, or agents and other related emerging threats.*

(d) * * *

[(e) **TERMINATION.**—The Office shall terminate on the date that is 5 years after the date of the enactment of the Countering Weapons of Mass Destruction Act of 2018.]

Subtitle B—Mission of the Office

SEC. 1921. MISSION OF THE OFFICE.

【The Office shall be responsible for coordinating with other Federal efforts and developing a strategy and policy for the Department to plan for, detect, and protect against the importation, possession, storage, transportation, development, or use of unauthorized chemical, biological, radiological, or nuclear materials, devices, or agents in the United States and to protect against an attack using such materials, devices, or agents against the people, territory, or interests of the United States.】

The Office shall be responsible for—

(1) *coordinating the efforts of the Department and with other Federal departments and agencies to counter—*

(A) *weapons of mass destruction; and*

(B) *chemical, biological, radiological, nuclear, and other related emerging threats; and*

(2) *enhancing the ability of Federal, State, local, and Tribal partners to prevent, detect, protect against, and mitigate the impacts of attacks using—*

(A) *weapons of mass destruction against the United States; or*

(B) *unauthorized chemical, biological, radiological, nuclear materials, devices, or agents or other related emerging threats against the United States.*

SEC. 1922. RELATIONSHIP TO OTHER DEPARTMENT COMPONENTS AND FEDERAL AGENCIES.

(a) * * *

[(b) **OFFICE FOR STRATEGY, POLICY, AND PLANS.**—Not later than one year after the date of the enactment of the Countering Weapons of Mass Destruction Act of 2018, the Assistant Secretary shall, in coordination with the Under Secretary for Strategy, Policy, and Plans, submit to the appropriate congressional committees a strategy and implementation plan to direct programs within the Office and to integrate those programs with other programs and activities of the Department.】

[(c) (b) **FEDERAL EMERGENCY MANAGEMENT AGENCY.**—Nothing in this title or any other provision of law may be construed to affect or reduce the responsibilities of the Federal Emergency Management Agency or the Administrator of the Agency, including the diversion of any asset, function, or mission of the Agency or the Administrator of the Agency.

SEC. 1923. RESPONSIBILITIES.*(a) OFFICE RESPONSIBILITIES.—*

(1) IN GENERAL.—For the purposes of coordinating the efforts of the Department to counter weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats, the Office shall—

(A) provide expertise and guidance to Department leadership and components on non-medical aspects of chemical, biological, radiological, nuclear, and other related emerging threats, subject to the research, development, testing, and evaluation coordination requirement described in subparagraph (G);

(B) in coordination with the Office of Strategy, Policy, and Plans, lead development of policies and strategies to counter weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats on behalf of the Department;

(C) identify, assess, and prioritize capability gaps relating to the strategic and mission objectives of the Department for weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats;

(D) in coordination with the Office of Intelligence and Analysis, support components of the Department, and Federal, State, local, and Tribal partners by providing intelligence and information analysis and reports on weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats;

(E) in consultation with the Science and Technology Directorate, assess risk to the United States from weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats;

(F) lead development and prioritization of Department requirements to counter weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats, subject to the research, development, testing, and evaluation coordination requirement described in subparagraph (G), which requirements shall be—

(i) developed in coordination with end users; and (ii) reviewed by the Joint Requirements Council, as directed by the Secretary;

(G) in coordination with the Science and Technology Directorate, direct, fund, and coordinate capability development activities to counter weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats research, development, test, and evaluation matters, including research, development, testing, and evaluation expertise, threat characterization, technology maturation, prototyping, and technology transition;

(H) acquire, procure, and deploy capabilities to counter weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats, and serve as the lead advisor of the Department on component

acquisition, procurement, and deployment of counter-weapons of mass destruction capabilities;

(I) in coordination with the Office of Health Security, support components of the Department, and Federal, State, local, and Tribal partners on chemical, biological, radiological, nuclear, and other related emerging threats health matters;

(J) provide expertise on weapons of mass destruction and non-medical aspects of chemical, biological, radiological, nuclear, and other related emerging threats to Departmental and Federal partners to support engagements and efforts with international partners subject to the research, development, testing, and evaluation coordination requirement under subparagraph (G); and

(K) carry out any other duties assigned to the Office by the Secretary.

(2) **DETECTION AND REPORTING.**—For purposes of the detection and reporting responsibilities of the Office for weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats, the Office shall—

(A) in coordination with end users, including State, local, and Tribal partners, as appropriate—

(i) carry out a program to test and evaluate technology, in consultation with the Science and Technology Directorate, to detect and report on weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats, in coordination with other Federal agencies, as appropriate, and establish performance metrics to evaluate the effectiveness of individual detectors and detection systems in detecting those weapons of mass destruction or chemical, biological, radiological, nuclear, or other related emerging threats—

(I) under realistic operational and environmental conditions; and

(II) against realistic adversary tactics and countermeasures;

(B) in coordination with end users, conduct, support, coordinate, and encourage a transformational program of research and development to generate and improve technologies to detect, protect against, and report on the illicit entry, transport, assembly, or potential use within the United States of weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats, and coordinate with the Under Secretary for Science and Technology on research and development efforts relevant to the mission of the Office and the Under Secretary for Science and Technology;

(C) before carrying out operational testing under subparagraph (A), develop a testing and evaluation plan that articulates the requirements for the user and describes how these capability needs will be tested in developmental test and evaluation and operational test and evaluation;

(D) as appropriate, develop, acquire, and deploy equipment to detect and report on weapons of mass destruction

and chemical, biological, radiological, nuclear, and other related emerging threats in support of Federal, State, local, and Tribal governments;

(E) support and enhance the effective sharing and use of appropriate information on weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats generated by elements of the intelligence community, law enforcement agencies, other Federal agencies, State, local, and Tribal governments, and foreign governments, as well as provide appropriate information to those entities;

(F) consult, as appropriate, with relevant Departmental components and offices, the Department of Health and Human Services, and other Federal partners, on weapons of mass destruction and non-medical aspects of chemical, biological, radiological, nuclear, and other related emerging threats and efforts to mitigate, prepare, and respond to all threats in support of the State, local, and Tribal communities; and

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

[(a)] [MISSION] (b) RADIOLOGICAL AND NUCLEAR RESPONSIBILITIES.—The Office shall be responsible for coordinating Federal efforts to detect and protect against the unauthorized importation, possession, storage, transportation, development, or use of a nuclear explosive device, fissile material, or radiological material in the United States, and to protect against attack using such devices or materials against the people, territory, or interests of the United States and, to this end, shall—

(1) serve as the primary entity of the United States Government to further develop, acquire, *deploy*, and support the **[deployment]** *operation* of an enhanced domestic system to detect and report on attempts to import, possess, store, transport, develop, or use an unauthorized nuclear explosive device, fissile material, or radiological material in the United States, and improve that system over time;

(2) * * *

* * * * *

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

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

[(A)] under realistic operational and environmental conditions; and

[(B) against realistic adversary tactics and countermeasures;

[(8) support and enhance the effective sharing and use of appropriate information generated by the intelligence community, law enforcement agencies, counterterrorism community, other government agencies, and foreign governments, as well as provide appropriate information to such entities;

[(9) further enhance and maintain continuous awareness by analyzing information from all Office mission-related detection systems;

[(10) lead the development and implementation of the national strategic five-year plan for improving the nuclear forensic and attribution capabilities of the United States required under section 1036 of the National Defense Authorization Act for Fiscal Year 2010;]

[(11)] (6) establish, within the Office, the National Technical Nuclear Forensics Center to provide centralized stewardship, planning, assessment, gap analysis, exercises, improvement, and integration for all Federal nuclear forensics and attribution [activities—

(A) to ensure] *activities to ensure* an enduring national technical nuclear forensics capability to strengthen the collective response of the United States to nuclear terrorism or other nuclear [attacks; and] *attacks*;

[(B) to coordinate and implement the national strategic five-year plan referred to in paragraph (10);]

[(12)] (7) establish a National Nuclear Forensics Expertise Development Program, which—

(A) * * *

(B) * * *

(C) shall—

(i) * * *

(ii) * * *

(iii) * * *

(iv) * * *

(v) *except as otherwise provided*, require that—

(I) * * *

(II) a scholarship recipient who, for any reason except [death or disability] *death, disability, or a finding of good cause as determined by the Assistant Secretary (including extreme hardship, extreme need, or the needs of the Office) and for which the Assistant Secretary may grant a waiver of the repayment obligation*, fails to begin or complete the post-doctoral service requirements in a technical nuclear forensics-related specialty at a national laboratory or appropriate Federal agency after completion of academic training shall be liable to the United States for an amount equal to—

(aa) * * *

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

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

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

(c) CHEMICAL AND BIOLOGICAL RESPONSIBILITIES.—The Office—

(1) shall be responsible for coordinating with other Federal efforts to enhance the ability of Federal, State, local, and Tribal governments to prevent, detect, mitigate, and protect against the importation, possession, storage, transportation, development, or use of unauthorized chemical and biological materials, devices, or agents against the United States; and

(2) shall—

(A) serve as a primary entity responsible for the efforts of the Department to develop, acquire, deploy, and support the operations of a national biological detection system and improve that system over time;

(B) enhance the chemical and biological detection efforts of Federal, State, local, and Tribal governments and provide guidance, tools, and training to help ensure a managed, coordinated response; and

(C) collaborate with the Department of Health and Human Services, the Office of Health Security of the Department, the Defense Advanced Research Projects Agency, the National Aeronautics and Space Administration, and other relevant Federal stakeholders, and receive input from industry, academia, and the national laboratories on chemical and biological surveillance efforts.

[(b)] (d) DEFINITIONS.—In this section:

(1) * * *

(2) * * *

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

* * * * *

SEC. 1924. HIRING AUTHORITY.

In hiring personnel for the Office, the Secretary shall have the hiring and management authorities provided in [section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note).] *section 4092 of title 10, United States Code, except that the authority shall be limited to facilitate the recruitment of experts in the chemical, biological, radiological, or nuclear specialties.* The term of appointments for employees under subsection (c)(1) of such section may not exceed 5 years before granting any extension under subsection (c)(2) of such section.

* * * * *

SEC. 1927. JOINT ANNUAL INTERAGENCY REVIEW OF GLOBAL NUCLEAR DETECTION ARCHITECTURE.

(a) ANNUAL REVIEW.—

(1) IN GENERAL.—The Secretary, the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence shall jointly ensure interagency coordination on the development and im-

plementation of the global nuclear detection architecture by ensuring that, not less frequently than once each year—

(A) * * *

(B) * * *

(C) the Assistant Secretary and each of the relevant departments that are partners in the National Technical Forensics Center—

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

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

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

(iv) includes any other information regarding national technical nuclear forensics activities carried out under section 1923.

* * * * *

SEC. 1928. SECURING THE CITIES PROGRAM.

(a) ESTABLISHMENT.—The Secretary, through the Assistant Secretary, shall establish a program, to be known as the “Securing the Cities” or “STC” program, to enhance the ability of the United States to detect and prevent terrorist attacks and other high-consequence events utilizing nuclear or other radiological materials that pose a high risk to homeland security in [high-risk urban areas] *jurisdictions designated under subsection (c).*

(b) * * *

(c) DESIGNATION OF JURISDICTIONS.—

(1) IN GENERAL.—In carrying out the STC program under subsection (a), the Secretary shall designate jurisdictions [from among high-risk urban areas under section 2003] *based on the capability and capacity of the jurisdiction, as well as the relative threat, vulnerability, and consequences from terrorist attacks and other high-consequence events utilizing nuclear or other radiological materials.*

(d) ACCOUNTABILITY.—

[(1) IMPLEMENTATION PLAN.—

[(A) IN GENERAL.—The Secretary shall develop, in consultation with relevant stakeholders, an implementation plan for carrying out the STC program that includes—

[(i) a discussion of the goals of the STC program and a strategy to achieve those goals;

[(ii) performance metrics and milestones for the STC program;

[(iii) measures for achieving and sustaining capabilities under the STC program; and

[(iv) costs associated with achieving the goals of the STC program.

[(B) SUBMISSION TO CONGRESS.—Not later than one year after the date of the enactment of the Countering Weapons of Mass Destruction Act of 2018, the Secretary shall submit to the appropriate congressional committees and the Comptroller General of the United States the implementation plan required by subparagraph (A).

[(2) REPORT REQUIRED.—Not later than one year after the submission of the implementation plan under paragraph (1)(B), the Secretary shall submit to the appropriate congressional committees and the Comptroller General a report that includes—

[(A) an assessment of the effectiveness of the STC program, based on the performance metrics and milestones required by paragraph (1)(A)(ii); and

[(B) proposals for any changes to the STC program, including an explanation of how those changes align with the strategy and goals of the STC program and, as appropriate, address any challenges faced by the STC program.

[(3) COMPTROLLER GENERAL REVIEW.—Not later than 18 months after the submission of the report required by paragraph (2), the Comptroller General of the United States shall submit to the appropriate congressional committees a report evaluating the implementation plan required by paragraph (1) and the report required by paragraph (2), including an assessment of progress made with respect to the performance metrics and milestones required by paragraph (1)(A)(ii) and the sustainment of the capabilities of the STC program.

[(4) BRIEFING AND SUBMISSION REQUIREMENTS.—Before making any changes to the structure or requirements of the STC program, the Assistant Secretary shall—

[(A) consult with the appropriate congressional committees; and

[(B) provide to those committees—

[(i) a briefing on the proposed changes, including a justification for the changes;

[(ii) documentation relating to the changes, including plans, strategies, and resources to implement the changes; and

[(iii) an assessment of the effect of the changes on the capabilities of the STC program, taking into consideration previous resource allocations and stakeholder input.]

(d) REPORT.—Not later than 2 years after the date of enactment of the Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023, the Secretary shall submit to the appropriate congressional committees an update on the STC program.

SEC. 1929. ACCOUNTABILITY.

(a) DEPARTMENTWIDE STRATEGY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023, and every 4 years there-

after, the Secretary shall create a Departmentwide strategy and implementation plan to counter weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats, which should—

(A) have clearly identified authorities, specified roles, objectives, benchmarks, accountability, and timelines;

(B) incorporate the perspectives of non-Federal and private sector partners; and

(C) articulate how the Department will contribute to relevant national-level strategies and work with other Federal agencies.

(2) *CONSIDERATION.*—The Secretary shall appropriately consider weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats when creating the strategy and implementation plan required under paragraph (1).

(3) *REPORT.*—The Office shall submit to the appropriate congressional committees a report on the updated Departmentwide strategy and implementation plan required under paragraph (1).

(b) *DEPARTMENTWIDE BIODEFENSE REVIEW AND STRATEGY.*—

(1) *IN GENERAL.*—Not later than 180 days after the date of enactment of the Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023, the Secretary, in consultation with appropriate stakeholders representing Federal, State, local, Tribal, academic, private sector, and nongovernmental entities, shall conduct a Departmentwide review of biodefense activities and strategies.

(2) *REVIEW.*—The review required under paragraph (1) shall—

(A) identify with specificity the biodefense lines of effort of the Department, including biodefense lines of effort relating to biodefense roles, responsibilities, and capabilities of components and offices of the Department;

(B) assess how such components and offices coordinate internally and with public and private partners in the biodefense enterprise;

(C) identify any policy, resource, capability, or other gaps in the Department's ability to assess, prevent, protect against, and respond to biological threats;

(D) identify any organizational changes or reforms necessary for the Department to effectively execute its biodefense mission and role, including with respect to public and private partners in the biodefense enterprise; and

(E) assess the risk of high-risk gain-of-function research to the homeland security of the United States and identify the gaps in the response of the Department to that risk.

(3) *STRATEGY.*—Not later than 1 year after completion of the review required under paragraph (1), the Secretary shall issue a biodefense strategy for the Department that—

(A) is informed by such review and is aligned with section 1086 of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 104; relating to the development of a national biodefense strategy and associated implementation plan, including a review and assessment of biodefense

policies, practices, programs, and initiatives) or any successor strategy; and

(B) shall—

(i) describe the biodefense mission and role of the Department, as well as how such mission and role relates to the biodefense lines of effort of the Department;

(ii) clarify, as necessary, biodefense roles, responsibilities, and capabilities of the components and offices of the Department involved in the biodefense lines of effort of the Department;

(iii) establish how biodefense lines of effort of the Department are to be coordinated within the Department;

(iv) establish how the Department engages with public and private partners in the biodefense enterprise, including other Federal agencies, national laboratories and sites, and State, local, and Tribal entities, with specificity regarding the frequency and nature of such engagement by Department components and offices with State, local, and Tribal entities; and

(v) include information relating to—

(I) milestones and performance metrics that are specific to the biodefense mission and role of the Department described in clause (i); and

(II) implementation of any operational changes necessary to carry out clauses (iii) and (iv).

(4) *PERIODIC UPDATE.*—Beginning not later than 5 years after the issuance of the biodefense strategy and implementation plans required under paragraph (3), and not less often than once every 5 years thereafter, the Secretary shall review and update, as necessary, such strategy and plans.

(5) *CONGRESSIONAL OVERSIGHT.*—Not later than 30 days after the issuance of the biodefense strategy and implementation plans required under paragraph (3), the Secretary shall brief the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding such strategy and plans.

(c) *EMPLOYEE MORALE.*—Not later than 180 days after the date of enactment of the Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023, the Office shall submit to and brief the appropriate congressional committees on a strategy and plan to continuously improve morale within the Office.

(d) *COMPTROLLER GENERAL.*—Not later than 1 year after the date of enactment of the Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023, the Comptroller General of the United States shall conduct a review of and brief the appropriate congressional committees on—

(1) the efforts of the Office to prioritize the programs and activities that carry out the mission of the Office, including research and development;

(2) the consistency and effectiveness of stakeholder coordination across the mission of the Office, including operational and support components of the Department and State and local entities; and

(3) the efforts of the Office to manage and coordinate the lifecycle of research and development within the Office and with

other components of the Department, including the Science and Technology Directorate.

(e) NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE.—

(1) STUDY.—The Secretary shall enter into an agreement with the National Academies of Sciences, Engineering, and Medicine to conduct a consensus study and report to the Secretary and the appropriate congressional committees on—

(A) the role of the Department in preparing, detecting, and responding to biological and health security threats to the homeland;

(B) recommendations to improve departmental biosurveillance efforts against biological threats, including any relevant biological detection methods and technologies; and

(C) the feasibility of different technological advances for biodetection compared to the cost, risk reduction, and timeliness of those advances.

(2) BRIEFING.—Not later than 1 year after the date on which the Secretary receives the report required under paragraph (1), the Secretary shall brief the appropriate congressional committees on—

(A) the implementation of the recommendations included in the report; and

(B) the status of biological detection at the Department, and, if applicable, timelines for the transition to updated technology.

(f) ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Offices of Countering Weapons of Mass Destruction and Health Security Act of 2023, the Secretary shall establish an advisory body to advise on the ongoing coordination of the efforts of the Department to counter weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats, to be known as the Advisory Council for Countering Weapons of Mass Destruction (in this subsection referred to as the ‘Advisory Council’).

(2) MEMBERSHIP.—The members of the Advisory Council shall—

(A) be appointed by the Assistant Secretary; and

(B) to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials from State, local, and Tribal governments, academia, the private sector, national laboratories, and non-governmental organizations, including, as appropriate—

(i) members selected from the emergency management field and emergency response providers;

(ii) State, local, and Tribal government officials;

(iii) experts in the public and private sectors with expertise in chemical, biological, radiological, or nuclear materials, devices, or agents;

(iv) representatives from the national laboratories; and

(v) such other individuals as the Assistant Secretary determines to be appropriate.

(3) RESPONSIBILITIES.—The Advisory Council shall—

(A) advise the Assistant Secretary on all aspects of countering weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats;

(B) incorporate State, local, and Tribal government, national laboratories, and private sector input in the development of the strategy and implementation plan of the Department for countering weapons of mass destruction and chemical, biological, radiological, nuclear, and other related emerging threats; and

(C) provide advice on performance criteria for a national biological detection system and review the testing protocol for biological detection prototypes.

(4) *CONSULTATION.*—To ensure input from and coordination with State, local, and Tribal governments, the Assistant Secretary shall regularly consult and work with the Advisory Council on the administration of Federal assistance provided by the Department, including with respect to the development of requirements of Office programs, as appropriate.

(5) *VOLUNTARY SERVICE.*—The members of the Advisory Council shall serve on the Advisory Council on a voluntary basis.

(6) *FACA.*—Chapter 10 of title 5, United States Code, shall not apply to the Advisory Council.

(7) *QUALIFICATIONS.*—Each member of the Advisory Council shall—

(A) be impartial in any advice provided to the Advisory Council; and

(B) not seek to advance any political position or predetermined conclusion as a member of the Advisory Council.

* * * * *

[Subtitle C—Chief Medical Officer]

[SEC. 1931. CHIEF MEDICAL OFFICER.

[(a) *IN GENERAL.*—There is in the Office a Chief Medical Officer, who shall be appointed by the President. The Chief Medical Officer shall report to the Assistant Secretary.

[(b) *QUALIFICATIONS.*—The individual appointed as Chief Medical Officer shall be a licensed physician possessing a demonstrated ability in and knowledge of medicine and public health.

[(c) *RESPONSIBILITIES.*—The Chief Medical Officer shall have the responsibility within the Department for medical issues related to natural disasters, acts of terrorism, and other man-made disasters, including—

[(1) serving as the principal advisor on medical and public health issues to the Secretary, the Administrator of the Federal Emergency Management Agency, the Assistant Secretary, and other Department officials;

[(2) providing operational medical support to all components of the Department;

[(3) as appropriate, providing medical liaisons to the components of the Department, on a reimbursable basis, to provide subject matter expertise on operational medical issues;

[(4) coordinating with Federal, State, local, and Tribal governments, the medical community, and others within and outside the Department, including the Centers for Disease Control and Prevention and the Office of the Assistant Secretary for Preparedness and Response of the Department of Health and Human Services, with respect to medical and public health matters; and

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

[SEC. 1932. MEDICAL COUNTERMEASURES.

[(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall, as appropriate, establish a medical countermeasures program within the components of the Department to—

[(1) facilitate personnel readiness and protection for the employees and working animals of the Department in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, other event impacting health, or pandemic; and

[(2) support the mission continuity of the Department.

[(b) OVERSIGHT.—The Secretary, acting through the Chief Medical Officer of the Department, shall—

[(1) provide programmatic oversight of the medical countermeasures program established under subsection (a); and

[(2) develop standards for—

[(A) medical countermeasure storage, security, dispensing, and documentation;

[(B) maintaining a stockpile of medical countermeasures, including antibiotics, antivirals, antidotes, therapeutics, and radiological countermeasures, as appropriate;

[(C) ensuring adequate partnerships with manufacturers and executive agencies that enable advance prepositioning by vendors of inventories of appropriate medical countermeasures in strategic locations nationwide, based on risk and employee density, in accordance with applicable Federal statutes and regulations;

[(D) providing oversight and guidance regarding the dispensing of stockpiled medical countermeasures;

[(E) ensuring rapid deployment and dispensing of medical countermeasures in a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, other event impacting health, or pandemic;

[(F) providing training to employees of the Department on medical countermeasures; and

[(G) supporting dispensing exercises.

[(c) MEDICAL COUNTERMEASURES WORKING GROUP.—The Secretary, acting through the Chief Medical Officer of the Department, shall establish a medical countermeasures working group comprised of representatives from appropriate components and offices of the Department to ensure that medical countermeasures standards are maintained and guidance is consistent.

[(d) MEDICAL COUNTERMEASURES MANAGEMENT.—Not later than 120 days after the date on which appropriations are made available to carry out subsection (a), the Chief Medical Officer shall develop

and submit to the Secretary an integrated logistics support plan for medical countermeasures, including—

【(1) a methodology for determining the ideal types and quantities of medical countermeasures to stockpile and how frequently such methodology shall be reevaluated;

【(2) a replenishment plan; and

【(3) inventory tracking, reporting, and reconciliation procedures for existing stockpiles and new medical countermeasure purchases.

【(e) TRANSFER.—Not later than 120 days after the date of enactment of this section, the Secretary shall transfer all medical countermeasures-related programmatic and personnel resources from the Under Secretary for Management to the Chief Medical Officer.

【(f) STOCKPILE ELEMENTS.—In determining the types and quantities of medical countermeasures to stockpile under subsection (d), the Secretary, acting through the Chief Medical Officer of the Department—

【(1) shall use a risk-based methodology for evaluating types and quantities of medical countermeasures required; and

【(2) may use, if available—

【(A) chemical, biological, radiological, and nuclear risk assessments of the Department; and

【(B) guidance on medical countermeasures of the Office of the Assistant Secretary for Preparedness and Response and the Centers for Disease Control and Prevention.

【(g) BRIEFING.—Not later than 180 days after the date of enactment of this section, the Secretary shall provide a briefing to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding—

【(1) the plan developed under subsection (d); and

【(2) implementation of the requirements of this section.

【(h) DEFINITION.—In this section, the term “medical countermeasures” means antibiotics, antivirals, antidotes, therapeutics, radiological countermeasures, and other countermeasures that may be deployed to protect the employees and working animals of the Department in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, other event impacting health, or pandemic.】

* * * * *

TITLE XXIII—OFFICE OF HEALTH SECURITY

【SEC. 1931. CHIEF MEDICAL OFFICER.】 SEC. 2301. OFFICE OF HEALTH SECURITY.

【(a) IN GENERAL.—There is in the Office a Chief Medical Officer, who shall be appointed by the President. The Chief Medical Officer shall report to the Assistant Secretary.

【(b) QUALIFICATIONS.—The individual appointed as Chief Medical Officer shall be a licensed physician possessing a demonstrated ability in and knowledge of medicine and public health.】

(a) IN GENERAL.—*There is established in the Department an Office of Health Security.*

(b) *HEAD OF OFFICE OF HEALTH SECURITY.*—*The Office of Health Security shall be headed by a chief medical officer, who shall—*

- (1) *be the Assistant Secretary for Health Security and the Chief Medical Officer of the Department;*
- (2) *be a licensed physician possessing a demonstrated ability in and knowledge of medicine and public health;*
- (3) *be appointed by the President; and*
- (4) *report directly to the Secretary.*

(c) *RESPONSIBILITIES.*—*The Chief Medical Officer shall have the responsibility within the Department for [medical issues related to natural disasters, acts of terrorism, and other man-made disasters] medical activities of the Department and all workforce-focused health and safety activities of the Department, including—*

- (1) *-serving as the principal advisor on medical and public health issues to the Secretary [, the Administrator of the Federal] Emergency Management Agency, the Assistant Secretary, and other Department officials] and all other Department officials;*

(2) * * *

(3) * * *

- (4) *coordinating with Federal, State, local, and Tribal governments, the medical community, and others within and outside the Department, including the Centers for Disease Control and Prevention and the Office of the Assistant Secretary for Preparedness and Response of the Department of Health and Human Services, with respect to medical and public health matters; [and]*

(5) *overseeing all medical activities of the Department, including the delivery, advisement, and support of direct patient care and the organization, management, and staffing of component operations that deliver direct patient care;*

(6) *advising the head of each component of the Department that delivers direct patient care regarding the recruitment and appointment of a component chief medical officer and deputy chief medical officer or the employees who function in the capacity of chief medical officer and deputy chief medical officer;*

(7) *advising the Secretary and the head of each component of the Department that delivers direct patient care regarding knowledge and skill standards for medical personnel and the assessment of that knowledge and skill;*

(8) *in coordination with the Chief Privacy Officer of the Department and the Chief Information Officer of the Department, advising the Secretary and the head of each component of the Department that delivers patient care regarding the collection, storage, and oversight of medical records;*

(9) *with respect to any psychological health counseling or assistance program of the Department, including such a program of a law enforcement, operational, or support component of the Department, advising the head of each such component with such a program regarding—*

- (A) *ensuring such program includes safeguards against adverse actions by such component with respect to any employee solely because the employee identifies a need for psychological health counseling or assistance or receives such assistance;*

(B) ensuring such program includes safeguards regarding automatic referrals for employment-related examinations or inquires that are based solely on an employee who self identifies a need for psychological health counseling or assistance or receives such counseling or assistance, except that such safeguards shall not prevent a component referral to evaluate the ability of an employee to meet established medical or psychological standards by such component or to evaluate the national security eligibility of the employee;

(C) increasing the availability and number of local psychological health professionals with experience providing psychological support services to personnel;

(D) establishing a behavioral health curriculum for employees at the beginning of their careers to provide resources early regarding the importance of psychological health;

(E) establishing periodic management training on crisis intervention and such component's psychological health counseling or assistance program;

(F) improving any associated existing employee peer support programs, including by making additional training and resources available for peer support personnel in the workplace across such component;

(G) developing and implementing a voluntary alcohol treatment program that includes a safe harbor for employees who seek treatment;

(H) prioritizing, as appropriate, expertise in the provision of psychological health counseling and assistance for certain populations of the workforce, such as employees serving in positions within law enforcement, to help improve outcomes for those employees receiving that counseling or assistance; and

(I) including, when appropriate, collaborating and partnering with key employee stakeholders and, for those components with employees with an exclusive representative, the exclusive representative with respect to such a program;

(10) in consultation with the Chief Information Officer of the Department—

(A) identifying methods and technologies for managing, updating, and overseeing patient records; and

(B) setting standards for technology used by the components of the Department regarding the collection, storage, and oversight of medical records;

(11) advising the Secretary and the head of each component of the Department that delivers direct patient care regarding contracts for the delivery of direct patient care, other medical services, and medical supplies;

(12) coordinating with—

(A) the Countering Weapons of Mass Destruction Office;

(B) other components of the Department as directed by the Secretary;

(C) Federal agencies, including the Department of Agriculture, the Department of Health and Human Services, the

Department of State, and the Department of Transportation;

(D) State, local, and Tribal governments; and

(E) the medical community; and

[(5)] (13) performing such other duties relating to such responsibilities as the Secretary may require.

(d) ASSISTANCE AND AGREEMENTS.—The Secretary, acting through the Chief Medical Officer, in support of the medical activities of the Department, may—

(1) provide technical assistance, training, and information to State, local, and Tribal governments and nongovernmental organizations;

(2) enter into agreements with other Federal agencies; and

(3) accept services from personnel of components of the Department and other Federal agencies on a reimbursable or non-reimbursable basis.

(e) OFFICE OF HEALTH SECURITY PRIVACY OFFICER.—There shall be a Privacy Officer in the Office of Health Security with primary responsibility for privacy policy and compliance within the Office, who shall—

(1) report directly to the Chief Medical Officer; and

(2) ensure privacy protections are integrated into all Office of Health Security activities, subject to the review and approval of the Chief Privacy Officer of the Department to the extent consistent with the authority of the Chief Privacy Officer of the Department under section 222.

(f) ACCOUNTABILITY.—

(1) STRATEGY AND IMPLEMENTATION PLAN.—Not later than 180 days after the date of enactment of this subsection, and every 4 years thereafter, the Secretary shall create a Departmentwide strategy and implementation plan to address medical activities of, and the workforce health and safety matters under the purview of, the Department.

(2) BRIEFING.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall brief the appropriate congressional committees on the organizational transformations of the Office of Health Security, including how best practices were used in the creation of the Office of Health Security.

[SEC. 710] SEC. 2302. WORKFORCE HEALTH AND [MEDICAL SUPPORT] SAFETY.

(a) IN GENERAL.—The [Under Secretary for Management] Chief Medical Officer shall be responsible for workforce-focused health and medical activities of the Department. The [Under Secretary for Management] Chief Medical Officer may further delegate responsibility for those activities, as appropriate.

(b) RESPONSIBILITIES.—The [Under Secretary for Management, in coordination with the Chief Medical Officer,] Chief Medical Officer shall—

*(1) * * **

*(2) * * **

(3) [as deemed appropriate by the Under Secretary,] provide medical liaisons to the components of the Department, on a reimbursable basis, to provide subject matter expertise on occupational medical and public health issues;

*(4) * * **

(5) * * *

[SEC. 528] SEC. 2303. COORDINATION OF DEPARTMENT OF HOMELAND SECURITY EFFORTS RELATED TO FOOD, AGRICULTURE, AND VETERINARY DEFENSE AGAINST TERRORISM.

(a) PROGRAM REQUIRED.—The Secretary, acting through the [Assistant Secretary for the Countering Weapons of Mass Destruction Office] *Chief Medical Officer*, shall carry out a program to coordinate the Department’s efforts related to defending the food, agriculture, and veterinary systems of the United States against terrorism and other high-consequence events that pose a high risk to homeland security.

(b) PROGRAM ELEMENTS.—The coordination program required by subsection (a) shall include, at a minimum, the following:

(1) Providing oversight and management of the Department’s responsibilities pursuant to [Homeland Security Presidential Directive 9—Defense of United States Agriculture and Food] *National Security Memorandum 16—Strengthening the Security and Resilience of the United States Food and Agriculture.*

(2) * * *

(3) * * *

(4) * * *

(5) * * *

(6) Coordinating with the Department of Agriculture and other appropriate Federal departments and agencies.

* * * * *

[SEC. 1932] SEC. 2304. MEDICAL COUNTERMEASURES.

(a) * * *

* * * * *

(f) * * *

(1) * * *

(2) * * *

(A) * * *

(B) guidance on medical countermeasures of the [Office of the Assistant Secretary for Preparedness and Response] *Administration for Strategic Preparedness and Response* and the Centers for Disease Control and Prevention.

* * * * *

SEC. 2305. RULES OF CONSTRUCTION.

Nothing in this title shall be construed to—

(1) override or otherwise affect the requirements described in section 888;

(2) require the advice of the Chief Medical Officer on the appointment of Coast Guard officers or the officer from the Public Health Service of the Department of Health and Human Services assigned to the Coast Guard;

(3) provide the Chief Medical Officer with authority to take any action that would diminish the interoperability of the Coast Guard medical system with the medical systems of the other branches of the Armed Forces of the United States; or

(4) affect or diminish the authority of the Secretary of Health and Human Services or to grant to the Chief Medical Officer any authority that is vested in, or delegated to, the Secretary of Health and Human Services.

SEC. 2306. CONFIDENTIALITY OF MEDICAL QUALITY ASSURANCE RECORDS.

(a) *DEFINITIONS.—In this section:*

(1) *HEALTH CARE PROVIDER.—The term ‘health care provider’ means an individual who—*

(A) *is—*

- (i) *an employee of the Department;*
 - (ii) *a detailee to the Department from another Federal agency;*
 - (iii) *a personal services contractor of the Department;*
- or*
- (iv) *hired under a contract for services with the Department;*

(B) *performs health care services as part of duties of the individual in that capacity; and*

(C) *has a current, valid, and unrestricted license or certification—*

- (i) *that is issued by a State; and*
- (ii) *that is for the practice of medicine, osteopathic medicine, dentistry, nursing, emergency medical services, or another health profession.*

(2) *MEDICAL QUALITY ASSURANCE PROGRAM.—The term ‘medical quality assurance program’ means any activity carried out on or after the date of enactment of this section by the Department to assess the quality of medical care, including activities conducted by individuals, committees, or other review bodies responsible for quality assurance, credentials, infection control, incident reporting, the delivery, advisement, and support of direct patient care and assessment (including treatment procedures, blood, drugs, and therapeutics), medical records, health resources management review, or identification and prevention of medical, mental health, or dental incidents and risks.*

(3) *MEDICAL QUALITY ASSURANCE RECORD OF THE DEPARTMENT.—The term ‘medical quality assurance record of the Department’ means the proceedings, records (including patient records that the Department creates and maintains as part of a system of records), minutes, and reports that—*

(A) *emanate from quality assurance program activities described in paragraph (2); and*

(B) *are produced or compiled by the Department as part of a medical quality assurance program.*

(b) *CONFIDENTIALITY OF RECORDS.—A medical quality assurance record of the Department that is created as part of a medical quality assurance program—*

(1) *is confidential and privileged; and*

(2) *except as provided in subsection (d), may not be disclosed to any person or entity.*

(c) *PROHIBITION ON DISCLOSURE AND TESTIMONY.—Except as otherwise provided in this section—*

(1) *no part of any medical quality assurance record of the Department may be subject to discovery or admitted into evidence in any judicial or administrative proceeding; and*

(2) *an individual who reviews or creates a medical quality assurance record of the Department or who participates in any proceeding that reviews or creates a medical quality assurance*

record of the Department may not be permitted or required to testify in any judicial or administrative proceeding with respect to such record or with respect to any finding, recommendation, evaluation, opinion, or action taken by such individual in connection with such record.

(d) AUTHORIZED DISCLOSURE AND TESTIMONY.—

(1) IN GENERAL.—Subject to paragraph (2), a medical quality assurance record of the Department may be disclosed, and a person described in subsection (c)(2) may give testimony in connection with the record, only as follows:

(A) To a Federal agency or private organization, if such medical quality assurance record of the Department or testimony is needed by the Federal agency or private organization to—

(i) perform licensing or accreditation functions related to Department health care facilities, a facility affiliated with the Department, or any other location authorized by the Secretary for the performance of health care services; or

(ii) perform monitoring, required by law, of Department health care facilities, a facility affiliated with the Department, or any other location authorized by the Secretary for the performance of health care services.

(B) To an administrative or judicial proceeding concerning an adverse action related to the credentialing of or health care provided by a present or former health care provider by the Department.

(C) To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record of the Department or testimony is needed by the board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was a health care provider for the Department.

(D) To a hospital, medical center, or other institution that provides health care services, if such medical quality assurance record of the Department or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was a health care provider for the Department and who has applied for or been granted authority or employment to provide health care services in or on behalf of the institution.

(E) To an employee, a detailee, or a contractor of the Department who has a need for such medical quality assurance record of the Department or testimony to perform official duties or duties within the scope of their employment or contract.

(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of the agency or instrumentality makes a written request that such medical quality assurance record of the Department or testimony be provided for a purpose authorized by law.

(G) *In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality described in subparagraph (F), but only with respect to the subject of the proceeding.*

(2) **PERSONALLY IDENTIFIABLE INFORMATION.**—

(A) **IN GENERAL.**—*With the exception of the subject of a quality assurance action, personally identifiable information of any person receiving health care services from the Department or of any other person associated with the Department for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record of the Department shall be deleted from that record before any disclosure of the record is made outside the Department.*

(B) **APPLICATION.**—*The requirement under subparagraph (A) shall not apply to the release of information that is permissible under section 552a of title 5, United States Code (commonly known as the ‘Privacy Act of 1974’).*

(e) **DISCLOSURE FOR CERTAIN PURPOSES.**—*Nothing in this section shall be construed—*

(1) *to authorize or require the withholding from any person or entity de-identified aggregate statistical information regarding the results of medical quality assurance programs, under de-identification standards developed by the Secretary in consultation with the Secretary of Health and Human Services, as appropriate, that is released in a manner in accordance with all other applicable legal requirements; or*

(2) *to authorize the withholding of any medical quality assurance record of the Department from a committee of either House of Congress, any joint committee of Congress, or the Comptroller General of the United States if the record pertains to any matter within their respective jurisdictions.*

(f) **PROHIBITION ON DISCLOSURE OF INFORMATION, RECORDS, OR TESTIMONY.**—*A person or entity having possession of or access to a medical quality assurance record of the Department or testimony described in this section may not disclose the contents of the record or testimony in any manner or for any purpose except as provided in this section.*

(g) **EXEMPTION FROM FREEDOM OF INFORMATION ACT.**—*A medical quality assurance record of the Department shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code.*

(h) **LIMITATION ON CIVIL LIABILITY.**—*A person who participates in the review or creation of, or provides information to a person or body that reviews or creates, a medical quality assurance record of the Department shall not be civilly liable under this section for that participation or for providing that information if the participation or provision of information was—*

(1) *provided in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place; and*

(2) *made in accordance with any other applicable legal requirement, including Federal privacy laws and regulations.*

(i) **APPLICATION TO INFORMATION IN CERTAIN OTHER RECORDS.**—*Nothing in this section shall be construed as limiting access to the information in a record created and maintained outside a medical*

quality assurance program, including the medical record of a patient, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

(j) *PENALTY.*—Any person who willfully discloses a medical quality assurance record of the Department other than as provided in this section, knowing that the record is a medical quality assurance record of the Department shall be fined not more than \$3,000 in the case of a first offense and not more than \$20,000 in the case of a subsequent offense.

(k) *RELATIONSHIP TO COAST GUARD.*—The requirements of this section shall not apply to any medical quality assurance record of the Department that is created by or for the Coast Guard as part of a medical quality assurance program.

(l) *CONTINUED PROTECTION.*—Disclosure under subsection (d) does not permit redisclosure except to the extent the further disclosure is authorized under subsection (d) or is otherwise authorized to be disclosed under this section.

(m) *RELATIONSHIP TO OTHER LAW.*—This section shall continue in force and effect, except as otherwise specifically provided in any Federal law enacted after the date of enactment of this Act.

(n) *RULE OF CONSTRUCTION.*—Nothing in this section shall be construed to supersede the requirements of—

(1) the Health Insurance Portability and Accountability Act of 1996 (Public Law 104—191; 110 Stat. 1936) and its implementing regulations;

(2) part 1 of subtitle D of title XIII of the Health Information Technology for Economic and Clinical Health Act (42 U.S.C. 17931 et seq.) and its implementing regulations; or

(3) sections 921 through 926 of the Public Health Service Act (42 U.S.C. 299b—21 through 299b—26) and their implementing regulations.

* * * * *

**COUNTERING WEAPONS OF MASS
DESTRUCTION ACT OF 2018**

* * * * *

SEC. 2. COUNTERING WEAPONS OF MASS DESTRUCTION OFFICE.

* * * * *

(b) *REFERENCES AND CONSTRUCTION.*—

(1) * * *

(2) *CONSTRUCTION.*—Sections 1923 through [1927] 1926 of the Homeland Security Act of 2002, as redesignated by subsection (a), shall be construed to cover the chemical and biological responsibilities of the Assistant Secretary for the Countering Weapons of Mass Destruction Office.

* * * * *

(g) *DEPARTMENT OF HOMELAND SECURITY CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR ACTIVITIES.*—Not later than [one year after the date of the enactment of this Act, and annual thereafter,] *June 30 of each year*, the Secretary of Homeland Security shall provide a briefing and report to the appropriate congres-

sional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) on—

(1) * * *

(2) a comprehensive inventory of chemical, biological, radiological, and nuclear activities, including research and development activities, of the Department of Homeland Security, highlighting areas of collaboration between components, coordination with other agencies, and the effectiveness and accomplishments of consolidated chemical, biological, radiological, and nuclear activities of the Department of Homeland Security, including research and development activities

(3) * * *

* * * * *

SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT OF 2006

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Security and Accountability For Every Port Act of 2006” or the “SAFE Port Act”.

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

* * * * *

TITLE V—DOMESTIC NUCLEAR DETENTION OFFICE

* * * * *

Sec. 501. Establishment of Domestic Nuclear Detection Office.

Sec. 502. Technology research and development investment strategy for nuclear and radiological detection.

* * * * *

SEC. 502. TECHNOLOGY RESEARCH AND DEVELOPMENT INVESTMENT STRATEGY FOR NUCLEAR AND RADIOLOGICAL DETECTION.

[(a) IN GENERAL.—No later than 1 year after the date of the enactment of this Act, the Secretary, the Secretary of Energy, the Secretary of Defense, and the Director of National Intelligence shall submit to Congress a research and development investment strategy for nuclear and radiological detection.

[(b) CONTENTS.—The strategy under subsection (a) shall include—

[(1) a long term technology roadmap for nuclear and radiological detection applicable to the mission needs of the Department, the Department of Energy, the Department of Defense, and the Office of the Director of National Intelligence;

[(2) budget requirements necessary to meet the roadmap; and

[(3) documentation of how the Department, the Department of Energy, the Department of Defense, and the Office of the Director of National Intelligence will execute this strategy.

[(c) INITIAL REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees on—

[(1) the impact of this title, and the amendments made by this title, on the responsibilities under section 302 of the Homeland Security Act of 2002 (6 U.S.C. 182); and

[(2) the efforts of the Department to coordinate, integrate, and establish priorities for conducting all basic and applied research, development, testing, and evaluation of technology and systems to detect, prevent, protect, and respond to chemical, biological, radiological, and nuclear terrorist attacks

[(d) ANNUAL REPORT.—The Director for Domestic Nuclear Detection and the Under Secretary for Science and Technology shall jointly and annually notify Congress that the strategy and technology road map for nuclear and radiological detection developed under subsections (a) and (b) is consistent with the national policy and strategic plan for identifying priorities, goals, objectives, and policies for coordinating the Federal Government’s civilian efforts to identify and develop countermeasures to terrorist threats from weapons of mass destruction that are required under section 302(2) of the Homeland Security Act of 2002 (6 U.S.C. 182(2)).]

* * * * *

