

WMD PREVENTION AND PREPAREDNESS ACT OF 2010

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NOVEMBER 18, 2010.—Ordered to be printed

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Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5498]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 5498) to enhance homeland security by improving efforts to prevent, deter, prepare for, detect, attribute, respond to, and recover from an attack with a weapon of mass destruction, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:  
Strike all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “WMD Prevention and Preparedness Act of 2010”.

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

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

**TITLE I—INTELLIGENCE MATTERS**

Sec. 101. National intelligence strategy for countering the threat from weapons of mass destruction.  
Sec. 102. National intelligence strategy for countering biological threats.

**TITLE II—HOMELAND SECURITY MATTERS**

Sec. 201. Weapons of mass destruction prevention and preparedness.  
Sec. 202. Definitions.  
Sec. 203. Dual-use terrorist risks from synthetic genomics.  
Sec. 204. Dissemination of information analyzed by the Department to State, local, tribal, and private entities with responsibilities relating to homeland security.  
Sec. 205. National Biosurveillance Integration Center (NBIC).  
Sec. 206. Report on establishment of the system assessment and validation for emergency responders (SAVER) program.  
Sec. 207. National Academy of Sciences study of forensic science in homeland security.  
Sec. 208. Harmonization of regulations.  
Sec. 209. Communications planning for weapons of mass destruction information dissemination.  
Sec. 210. Environmental recovery from chemical, biological, radiological, and nuclear attacks.

**TITLE III—PUBLIC HEALTH MATTERS**

Sec. 301. National medical countermeasure dispensing strategy.  
Sec. 302. Material threat assessments and determinations.  
Sec. 303. National pre-event vaccination and antimicrobial dispensing policy review.  
Sec. 304. Designation of tier 1 material threat agents.  
Sec. 305. Background checks.  
Sec. 306. Biotechnology research, development, and procurement.

**TITLE IV—FOREIGN RELATIONS MATTERS**

Sec. 401. International collaboration and information sharing relating to biosecurity.  
Sec. 402. International engagement to enhance biodefense and biosecurity.  
Sec. 403. Interagency task force on best practices for global biopreparedness.  
Sec. 404. Biological and Toxin Weapons Convention.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) The term “appropriate congressional committees” means the Committee on Homeland Security of the House of Representatives and any committee of the House of Representatives or the Senate having legislative jurisdiction under the rules of the House of Representatives or Senate, respectively, over the matter concerned.

(2) The term “weapon of mass destruction” has the meaning given that term in section 1403(1) fo the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302).

(3) The term “Intelligence Community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(4) The term “national biosecurity and biodefense stakeholders” means officials from the Federal, State, local, and tribal authorities and individuals from the private sector who are involved in efforts to prevent, deter, prepare for, detect, attribute, respond, and recover from a biological attack or other phenomena that may have serious health consequences for the United States, including wide-scale fatalities or infectious disease outbreaks.

**TITLE I—INTELLIGENCE MATTERS**

**SEC. 101. NATIONAL INTELLIGENCE STRATEGY FOR COUNTERING THE THREAT FROM WEAPONS OF MASS DESTRUCTION.**

(a) **STRATEGY.**—

(1) **DEVELOPMENT.**—The Director of National Intelligence, in consultation with the Secretary of Homeland Security and the heads of other appropriate Federal departments and agencies, shall develop and implement—

(A) a strategy designed to improve the capabilities of the United States to collect, analyze, and disseminate intelligence related to weapons of mass destruction; and

(B) a plan to implement such strategy.

(2) TITLE.—The strategy required under paragraph (1) shall be known as the “National Intelligence Strategy for Countering the Threat from Weapons of Mass Destruction”.

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

(1) include methods for the recruitment, training, and retention of a workforce with expertise in the collection, analysis, and dissemination of intelligence related to all types of weapons of mass destruction and science and technology related to weapons of mass destruction, as well as expertise in science and technology relating to threats posed by weapons of mass destruction;

(2) include methods for collaboration, as appropriate, with individuals with the expertise described in paragraph (1) who are not employed by the Federal Government;

(3) identify and address domestic needs for analysis and collection including the development of innovative human and technical intelligence collection capabilities and techniques; and

(4) address each type of weapon of mass destruction as necessary and appropriate.

(c) IMPLEMENTATION PLAN.—The plan for implementing the strategy required under subsection (a) shall include—

(1) actions necessary to increase the effectiveness and efficiency of the sharing of intelligence on weapons of mass destruction throughout the Intelligence Community, including a description of statutory, regulatory, policy, technical, security, or other barriers that prevent such sharing, and, as appropriate, the development of uniform standards across the Intelligence Community for such sharing;

(2) methods to disseminate intelligence products to national biosecurity and biodefense stakeholders in unclassified formats to increase the effectiveness and efficiency of the sharing of information;

(3) actions necessary to provide open-source intelligence relating to weapons of mass destruction to—

(A) appropriate Federal departments and agencies;

(B) State, local, and tribal authorities; and

(C) private entities;

(4) specific objectives to be accomplished, with corresponding schedule, for each year of the five-year period that begins on the date on which the strategy is submitted to the appropriate congressional committees under subsection (e) and tasks to accomplish such objectives, including—

(A) a list prioritizing such objectives and such tasks; and

(B) a schedule for meeting such objectives and carrying out such tasks;

(5) assignments of roles and responsibilities to elements of the Intelligence Community to implement the strategy; and

(6) a schedule for assessment of the effectiveness and efficiency of the strategy, including metrics.

(d) COORDINATION.—The Director of National Intelligence shall, as the Director considers appropriate, coordinate with State, local, and tribal government authorities, private sector, and nongovernmental organizations in the development of the National Intelligence Strategy for Countering the Threat from Weapons of Mass Destruction.

(e) REPORT.—Not later than one year after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the Secretary of Homeland Security, shall submit to the appropriate congressional committees the strategy and plan required under subsection (a). The report shall be in unclassified form but with a classified annex, as appropriate.

#### SEC. 102. NATIONAL INTELLIGENCE STRATEGY FOR COUNTERING BIOLOGICAL THREATS.

(a) STRATEGY.—

(1) DEVELOPMENT.—The Director of National Intelligence, in consultation with the Secretary of Homeland Security and the heads of other appropriate Federal departments and agencies, shall develop and implement a strategy and a plan for implementing the strategy that is integrated into the National Intelligence Strategy for Countering the Threat from Weapons of Mass Destruction, as required under this title.

(2) TITLE.—The strategy required under paragraph (1) shall be known as the “National Intelligence Strategy for Countering Biological Threats”.

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

- (1) include a for plan for establishing in the Intelligence Community a cadre of—
- (A) collectors and analysts in all agencies in the Intelligence Community that are familiar with biological threats, biological science, and biotechnology;
  - (B) biological scientists;
  - (C) biotechnologists; and
  - (D) experts with knowledge of the current state of technologies that could be used to develop a weapon of mass destruction;
- (2) include a plan for defining the functions, capabilities, and gaps with respect to addressing the risk of a weapon of mass destruction attack in the intelligence workforce;
- (3) identify strategies to recruit, retain, and protect such workforce from workplace exposures to biological agents in the conduct of the duties of such workforce;
- (4) include methods for collaboration, as appropriate, with individuals with expertise described in paragraph (1) who are not employed by the Federal Government;
- (5) address domestic and international needs for analysis and collection;
- (6) include a plan for defining, integrating, focusing, and enhancing existing capabilities in the Intelligence Community dedicated to current tactical and strategic biological threats; and
- (7) include a plan for ensuring the prioritization and sustained commitment of intelligence personnel and resources to address biological threats.
- (c) IMPLEMENTATION PLAN.—The implementation plan for the strategy required under subsection (a) shall—
- (1) include actions necessary to increase the effectiveness and efficiency of the sharing of intelligence throughout the Intelligence Community on biological weapons and organisms that could be used for biological terrorism, including a description of statutory, regulatory, policy, technical, security, or other barriers that prevent such sharing, and, as appropriate, the development of uniform standards across the Intelligence Community for such sharing;
  - (2) address strategic and tactical human intelligence, measurement and signature intelligence, technical intelligence, medical intelligence, and open-source intelligence activities necessary to implement the strategy;
  - (3) identify specific objectives to be accomplished during each year of the five-year period that begins on the date on which the strategy is submitted to the appropriate congressional committees under subsection (d) and tasks to accomplish such objectives, including—
    - (A) a list prioritizing such objectives and such tasks; and
    - (B) a schedule for meeting such objectives and carrying out such tasks;
  - (4) assign roles and responsibilities to elements of the Intelligence Community to implement the strategy;
  - (5) a schedule for assessment of the effectiveness and efficiency of the strategy, including metrics; and
  - (6) a schedule for evaluating on a regular basis the efforts of the Intelligence Community and progress on understanding and countering biological threats.
- (d) REPORT.—Not later than one year after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the Secretary of Homeland Security, shall submit to the appropriate congressional committees the strategy and plan required under subsection (a). The report shall be in unclassified form but with a classified annex, as appropriate.

## **TITLE II—HOMELAND SECURITY MATTERS**

### **SEC. 201. WEAPONS OF MASS DESTRUCTION PREVENTION AND PREPAREDNESS.**

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following new title:

## **“TITLE XXI—WEAPONS OF MASS DESTRUCTION PREVENTION AND PREPAREDNESS**

### **“Subtitle A—Prevention and Deterrence**

#### **“SEC. 2101. WEAPONS OF MASS DESTRUCTION INTELLIGENCE AND INFORMATION SHARING UNIT.**

“(a) **IN GENERAL.**—There is established in the Office of Intelligence and Analysis of the Department a unit for weapons of mass destruction intelligence and information sharing. The unit shall conduct intelligence and information sharing activities consistent with the National Intelligence Strategy for Countering the Threat from Weapons of Mass Destruction under section 101 of the WMD Prevention and Preparedness Act of 2010 and the National Intelligence Strategy for Countering Biological Threats under section 102 of that Act and shall—

“(1) evaluate and establish a baseline of terrorist actors, their claims, and their plans to conduct attacks involving chemical, biological, radiological, and nuclear materials against the Nation;

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

“(3) provide tailored analytical support on these threats to State, local, and tribal authorities as well as members of the public health, scientific, and response communities; and

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

“(b) **COORDINATION.**—Where appropriate, the unit shall coordinate with others in the Intelligence Community, including the National Counter Proliferation Center.

“(c) **REPORT.**—Not later than one year after the date of the enactment of this section and annually thereafter, the Secretary shall report to the appropriate congressional committees on the intelligence and information sharing activities of the unit for weapons of mass destruction intelligence and information sharing established under subsection (a) and all relevant entities within the Department to counter the threat from weapons of mass destruction and how the Department acted in accordance with relevant intelligence strategies, including the National Intelligence Strategy for Countering the Threat from Weapons of Mass Destruction and the National Intelligence Strategy for Countering Biological Threats.

#### **“SEC. 2102. INFORMATION SHARING AND COLLABORATION FOR BIOSECURITY AND BIODEFENSE.**

“(a) **RESPONSIBILITIES OF SECRETARY OF HOMELAND SECURITY.**—To increase situational awareness, the Secretary, acting through the Under Secretary for Intelligence and Analysis, shall—

“(1) to the greatest extent practicable, integrate into the homeland security, intelligence, and information sharing process national biosecurity and biodefense stakeholders;

“(2) develop an information sharing framework for homeland security intelligence and information sharing with the national biosecurity and biodefense stakeholders;

“(3) enable national biosecurity and biodefense stakeholders to provide recommendations with respect to the development of mechanisms and protocols to integrate information from national biosecurity and biodefense stakeholders;

“(4) leverage existing and emerging homeland security capabilities and structures, including fusion centers established pursuant to section 210A, to enhance prevention, detection, preparedness, and collective response, attribution, and recovery efforts of from a biological attack or other phenomena that may have serious health consequences for the United States, including wide-scale fatalities or infectious disease outbreaks; and

“(5) advance partnerships between the Department and other Federal departments and agencies in assessing potential threats and the risks from the intentional use of biological agents by terrorists or other actors.

“(b) **COORDINATION WITH OTHER DEPARTMENTS AND AGENCIES.**—The Secretary shall work in coordination with the Secretary of State, the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal agencies.

#### **“SEC. 2103. BIOTERRORISM RISK ASSESSMENTS.**

“(a) **RISK ASSESSMENT.**—The Secretary, in coordination with the heads of other appropriate Federal departments and agencies, shall produce biennial integrated risk assessments, to be known as ‘Bioterrorism Risk Assessments’ to identify and assess the evolving terrorist risk of a biological attack or other phenomena that may

have serious health consequences for the United States, including wide-scale fatalities or infectious disease outbreaks. These assessments shall—

- “(1) identify the threat, vulnerability, and consequences of a biological terrorist attack against the United States;
- “(2) take into account intelligence and information regarding terrorist intentions, capabilities, plans, and actions;
- “(3) be used to inform and guide threat assessments and determinations made by the Secretary regarding agents and toxins pursuant to section 302(9), and to guide prioritization of other homeland security activities, as appropriate;
- “(4) provide the basis for risk-informed investments in national strategic biodefense research, development, planning, preparedness, and collective response to biological attacks;
- “(5) identify key knowledge and data gaps;
- “(6) define critical biodefense vulnerabilities;
- “(7) provide risk-based prioritization of agents for bioterrorism; and
- “(8) evaluate progress in implementing national biopreparedness policy.

“(b) REQUIREMENT.—The Secretary shall—

- “(1) convene an interagency task force of subject matter experts to provide recommendations to the Under Secretary for Science and Technology as to the adequacy of the methodology used in the Assessments and to establish requirements and standards for the Assessments;
- “(2) engage with national biosecurity and biodefense stakeholders to obtain their input regarding the Assessments, as appropriate; and
- “(3) ensure, to the greatest extent practicable, that the Assessments inform the risk management decisions of the Department and can be made available to national biosecurity and biodefense stakeholders, as appropriate.

**“SEC. 2104. RADIOLOGICAL MATERIALS SECURITY.**

“(a) RISK ASSESSMENT.—The Secretary shall enhance domestic preparedness for and collective response to terrorism by conducting annual risk assessments regarding the threat, vulnerability, and consequences of theft or other procurement of radiological materials that could be used by a terrorist in a radiological dispersion device, including any specific threat information pertinent to the use of radiological materials in a possible terrorist attack using a radiological dispersion device.

“(b) CONSIDERATIONS.—In conducting the terrorism risk assessments under subsection (a), the Secretary shall—

- “(1) consult with Secretary of Energy, Secretary of Health and Human Services, and the Nuclear Regulatory Commission;
- “(2) consider relevant studies previously prepared by other Federal agencies, or other reputable sources;
- “(3) focus on those radiological materials that constitute the greatest risk, and designate those materials as high-risk radiological materials for purposes of this section;
- “(4) consider the potential radiological dispersion device value of different radiological materials including availability, dispersability, and ease of handling of such materials;
- “(5) consider the vulnerability for theft or other procurement that different facilities represent; and
- “(6) consider the consequences of a successful radiological dispersion device attack, including risk of death or injury and economic losses.

“(c) CONSULTATION.—In conducting the terrorism risk assessments under subsection (a), the Secretary shall consult with the Intelligence Community, the Secretary of Energy and the Field Intelligence Elements of the National Laboratories, and the Nuclear Regulatory Commission, the Secretary of Health and Human Services, and other appropriate experts to integrate and analyze information needed to develop the risk assessment.

“(d) DISSEMINATION OF FINDINGS.—The Secretary shall disseminate the findings of the risk assessments and any specific risk information developed in the assessment to all participating agencies including those described in subsection (c), as well State and local agencies, and the facilities containing radiological source material and regulated by the Nuclear Regulatory Commission.

“(e) CLASSIFICATION.—The Secretary shall, as appropriate, share the terrorism risk assessments with law enforcement and critical infrastructure operators with appropriate security clearances. The Secretary shall also make available an unclassified version to each agency with which the Secretary is required to consult under subsection (c), as well as State and local law enforcement and public health authorities, and facilities possessing radiological materials with the support of the Department of Energy.

**“SEC. 2105. ENHANCED BIOSECURITY MEASURES.**

“(a) **REGULATIONS.**—At the request of the Secretary, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal agencies, shall, through a negotiated rule-making committee under subchapter III of chapter 5 of title 5, United States Code, establish enhanced biosecurity measures for persons or laboratories that possess, use, or transfer Tier I Material Threat Agents. Such measures shall include—

“(1) standards for personnel surety programs;

“(2) standards for biosecurity practices and training of responsible officials, laboratory personnel, and support personnel;

“(3) standards for performing laboratory vulnerability assessments in collaboration with each facility;

“(4) risk-based laboratory security performance standards;

“(5) penalties (including civil money penalties and intermediate sanctions), in addition to any other penalties that may apply under provisions of law; and

“(6) any other security standards determined necessary by the Secretary, the Secretary of Agriculture, Secretary of Health and Human Services, and other agencies as appropriate.

“(b) **NEGOTIATED RULEMAKING COMMITTEE.**—The Secretary shall establish a negotiated rulemaking committee for purposes of subsection (a). Such committee shall include a representative from each of the following:

“(1) The Department.

“(2) The Department of Health and Human Services.

“(3) The Department of Agriculture.

“(4) The Department of Defense.

“(5) The Department of Energy.

“(6) The Department of Justice.

“(7) For-profit research institutions.

“(8) Academic research institutions.

“(9) Nonprofit research institutions

“(10) Other stakeholders, as the Secretary determines appropriate.

“(c) **TIME REQUIREMENT.**—The procedures for the negotiated rulemaking referred to in subsection (a) shall be conducted in a timely manner to ensure that—

“(1) any recommendations with respect to proposed regulations are provided to the Secretary and the heads of the other appropriate Federal agencies not later than one year after the date of the enactment of this section; and

“(2) a final rule is promulgated not later than two years after the date of the enactment of this section.

“(d) **FACTORS TO BE CONSIDERED.**—In developing proposed and final standards pursuant to the negotiated rulemaking referred to in subsection (a), the negotiated rulemaking committee shall consider—

“(1) the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (established under section 1851 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 121 Stat. 501));

“(2) the National Science Advisory Board for Biosecurity (established under section 217a of title 42, United States Code, section 222 of the Public Health Service Act, and section 205 of the Pandemic and All-Hazards Preparedness Act);

“(3) any working group established under Executive Order 13486 (74 Fed. Reg. 2289) relating to strengthening laboratory biosecurity;

“(4) the Chemical Facility Anti-Terrorism Act of 2009; and

“(5) views from representatives of biosecurity and biodefense stakeholders for methods to minimize any disincentives to biological research arising from enhanced biosecurity measures.

“(e) **IMPLEMENTATION OF ENHANCED BIOSECURITY MEASURES.**—

“(1) **ENFORCEMENT.**—The Secretary of Agriculture and the Secretary of Health and Human Services, in consultation with the Secretary, as appropriate, shall enforce the measures established under subsection (a) and any standards promulgated pursuant to such section.

“(2) **TRAINING PROGRAMS.**—The Secretary of Agriculture and the Secretary of Health and Human Services, in coordination with the Secretary and the heads of other Federal agencies, as appropriate, shall develop training programs that comply with such measures and standards.

“(3) **PROCEDURES.**—The Secretary of Agriculture and the Secretary of Health and Human Services, in consultation with the Secretary and the heads of other Federal agencies, as appropriate, shall develop and implement procedures with respect to when and how penalties and intermediate sanctions may be imposed. Such procedures shall provide for notice, a reasonable opportunity to respond

to the proposed penalty or intermediate sanction, and appropriate procedures for appealing determinations relating to the imposition of a penalty or intermediate sanction.

**“(4) SIMULTANEOUS LABORATORY INSPECTIONS.—**

**“(A) INSPECTION DATA SHARING AND ENFORCEMENT UNIFORMITY.—**The Secretary of Agriculture and the Secretary of Health and Human Services shall periodically provide the Secretary with all data concerning inspections of laboratories that handle Tier 1 Material Threat Agents to ensure uniformity in enforcement of the regulations enacted under subsection (a) and to identify areas where the Secretary can provide guidance to the Secretary of Agriculture or the Secretary of Health and Human Services about approaches to enhance security at specific laboratories.

**“(B) SIMULTANEOUS INSPECTIONS.—**Any inspections of the same laboratory conducted by the Secretary of Agriculture pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 and the Secretary of Health and Human Services for compliance with regulations promulgated under the Select Agent Program under section 351A(a)(1) of the Public Health Service Act, shall be conducted simultaneously to the extent practicable.

**“(C) COMMON INSPECTION PROCEDURES.—**Departments conducting simultaneous inspections of a laboratory under this subsection shall ensure, to the maximum extent practicable, that such inspections are conducted using a common set of inspection procedures across such departments in order to minimize the administrative burden on such laboratory.

**“(D) INSPECTION REPORTS.—**Inspection reports generated under this paragraph shall be made available to each Federal agency that supports select agent laboratory activities at the institution that is the subject of the inspection report, and to the institutions that are the object of inspections.

**“SEC. 2106. TIER I MATERIAL THREAT AGENT LOCATIONS.**

“The Secretary of Agriculture and the Secretary of Health and Human Services shall provide to the Secretary a list of laboratories and other locations where Tier I Material Threat Agents are present in the United States and its territories.

**“SEC. 2107. HIGH CONTAINMENT BIOLOGICAL LABORATORY SECURITY GRANTS.**

**“(a) GRANTS AUTHORIZED.—**The Secretary, acting through the Administrator of the Federal Emergency Management Agency, may award grants based on risk to academic and nonprofit organizations and to State, local, and tribal authorities that possess, use, or transfer Tier I Material Threat Agents, to enhance security at laboratories of such organizations and authorities.

**“(b) AUTHORIZATION OF APPROPRIATIONS.—**There is authorized to be appropriated to the Department of Homeland Security to carry out this subsection \$50,000,000 for each of fiscal years 2011 through 2013.

**“SEC. 2108. LABORATORY BIOSECURITY INFORMATION SHARING.**

**“(a) IN GENERAL.—**Consistent with the responsibilities of the Secretary under section 201(d), the Secretary shall establish procedures, with appropriate controls on access, for the sharing of homeland security information, including vulnerability assessments, security plans, best practices and other laboratory biosecurity-related information, as the Secretary determines appropriate, with State, local, and tribal government authorities, including law enforcement authorities and emergency response providers.

**“(b) ACCESS TO INFORMATION IN DATABASES.—**In carrying out this section, the Secretary shall have access to and may use information from the national databases established under section 212(d)(2) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401(d)(2)) and subsections (d)(2) and (f)(3) of section 351A of the Public Health Service Act (42 U.S.C. 262a).

**“(c) CLASSIFIED AND SENSITIVE INFORMATION.—**The Secretary shall ensure that any information disseminated under this section is handled consistent with—

“(1) the authority of the Director of National Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures or similar authorities of the Attorney General concerning sensitive law enforcement information;

“(2) section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974); and

“(3) other relevant laws.

**“SEC. 2109. PERIODIC HOMELAND SECURITY REVIEW OF CRIMINAL STATUTES.**

**“(a) IN GENERAL.—**The Secretary, in coordination with the Attorney General and the heads of other Federal departments and agencies, as appropriate, shall, for purposes of enhancing homeland security—



“(1) periodically review and recommend updates to criminal laws to ensure that such laws are well suited to the evolving risks of misuse of life sciences by terrorists and others; and

“(2) ensure that national biosecurity and biodefense stakeholders at unique risk of exploitation have access to guidance regarding actions that can reduce the risk of misuse of life sciences by terrorists and others.

“(b) REPORT.—Not later than one year after the date of the enactment of this section, and biannually thereafter, the Secretary, in coordination with the Attorney General, shall submit to the appropriate congressional committees the recommended updates to criminal laws, as described in subsection (a)(1).

**“SEC. 2110. EXPORT ENFORCEMENT FOR COUNTER-PROLIFERATION.**

“(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Commerce, the Secretary of Defense, the Attorney General, the Secretary of State, the Director of National Intelligence, and the heads of other appropriate Federal agencies shall—

“(1) conduct homeland security investigations and enforce criminal violations of customs and export laws of the United States related to military items, controlled commodities, and sanctioned or embargoed countries to prevent individuals, terrorist groups, foreign adversaries, and hostile nations from—

“(A) illegally obtaining sensitive United States technology and munitions; and

“(B) obtaining weapons of mass destruction components, precursors, and delivery systems, including—

“(i) United States military technical data, hardware, small arms and defense services;

“(ii) dual-use technical data/source code and commodities; and

“(iii) deemed exports; and

“(2) conduct industry outreach with manufacturers and exporters of strategic commodities that may be targeted for procurement by terrorist organizations and the countries that support them as well as countries identified as weapons proliferators, in a manner that acknowledges commerce and trade, by—

“(A) educating companies and individuals on the export laws of the United States;

“(B) discussing export licensing issues and requirements;

“(C) identifying red flag indicators used in illegal procurement;

“(D) identifying the government agencies responsible for the licensing of export-controlled commodities and technology; and

“(E) establishing and fostering relationships whereby companies and individuals can report suspicious contacts or attempts to violate the export laws of the United States.

“(b) NATIONAL EXPORT ENFORCEMENT COORDINATION.—

“(1) ESTABLISHMENT; MEMBERSHIP.—There is established in the Department a unit responsible for national export enforcement coordination that is managed by the Secretary. The unit shall be composed of members who are representatives from the Department, the Department of Commerce, the Department of Defense, the Department of Energy, the Department of Justice, the Department of State, the Intelligence Community, and other Federal agencies as appropriate.

“(2) RESPONSIBILITIES.—The unit shall carry out the following responsibilities:

“(A) Coordinating law enforcement counter-proliferation investigations and intelligence counter-proliferation activities.

“(B) Addressing licensing inquiries, reviews, requests, checks, and verifications.

“(C) Conducting outreach and providing training to the export trade community.

## “Subtitle B—Preparedness

**“SEC. 2121. COMMUNICATION OF THREAT INFORMATION AND ALERTS.**

“(a) FINDINGS.—Congress makes the following findings:

“(1) The Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism recommended that ‘the Federal Government should practice greater openness of public information so that citizens better understand the threat and the risk this threat poses to them’.

“(2) There are unique challenges for community preparedness for attacks from weapons of mass destruction and their agents.

“(b) TERRORISM THREAT AWARENESS.—

“(1) **TERRORISM THREAT AWARENESS.**—The Secretary, in coordination with the heads of appropriate Federal agencies, shall ensure that homeland security information concerning terrorist threats is provided to State, local, and tribal authorities and the public within the United States, as appropriate, for purposes of preparedness and collective response to terrorism and for other purposes.

“(2) **THREAT BULLETINS.**—

“(A) **IN GENERAL.**—Consistent with the requirements of paragraph (1), the Secretary shall, on a timely basis, prepare unclassified terrorism-related threat and risk assessments.

“(B) **REQUIREMENTS.**—Each assessment required under subparagraph (A) shall—

“(i) include guidance to the public for preventing and responding to acts of terrorism; and

“(ii) be made available on the Internet website of the Department and other publicly accessible Internet websites, communication systems, and information networks.

“(3) **GUIDANCE TO STATE, LOCAL, AND TRIBAL AUTHORITIES.**—The Secretary—

“(A) acting through the Administrator of the Federal Emergency Management Agency, shall provide to State, local, and tribal authorities written guidance on communicating terrorism-related threats and risks to the public within their jurisdictions; and

“(B) shall identify and articulate the governmental rationale for identifying particular communities as being at heightened risk of exploitation.

“(4) **USE OF EXISTING RESOURCES.**—The Secretary shall use Internet websites, communication systems, and information networks in operation on the date of an assessment under this subsection to satisfy the requirements of paragraph (2)(B)(ii). The Secretary shall provide guidance on how State, local, tribal, and private entities can partner with public television stations to disseminate information provided by the Department and shall provide information on best practices on disseminating information to residents of local communities, including leveraging public television stations.

**“SEC. 2122. INDIVIDUAL AND COMMUNITY PREPAREDNESS FOR WEAPONS OF MASS DESTRUCTION.**

“(a) **IN GENERAL.**—The Secretary, acting through the Administrator for the Federal Emergency Management Agency, shall assist State, local, and tribal authorities in improving and promoting individual and community preparedness and collective response to weapons of mass destruction and terrorist attacks involving chemical, biological, radiological, and nuclear materials against the United States by—

“(1) developing guidance and checklists of recommended actions for individual and community prevention and preparedness efforts and disseminating such guidance and checklists to communities and individuals;

“(2) disseminating the guidance developed under section 2151 to communities and individuals, as appropriate;

“(3) providing information and training materials in support of individual and community preparedness efforts;

“(4) conducting individual and community preparedness outreach efforts; and

“(5) such other actions as the Secretary determines appropriate.

“(b) **COORDINATION.**—Where appropriate, the Secretary shall coordinate with private sector and nongovernmental organizations to promote individual and community preparedness and collective response to weapons of mass destruction and terrorist attacks involving chemical, biological, radiological, and nuclear materials against the United States.

“(c) **BEST PRACTICES.**—In compiling guidance for individual and community preparedness in order to carry out subsection (a)(3), the Secretary shall give due regard to best practices based on the experience of other countries and agencies and the expertise of academic institutions and non-governmental organizations.

## “Subtitle C—Detection

**“SEC. 2131. NATIONAL BIOSURVEILLANCE STRATEGY.**

“(a) **CURRENT STATE OF BIOSURVEILLANCE.**—The Secretary shall examine of the state of domestic and global biosurveillance.

“(b) **STRATEGY FOR BIOSURVEILLANCE.**—The Secretary shall submit to the appropriate congressional committees a national strategy for biosurveillance.

“(c) **MATTERS FOR INCLUSION.**—

“(1) **IN GENERAL.**—In developing the strategy required under subsection (b), the Secretary shall take into consideration—

- “(A) the state of biosurveillance domestically and internationally;
- “(B) material threat assessments and determinations developed by the Secretary in accordance with the Project BioShield Act of 2004 (Public Law 108–276) and the amendments made by that Act;
- “(C) reports on global trends produced by the Office of the Director of National Intelligence regarding the biological threat;
- “(D) information available in biosurveillance systems and changes to information technology to allow for the incorporation and integration of this information;
- “(E) Intelligence Community needs as articulated in relevant intelligence strategies; and
- “(F) costs associated with establishing and maintaining the necessary infrastructure to integrate biosurveillance systems.

“(2) **ADDITIONAL REQUIREMENTS.**—This strategy required under subsection (b) shall—

- “(A) include a plan for advancing situational awareness;
- “(B) identify key elements of information to be shared, critical sensitivities to be protected, and a framework for enabling information exchange;
- “(C) include a plan for fostering information sharing between law enforcement, security, intelligence, and national biosecurity and biodefense stakeholders to identify potential threats, reduce vulnerabilities and improve collective response activities to and investigations of suspected biological attacks; and
- “(D) include strategic and implementation plans for the National Biosurveillance Integration Center under section 316.

“**SEC. 2132. DETECTION OF BIOLOGICAL ATTACKS.**

“(a) **PROGRAM.**—The Secretary shall carry out a program in the Department to detect a biological attack or event. Through such program, the Secretary shall—

- “(1) deploy detectors to areas, based on risk, to indicate the presence of biological agents;
- “(2) provide information to participating laboratories for their use in monitoring public health, and biological material from these detectors to participating laboratories for testing;
- “(3) provide information about the presence of biological agents to public health and law enforcement personnel at all levels of government; and
- “(4) provide advanced planning tools, concepts of operations (including alarm resolution protocols), and training exercises for collective response to and recovery from biological attacks.

“(b) **PROGRAM REQUIREMENTS.**—Under the program required under subsection (a), the Secretary shall—

- “(1) enter into memoranda of agreement or interagency agreements under the Economy Act of 1933 (31 U.S.C. 1535 et seq.) with the Director of the Centers of Disease Control and Prevention and the Administrator of the Environmental Protection Agency, and the heads of other Federal departments and agencies, setting forth roles and responsibilities, including with respect to filter testing protocols for participating laboratories and coordination with appropriate State, local, and tribal agencies;
- “(2) determine, on an annual basis, whether plans for biological detector capabilities and coverage sufficiently protect the United States population; and
- “(3) acting through the Under Secretary for Science and Technology, and in consultation with the Director for the Centers for Disease Control and Prevention, implement an assay equivalency program for biological threat assays that—

- “(A) may evaluate biological threat detection assays, their protocols for use, and their associated response algorithms for confirmation of biological threat agents, taking performance measures and concepts of operation into consideration;
- “(B) may develop assay equivalency standards based on the findings of the evaluation under subparagraph (A);
- “(C) will be updated as necessary;
- “(D) shall require implementation of the standards developed under subparagraph (B) for all Department biological detection programs; and
- “(E) shall make such standards available to support all other Federal biological detection programs.

“(c) **CONTRACT AUTHORITY.**—The Secretary is authorized to enter into contracts with participating laboratories for—

- “(1) the provision of laboratory services to test detector filters on a fee-for-service basis or on a prepayment or other similar basis; and

“(2) administrative and other costs related to hosting program personnel and equipment in these laboratories.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘participating laboratory’ means a laboratory that has been accepted as a member of the Laboratory Response Network for Bioterrorism that—

“(A) is fully equipped to detect and respond quickly to acts of biological terrorism;

“(B) provides biocontainment and microbiological analysis in support of the Department, the Federal Bureau of Investigation and other law enforcement agencies with responsibilities for investigating biological incidents; and

“(C) supports threat agent characterization studies and assay evaluation, research and development.

“(2) The term ‘assay’ means any scientific test that is designed to detect the presence of a biological threat agent that is of a type selected under criteria established by the Secretary.

**“SEC. 2133. RAPID BIOLOGICAL THREAT DETECTION AND IDENTIFICATION.**

“(a) IN GENERAL.—Notwithstanding section 302(4) the Secretary shall require the Under Secretary for Science and Technology, in consultation with the heads of other relevant operational components of the Department, assess whether the development of screening capabilities for biological agents, pandemic influenza, and other infectious diseases should be undertaken by the Science and Technology Directorate to support entry and exit screening at ports of entry and for other purposes.

“(b) DEVELOPMENT OF METHODS.—If the Under Secretary determines that the development of such screening capabilities should be undertaken, the Secretary shall, to the extent possible, initiate development of safe and effective methods to rapidly screen incoming travelers at ports of entry for biological agents, pandemic influenza, and other infectious diseases.

“(c) COLLABORATION.—In developing methods under subsection (b), the Secretary may collaborate with the heads of other Federal agencies, as needed.

**“SEC. 2134. ESTABLISHMENT OF THE SYSTEM ASSESSMENT AND VALIDATION FOR EMERGENCY RESPONDERS (SAVER) PROGRAM.**

“The Secretary, acting through the Under Secretary for Science and Technology, shall carry out a program for system assessment and validation of emergency response equipment at the Department, to be known as the ‘SAVER Program’. The Secretary shall ensure that such program—

“(1) conducts objective, impartial, practitioner-relevant, and operationally-oriented assessments and validations of commercial emergency responder equipment and systems, including hand-held detectors for agents used in weapons of mass destruction;

“(2) is supported by a network of scientists who perform the assessment and validation activities;

“(3) provides results along with other relevant equipment information to the emergency response provider community in an operationally useful form;

“(4) provides information on equipment that falls within the categories listed in the Department’s authorized equipment list;

“(5) provides information that enables decision-makers and responders to better select, procure, use and maintain emergency responder equipment; and

“(6) shares such information nationally with the emergency response provider community.

**“SEC. 2135. PAYMENT FOR BIOTERRORISM LABORATORY SERVICES.**

“In carrying out their functions, responsibilities, authorities, and duties to counter biological terrorism, the Secretary, the Attorney General, and the heads of other participating Federal agencies are authorized to enter into contracts with the State and local public health laboratories that compose the Laboratory Response Network for Bioterrorism, and any other qualified laboratories, for the provision of laboratory testing services on a fee-for-service basis or on a prepayment or other similar basis.

**“SEC. 2136. ESTABLISHMENT OF THE INTEGRATED CONSORTIUM OF LABORATORY NETWORKS.**

“(a) ESTABLISHMENT.—There is established in the Department an Integrated Consortium of Laboratory Networks that is managed by the Secretary.

“(b) REQUIREMENTS.—The Integrated Consortium of Laboratory Networks shall—

“(1) be composed of networks of laboratories capable of integrated and coordinated response to and consequence management of attacks from weapons of mass destruction, acts of terrorism, and other incidents requiring laboratory response capabilities;

“(2) be a coordinated and operational system of laboratory networks that provide timely, high quality results for early detection and effective consequence management of attacks from weapons of mass destruction, acts of terrorism, and other events requiring an integrated laboratory response;

“(3) serve as a system of laboratory networks that are equipped to detect and respond quickly to attacks from weapons of mass destruction and acts of terrorism;

“(4) provide limited containment and analysis in support of the Department, the Federal Bureau of Investigation, and other law enforcement agencies with responsibilities for investigating incidents involving weapons of mass destruction or their agents; and

“(5) support threat agent characterization studies and assay evaluation, research and development.

## “Subtitle D—Attribution

### “SEC. 2141. BIOFORENSICS CAPABILITIES AND STRATEGY.

“(a) NATIONAL BIOFORENSICS ANALYSIS CENTER.—There is established in the Department a National Bioforensics Analysis Center which shall serve as the lead Federal facility to—

“(1) provide definitive forensic examination of bioterror agents and related evidence;

“(2) provide necessary biocontainment;

“(3) integrate bioforensics requirements for law enforcement, national security, and homeland security;

“(4) provide bioforensics analysis in support of the executive agencies with primary responsibilities for preventing, deterring, responding to, attributing, and recovering from biological attacks;

“(5) develop national bioforensics standards;

“(6) maintain the national bioforensics repository collection as a reference collection of biological agents and toxins for bioforensics comparisons and identifications; and

“(7) support threat agent characterization studies and bioforensics assay evaluation research and development.

“(b) NATIONAL BIOFORENSICS REPOSITORY COLLECTION.—

“(1) IN GENERAL.—The National Bioforensics Analysis Center shall maintain a distributed national bioforensics repository collection.

“(2) ACTIVITIES.—The national bioforensics repository collection shall—

“(A) receive, store, and distribute biological threat agents and toxins;

“(B) serve as a distributed reference collection for comparative bioforensics identifications and characterizations; and

“(C) support threat agent characterization studies and the development of bioforensics assays, genomic analyses, organic and inorganic chemical analyses, electron microscopy analyses, and other relevant assays, analyses, and tests.

“(3) PARTICIPATION.—

“(A) IN GENERAL.—The Secretary, the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Director of National Intelligence, and the head of any other appropriate executive agency with a biological agent or toxin collection that is useful for the bioforensics analysis of biological attacks, performance of biological threat agent identification and characterization studies, or evaluation and development of bioforensics assays and methods shall provide to the distributed national bioforensics repository collection authenticated replicate samples of, or information on, all relevant biological strains and toxins, as determined by the Secretary, in consultation with the head of the executive agency possessing the agent or toxin.

“(B) OTHER BIOLOGICAL AGENTS AND TOXINS.—The Secretary shall require the contribution to the national bioforensics repository collection of authenticated replicate samples of, or information on, all relevant biological strains and toxins, as determined by the Secretary, from public and private biological agent and toxin collections that were collected or created with support from a Federal grant or contract and that support the functions described in paragraph (2).

“(4) ACCESS.—The Secretary shall—

“(A) provide any executive agency that submits a biological agent or toxin, or information on a biological agent or toxin, to the national bioforensics repository collection with access to the collection; and

“(B) establish a mechanism to provide public and private entities with access to agents or toxins in, or information regarding, the national bioforensics repository collection, as determined appropriate by the Secretary, with appropriate protection of classified or law enforcement sensitive information and intellectual property rights.

“(5) REPORT.—

“(A) IN GENERAL.—Not later than one year after the date of the enactment of this section, and annually thereafter, the Secretary, in consultation with the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Director of National Intelligence, and the head of any other appropriate executive agency that participates in or contributes agents, or toxins, or information to the national bioforensics repository collection, shall submit to the appropriate committees of Congress a report regarding the national bioforensics repository collection.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall—

“(i) discuss the status of the establishment of the distributed national bioforensics repository collection;

“(ii) identify domestic and international biological agent and toxin collections that would prove useful in carrying out the functions of the distributed national bioforensics repository collection;

“(iii) examine any access or participation issues affecting the establishment of the distributed national bioforensics repository collection or the ability to support bioforensics analysis, threat agent characterization studies, or bioforensics assay evaluation, research, and development, including—

“(I) intellectual property concerns;

“(II) access to collected or created biological agent or toxin collections funded by a Federal grant or contract;

“(III) costs incurred by domestic and international biological agent and toxin collections to access or contribute biological agents or toxins to the national bioforensics repository collection; and

“(IV) access to the national bioforensics repository collection by public and private researchers to support threat agent characterization studies, bioforensics assay evaluation, research, and development, and biosecurity research and development; and

“(iv) other issues determined appropriate.

“(c) NATIONAL BIOFORENSICS STRATEGY.—

“(1) IN GENERAL.—The Secretary, in coordination with the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Health and Human Services, the Director of National Intelligence, and the head of any other appropriate executive agency, as determined by the Secretary, shall develop, coordinate, and maintain a national bioforensics strategy.

“(2) CONTENTS.—The national bioforensics strategy shall—

“(A) provide for a coordinated approach across all executive agencies with responsibilities for—

“(i) conducting bioforensics examination of biological threat agents and related evidence; and

“(ii) generating bioforensics requirements for law enforcement, national security, and homeland security;

“(B) describe the roles and responsibilities of all relevant executive agencies, including—

“(i) research to characterize threat agents;

“(ii) assay evaluation, research, and development; and

“(iii) funding;

“(C) establish mechanisms, in coordination with State, local, and tribal authorities, for coordinating with public health, homeland security, and law enforcement agencies for the collection or receipt, transfer, or submission of bioforensics evidence for analysis and its use; and

“(D) include—

“(i) guidance for collecting, processing, and analyzing samples;

“(ii) requirements for reporting bioforensics information to appropriate agencies; and

“(iii) requirements for the distributed national bioforensics repository collection.

“(3) REPORT.—Not later than one year after the date of the enactment of this section, and biennially thereafter, the Secretary, in consultation with the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Health and Human Services, the Director of National Intelligence, and the heads of other appropriate agencies, as determined by the Secretary, shall submit to the appropriate committees of Congress the national bioforensics strategy.

“(d) CONCEPT OF OPERATIONS.—The Secretary, in coordination with the Attorney General and the heads of any other appropriate Federal agencies shall ensure the availability of a detailed concept of operations for information sharing and all-source analysis to support timely attribution of biological attacks.

“(e) DETAILEE PROGRAM.—Subject to the availability of appropriations, the Secretary may implement a detailee program to detail from governmental entities national biosecurity and biodefense stakeholders with appropriate clearances, on a reimbursable basis, to the National Bioforensics Analysis Center for the purpose of—

“(1) providing training and other educational benefits for such stakeholders to help them to better understand the policies, procedures, and laws governing national bioforensics activities; and

“(2) bolstering the capabilities and information sharing activities of the National Bioforensics Analysis Center with national biosecurity and biodefense stakeholders.

“(f) RESEARCH AND DEVELOPMENT.—The Secretary, in coordination with the Attorney General and the heads of any other appropriate Federal agencies, shall establish a national-level research and development strategy and implementation plan to advance the field of bioforensics.

“(g) DEFINITION OF BIOFORENSICS.—In this section, the term ‘bioforensics’ means the scientific discipline dedicated to analyzing evidence from an attack with a biological weapon of mass destruction, an act of bioterrorism, a biological agent- or toxin-based criminal act, or the inadvertent release of a biological agent or toxin for attribution purposes.

**“SEC. 2142. FEDERAL LAW ENFORCEMENT TRAINING TO INVESTIGATE BIOLOGICAL THREATS.**

“The Secretary, in coordination with the Attorney General, the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal departments and agencies, shall make available to law enforcement, public health, and security personnel at the Federal Law Enforcement Training Center training on recognizing and responding to situations involving potential biological threats, including performing joint criminal and epidemiological investigations, and shall—

“(1) ensure that tailored tactics, techniques, and procedures are made available to law enforcement and security personnel, including access to the tools needed to respond to biological threats;

“(2) promote the use of simulation among Federal partners to exercise capabilities, refine operational concepts, and strengthen relationships across the Government; and

“(3) make training available that will ensure that law enforcement, public health, and agricultural investigations of biological threats are coordinated.

## “Subtitle E—Response

**“SEC. 2151. FIRST RESPONDER GUIDANCE CONCERNING WEAPONS OF MASS DESTRUCTION ATTACKS.**

“(a) ESTABLISHMENT OF VOLUNTARY GUIDANCE.—Not later than one year after the date of the enactment of this section, the Secretary shall—

“(1) develop for police, fire, emergency medical services, emergency management, and public health personnel, voluntary guidance for responding to a release of chemical, biological, radiological, or nuclear material;

“(2) in developing the guidance under paragraph (1), review the experiences of other countries and the expertise of academic institutions and non-governmental organizations; and

“(3) make such guidance available to State, local, and tribal authorities, non-governmental organizations, the private sector, and the public.

“(b) CONTENTS.—The guidance developed under subsection (a)(1) shall include—

“(1) protective action guidance for ensuring the security, health, and safety of emergency response providers;

“(2) specific information regarding the effects of the chemical, biological, radiological, or nuclear material on those exposed to the agent; and

- “(3) best practices for emergency response providers to effectively deal with individuals affected by an incident involving chemical, biological, radiological, or nuclear material.
- “(c) REVIEW AND REVISION OF GUIDANCE.—The Secretary shall—
- “(1) review the guidance developed under subsection (a)(1) at least once every 2 years,
  - “(2) make revisions to the guidance as appropriate; and
  - “(3) make any revised guidance available to State, local, and tribal authorities, nongovernmental organizations, the private sector, and the public.
- “(d) PROCEDURES FOR DEVELOPING AND REVISING GUIDANCE.—In carrying out the requirements of this section, the Secretary shall establish procedures to—
- “(1) inventory existing relevant hazardous material response guidance;
  - “(2) enable members of the first responder and first provider community to submit recommendations of areas in which guidance is needed and could be developed under subsection (a)(1);
  - “(3) determine which entities should be consulted in developing or revising the guidance;
  - “(4) prioritize, on a regular basis, guidance that should be developed or revised; and
  - “(5) develop and disseminate the guidance in accordance with the prioritization under paragraph (4).
- “(e) CONSULTATIONS.—The Secretary shall develop and revise the guidance developed under subsection (a)(1), and the procedures required under subsection (d), in consultation with—
- “(1) the heads of other Federal departments and agencies, as appropriate;
  - “(2) the National Advisory Council established under section 508;
  - “(3) the National Domestic Preparedness Consortium;
  - “(4) State, local, and tribal authorities; and
  - “(5) nongovernmental organizations and private industry.
- “(f) REPORTING REQUIREMENTS.—Not later than 18 months after the date of the enactment of this section and annually thereafter, the Secretary shall submit to the appropriate congressional committees—
- “(1) a description of the procedures established under subsection (d);
  - “(2) any guidance in effect on the date of the report;
  - “(3) a list of entities to which the guidance described in paragraph (2) was disseminated;
  - “(4) a plan for reviewing the guidance described in paragraph (2), in accordance with subsection (e);
  - “(5) guidance required under subsection (d)(4), and the methodology used by the Secretary for such prioritization; and
  - “(6) a plan for developing, revising, and disseminating the guidance.
- “SEC. 2152. INTEGRATED PLUME MODELING FOR COLLECTIVE RESPONSE.**
- “(a) DEVELOPMENT.—
- “(1) IN GENERAL.—The Secretary shall acquire, use, and disseminate integrated plume models to enable rapid response activities following a chemical, biological, nuclear, or radiological attack or event.
  - “(2) SCOPE.—The Secretary shall—
    - “(A) ensure the rapid development and distribution of integrated plume models to appropriate officials of the Federal Government and State, local, and tribal authorities to enable immediate response to a chemical, biological, or radiological attack or event;
    - “(B) establish mechanisms for dissemination by appropriate emergency response officials of the integrated plume models described in paragraph (1) to nongovernmental organizations and the public to enable appropriate collective response activities;
    - “(C) ensure that the development and dissemination of integrated plume models are assessed during exercises administered by the Department; and
    - “(D) ensure that lessons learned from assessing the development and dissemination of integrated plume models during exercises administered by the Department are put into the Department of Homeland Security Lessons Learned Information Sharing system.
- “(b) REPORT.—Not later than one year after the date of enactment of this section, and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report regarding—
- “(1) the acquisition, use, and dissemination of integrated plume models under this section;
  - “(2) lessons learned from assessing the development and dissemination of integrated plume models during exercises administered by the Department; and



- “(3) recommendations for improving integrated plume models, as appropriate.
- “(c) DEFINITIONS.—For purposes of this section:
- “(1) The term ‘plume model’ means the assessment of the location and prediction of the spread of agents following a chemical, biological, radiological, or nuclear attack or event.
- “(2) The term ‘integrated plume model’ means a plume model that integrates protective action guidance and other information as the Secretary determines appropriate.

## “Subtitle F—Recovery

### “SEC. 2161. RECOVERY AND RESTORATION FROM A BIOLOGICAL ATTACK OR INCIDENT GUIDANCE.

“(a) ESTABLISHMENT OF GUIDANCE.—Not later than one year after the date of the enactment of this section, the Secretary, in coordination with the Administrator of the Environmental Protection Agency and in consultation with the Director of the Occupational Safety and Health Agency, and the Director of the National Institute for Occupational Safety and Health, shall develop and issue guidance for clean-up and restoration of indoor and outdoor areas, including subways and other mass transportation facilities, that have been affected by a biological attack or event.

“(b) CONTENTS.—The guidance developed under subsection (a) shall include—

- “(1) acceptable levels of growth of the organism in post-remediation area samples from affected sites;
- “(2) standards for effective clean-up of affected sites;
- “(3) standards for safe post-event occupancy of affected sites;
- “(4) requirements to ensure that the decontamination procedures for responding organizations do not conflict;
- “(5) requirements that each responding organization uses a uniform system for tracking costs and performance of clean-up contractors;
- “(6) levels of personal protection equipment;
- “(7) maintenance of negative air pressure in buildings;
- “(8) standards for proper selection and use of personal protective equipment;
- “(9) air sampling procedures; and
- “(10) how to develop occupational health and safety plans that are appropriate for the specific risk to responder health.

“(c) REVIEW AND REVISION OF GUIDANCE.—The Secretary shall—

- “(1) not less frequently than once every 2 years, review the guidance developed under subsection (a);
- “(2) make revisions to the guidance as appropriate; and
- “(3) make the revised guidance available to the Federal government, State, local, and tribal authorities, nongovernmental organizations, the private sector, and the public.

“(d) PROCEDURES FOR DEVELOPING AND REVISING GUIDANCE.—In carrying out the requirements of this section, the Secretary shall establish procedures to—

- “(1) inventory existing relevant guidance;
- “(2) enable the public to submit recommendations of areas in which guidance is needed;
- “(3) determine which entities should be consulted in developing or revising the guidance;
- “(4) prioritize, on a regular basis, guidance that should be developed or revised; and
- “(5) develop and disseminate the guidance in accordance with the prioritization under paragraph (4).

“(e) CONSULTATIONS.—The Secretary shall develop and revise the guidance developed under subsection (a), and the procedures required under subsection (d), in consultation with—

- “(1) the heads of other Federal departments and agencies, as appropriate;
- “(2) State, local, and tribal authorities; and
- “(3) nongovernmental organizations and private industry.

“(f) REPORT.—Not later than one year after the date of the enactment of this section, and annually thereafter, the Secretary shall provide appropriate congressional committees with—

- “(1) a description of the procedures established under subsection (d);
- “(2) any guidance in effect on the date of the report;
- “(3) a list of entities to which the guidance described in paragraph (2) were disseminated;
- “(4) a plan for reviewing the guidance described in paragraph (2), in accordance with subsection (e);

- “(5) the prioritized list of the guidance required under subsection (d)(4), and the methodology used by the Secretary for such prioritization; and  
“(6) a plan for developing, revising, and disseminating the guidance.”.
- (b) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of such Act is amended by adding at the end the following new items:

“TITLE XXI—WEAPONS OF MASS DESTRUCTION PREVENTION AND PREPAREDNESS

“Subtitle A—Prevention and Deterrence

- “Sec. 2101. Weapons of Mass Destruction Intelligence and Information Sharing Unit.  
“Sec. 2102. Information sharing and collaboration for biosecurity and biodefense.  
“Sec. 2103. Bioterrorism risk assessments.  
“Sec. 2104. Radiological materials security.  
“Sec. 2105. Enhanced biosecurity measures.  
“Sec. 2106. Tier I Material Threat Agent locations.  
“Sec. 2107. High containment biological laboratory security grants.  
“Sec. 2108. Laboratory biosecurity information sharing.  
“Sec. 2109. Periodic homeland security review of criminal statutes.  
“Sec. 2110. Export enforcement for counter-proliferation.

“Subtitle B—Preparedness

- “Sec. 2121. Communication of threat information and alerts.  
“Sec. 2122. Individual and community preparedness for weapons of mass destruction.

“Subtitle C—Detection

- “Sec. 2131. National biosurveillance strategy.  
“Sec. 2132. Detection of biological attacks.  
“Sec. 2133. Rapid biological threat detection and identification.  
“Sec. 2134. Establishment of the system assessment and validation for emergency responders (SAVER) program.  
“Sec. 2135. Payment for bioterrorism laboratory services.  
“Sec. 2136. Establishment of the integrated consortium of laboratory networks.

“Subtitle D—Attribution

- “Sec. 2141. Bioforensics capabilities and strategy.  
“Sec. 2142. Federal law enforcement training to investigate biological threats.

“Subtitle E—Response

- “Sec. 2151. First responder guidance concerning weapons of mass destruction attacks.  
“Sec. 2152. Integrated plume modeling for collective response.

“Subtitle F—Recovery

- “Sec. 2161. Recovery and restoration from a biological attack or incident guidance.

**SEC. 202. DEFINITIONS.**

Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following new paragraphs:

“(19) The term ‘weapon of mass destruction’ has the meaning given that term in section 1403(1) to the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302).

“(20) The term ‘Intelligence Community’ has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

“(21) The term ‘national biosecurity and biodefense stakeholders’ means officials from the Federal, State, local, and tribal authorities and individuals from the private sector who are involved in efforts to prevent, deter, prepare for, detect, attribute, respond, and recover from a biological attack or other phenomena that may have serious health consequences for the United States, including wide-scale fatalities or infectious disease outbreaks.

“(22) The term ‘Tier I Material Threat Agent’ means a substance so designated under section 351A(a)(2) of the Public Health Service Act or section 212(a)(2) of the Agricultural Bioterrorism Protection Act of 2002.”.

**SEC. 203. DUAL-USE TERRORIST RISKS FROM SYNTHETIC GENOMICS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the field of synthetic genomics has the potential to facilitate enormous gains in fundamental discovery and biotechnological applications, but it also has inherent dual-use homeland security risks that must be managed.

(b) REQUIREMENT.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Science and Technology, shall examine and report to the appropriate congressional committees on the homeland security implications of the dual-use nature of synthetic genomics, and if the Under Secretary determines that such research is appropriate, may conduct research in that area, including—

- (1) determining the current capability of synthetic nucleic acid providers to effectively differentiate a legitimate customer from a potential terrorist or other malicious actor;

- (2) determining the current capability of synthetic nucleic acid providers to effectively screen orders for sequences of homeland security concern; and
- (3) making recommendations regarding screening software, protocols, and other remaining capability gaps uncovered by the study.

**SEC. 204. DISSEMINATION OF INFORMATION ANALYZED BY THE DEPARTMENT TO STATE, LOCAL, TRIBAL, AND PRIVATE ENTITIES WITH RESPONSIBILITIES RELATING TO HOMELAND SECURITY.**

(a) **RESPONSIBILITIES OF THE SECRETARY.**—Section 201(d)(8) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)(8)) is amended by striking “and to agencies of State” and all that follows and inserting “to State, local, tribal, and private entities with such responsibilities, and, as appropriate, to the public, in order to assist in preventing, deterring, or responding to acts of terrorism against the United States.”

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a report on the implementation of this section.

**SEC. 205. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER (NBIC).**

Section 316 of the Homeland Security Act of 2002 (6 U.S.C. 195b) is amended—

(1) in subsection (a), by striking “an office or directorate of the Department” and all that follows through the period at the end and inserting the following: “the Office of Intelligence and Analysis.”;

(2) in subsection (d)(2)(B)—

(A) by inserting “and disseminate” after “integrate”; and

(B) by inserting “, including information and intelligence generated elsewhere within the Office of Intelligence and Analysis and the Department,” after “information”;

(3) in subsection (e)(1), by striking subparagraph (A) and inserting the following new subparagraph (A):

“(A) integrate biosurveillance information into the NBIC, with the goal of promoting information sharing between Federal, State, local, and tribal authorities to detect biological attacks and events of homeland concern;”;

(4) by amending paragraph (2) of subsection (f) to read as follows:

“(2) **DETAIL OF PERSONNEL.**—The head of a participating Federal department or agency shall detail, on a reimbursable basis, any of the personnel of that department or agency to the Department to assist the NBIC in carrying out this section.”; and

(5) by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following new subsection (j):

“(j) **ANNUAL REPORT.**—Not later than one year after the date of the enactment of the WMD Prevention and Preparedness Act of 2010 and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report on—

“(1) the status of operations at the National Biosurveillance Integration Center of the Department under section 316;

“(2) efforts by the Office of Intelligence and Analysis to take responsibility for the National Biosurveillance Integration Center; and

“(3) efforts to integrate the biosurveillance efforts of Federal, State, local, and tribal authorities.”.

**SEC. 206. REPORT ON ESTABLISHMENT OF THE SYSTEM ASSESSMENT AND VALIDATION FOR EMERGENCY RESPONDERS (SAVER) PROGRAM.**

Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a report on the SAVER Program under section 2134 of the Homeland Security Act of 2002, as added by section 201.

**SEC. 207. NATIONAL ACADEMY OF SCIENCES STUDY OF FORENSIC SCIENCE IN HOMELAND SECURITY.**

(a) **STUDY.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Science and Technology, shall seek to enter into an agreement with the National Academy of Sciences to—

(1) conduct a study, building on previous studies conducted by the National Academy of Sciences, on the role of forensic science in homeland security; and

(2) issue recommendations to enhance this homeland security capability to investigate attacks from weapons of mass destruction, terrorist incidents, and other crimes investigated by the Department.

(b) **REPORT.**—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing the results of the National Academy of Sciences study required under subsection (a), together with any recommendations of the Secretary related thereto.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department, for fiscal year 2011, \$1,000,000 to carry out this section.

**SEC. 208. HARMONIZATION OF REGULATIONS.**

(a) REGULATIONS UNDER PUBLIC HEALTH SERVICE ACT.—Not later than one year after the Secretary of Homeland Security promulgates regulations or amendments thereto to carry out section 2104 of the Homeland Security Act of 2002, as added by section 201, the Secretary of Health and Human Services shall amend regulations promulgated under the Select Agent Program under section 351A(b)(1) of the Public Health Service Act (42 U.S.C. 262a(b)(1)) to ensure that such regulations are not redundant or are not in conflict with the regulations promulgated by the Secretary under such section 2104.

(b) REGULATIONS UNDER AGRICULTURE BIOTERRORISM PROTECTION ACT OF 2002.—Not later than one year after the Secretary of Homeland Security promulgates regulations or amendments thereto pursuant to such section 2104, the Secretary of Agriculture shall amend regulations promulgated under the Select Agent Program under section 212(b)(1) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401(b)(1)) to ensure that such regulations are not redundant or are not in conflict with the regulations promulgated by the Secretary under such section 2104.

**SEC. 209. COMMUNICATIONS PLANNING FOR WEAPONS OF MASS DESTRUCTION INFORMATION DISSEMINATION.**

(a) COMMUNICATIONS PLANS REQUIRED.—Section 653 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 753) is amended—

(1) in subsection (a)(4), by inserting after “man-made disasters” the following “, and a communications plan described in subsection (f)”;

(2) by adding at the end the following new subsection:

“(f) COMMUNICATIONS PLAN.—

“(1) IN GENERAL.—A communications plan developed under subsection (a)(4) shall be designed to provide information to the public related to preventing, preparing for, and responding to attacks from weapons of mass destruction and acts of terrorism;

“(2) CONSULTATION.—As appropriate, the Administrator shall consult with State, local, and tribal authorities and coordinate with other Federal departments and agencies in developing communications plans under paragraph (1).

“(3) PRE-SCRIPTED MESSAGES AND MESSAGE TEMPLATES.—

“(A) IN GENERAL.—The Administrator shall develop and disseminate pre-scripted messages and message templates to be provided to State, local, and tribal authorities so that those authorities can quickly and rapidly disseminate critical information to the public in anticipation of, during, or in the immediate aftermath of an attack from a weapon of mass destruction or terrorist incident, and to be included in the Department of Homeland Security’s Lessons Learned Information Sharing system.

“(B) DEVELOPMENT AND DESIGN.—The pre-scripted messages or message templates shall—

“(i) be developed in consultation with State, local, and tribal authorities and in coordination with other appropriate Federal departments and agencies;

“(ii) be designed to provide accurate, essential, and appropriate information and instructions to the population directly affected by an incident, including information regarding an evacuation, sheltering in place, hospital surge operations, health, and safety; and

“(iii) be designed to provide accurate, essential, and appropriate information and instructions to emergency response providers and medical personnel responding to an incident.

“(C) COMMUNICATIONS FORMATS.—The Administrator shall develop pre-scripted messages or message templates under this paragraph in multiple formats to ensure delivery—

“(i) in cases where the usual communications infrastructure is unusable; and

“(ii) to individuals with disabilities or other special needs and individuals with limited English proficiency.

“(D) DISSEMINATION AND TECHNICAL ASSISTANCE.—The Administrator shall ensure that all pre-scripted messages and message templates developed under this paragraph are made available to State, local, and tribal authorities so that those authorities may incorporate them, as appropriate, into their emergency plans. The Administrator shall also make available relevant technical assistance to those authorities to support communications planning.

“(E) EXERCISES.—To ensure that the pre-scripted messages or message templates developed under this paragraph can be effectively utilized in a disaster or incident, the Administrator shall incorporate such pre-scripted messages or message templates into exercises conducted under the National Exercise Program described in section 648 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748).”.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the appropriate congressional committees the communications plans required to be developed under the amendments made by subsection (a), including pre-scripted messages or message templates developed in conjunction with the plans and a description of the means that will be used to deliver these messages during such incidents.

**SEC. 210. ENVIRONMENTAL RECOVERY FROM CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR ATTACKS.**

(a) IN GENERAL.—To facilitate environmental recovery from a chemical, biological, radiological, or nuclear attack or other incident involving chemical, biological, radiological, or nuclear materials and to foster collective response to terrorism, the Administrator of the Environmental Protection Agency, in coordination with the Administrator of the Federal Emergency Management Agency, shall assess capability gaps in environmental recovery preparedness and provide guidance to State, local, and tribal authorities.

(b) REQUIREMENTS.—In carrying out subsection (a), the Administrator of the Environmental Protection Agency shall—

(1) assess capability gaps in the Nation’s ability to recover from chemical, biological, radiological, and nuclear attacks or incidents, with specific attention to—

- (A) decontamination standards, gaps in such standards, and recommendations for research to minimize these gaps;
- (B) environmental remediation methods; and
- (C) such other components as determined by the Secretary;

(2) disseminate guidance to State, local, and tribal authorities that conforms to the goals of the National Disaster Recovery Strategy as required in Section 682 of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 6 U.S.C. 771) regarding how to conduct environmental remediation of contaminated areas, including—

- (A) clarification of Federal roles and responsibilities for assisting State, local, and tribal authorities; and
- (B) such other guidance as determined by the Secretary; and

(3) develop exercises in consultation with State, local, and tribal authorities and other appropriate Federal agencies, to enhance collective response to and recovery from chemical, biological, radiological and nuclear attacks and incidents, including exercises that address analysis, environmental cleanup methods, and decontamination standards.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to the appropriate congressional committees a report on the Administrator’s assessment under section 2162 of the Homeland Security Act of 2002, as added by section 201.

**SEC. 211. UNIVERSITY-BASED CENTERS FOR HOMELAND SECURITY CRITERIA FOR DESIGNATION.**

Section 308(b)(2)(B)(iii) of the Homeland Security Act of 2002 (6 U.S.C. 188(b)(2)(B)(iii)) is amended by inserting before the period at the end the following “, including medical readiness training and research, and community resiliency for public health and healthcare critical infrastructure”.

## TITLE III—PUBLIC HEALTH MATTERS

**SEC. 301. NATIONAL MEDICAL COUNTERMEASURE DISPENSING STRATEGY.**

Title III of the Public Health Service Act is amended by inserting after section 319F–4 (42 U.S.C. 247d–6e) the following:

**“SEC. 319F–5. NATIONAL MEDICAL COUNTERMEASURE DISPENSING STRATEGY.**

“(a) DEFINITIONS.—In this section—

“(1) the term ‘dispense’ means to provide medical countermeasures to an affected population in response to a threat or incident; and

“(2) the term ‘medical countermeasure’ means a qualified countermeasure (as defined in section 319F–1(a)(2)).

“(b) STRATEGY.—The Secretary, in coordination with the Secretary of Homeland Security, the Secretary of Agriculture, and other appropriate Federal agencies, shall develop, implement, and, as appropriate, periodically update a National Medical Countermeasure Dispensing Strategy to enhance preparedness and collective response to a terrorist attack on humans or animals with any chemical, biological, radiological, or nuclear material.

“(c) COORDINATION.—Where appropriate, the Secretary shall coordinate with State, local, and tribal authorities, private sector, and nongovernmental organizations on the National Medical Countermeasures Dispensing Strategy.

“(d) REPORT.—Not later than one year after the date of the enactment of this section, the Secretary, in coordination with the Secretary of Homeland Security, shall submit the National Medical Countermeasures Dispensing Strategy to the appropriate congressional committees.”.

**SEC. 302. MATERIAL THREAT ASSESSMENTS AND DETERMINATIONS.**

Section 319F–2(c)(2)(A) of the Public Health Service Act (42 U.S.C. Sec 247d-6b(c)(2)(A)) is amended—

- (1) in clause (i), by striking “and” at the end;
- (2) in clause (ii), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:

“(iii) review and reassess determinations under clause (ii) to determine whether agents continue to present a material threat against the United States population sufficient to affect national security and homeland security.”.

**SEC. 303. NATIONAL PRE-EVENT VACCINATION AND ANTIMICROBIAL DISPENSING POLICY REVIEW.**

(a) REQUIREMENT.—The Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, shall review the adequacy of domestic vaccination and antimicrobial dispensing policy, guidance, and information provided to the public in light of any known terrorist risk of a biological attack or other phenomena that may have serious health consequences for the United States, including wide-scale fatalities or infectious disease outbreaks. In carrying out the review under this section, the Secretary shall consider—

- (1) material threat assessments and determinations conducted by the Department of Homeland Security;
- (2) reports on global trends and intelligence produced by the Office of the Director of National Intelligence and the Intelligence Community regarding biological threats;
- (3) the availability of domestic vaccine and antimicrobials to dispense to the public, on a voluntary basis, in anticipation of a biological attack; and
- (4) making surplus or expiring domestic vaccine and antimicrobials available to State, local, and tribal emergency responders, including health care responders, on a voluntary basis.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate congressional committees a report on the review required by subsection (a), together with any recommendations relating to the availability of domestic vaccine and antimicrobials for disbursing to the public and voluntary immunization by first responders.

**SEC. 304. DESIGNATION OF TIER 1 MATERIAL THREAT AGENTS.**

(a) PUBLIC HEALTH SERVICE ACT.—Section 351A of the Public Health Service Act (42 U.S.C. 262a) is amended in subsection (a)—

- (1) by redesignating paragraph (2) as paragraph (3);
- (2) by inserting after paragraph (1) the following:

“(2) TIER 1 MATERIAL THREAT AGENTS.—

“(A) DESIGNATION OF TIER I: MATERIAL THREAT AGENTS.—Not later than 1 year after the date of the enactment of this paragraph, the Secretary, in coordination with the Secretary of Homeland Security and other Federal officials as appropriate, shall by regulation designate as ‘Tier I Material Threat Agents’ those agents and toxins—

“(i) that—

“(I) are determined by the Secretary of Homeland Security under section 319F-2(c)(2) to present a material threat against the United States population sufficient to affect national security; and

“(II) are determined to warrant designation after applying the criteria in subparagraph (B); or

“(ii) that clearly present a material threat to the Nation as otherwise determined by the Secretary or the Secretary of Homeland Security.

“(B) CRITERIA.—In determining whether to designate an agent or toxin as a Tier I Material Threat Agent under subparagraph (A)(i), the Secretary, in coordination with the Secretary of Homeland Security, shall consider—

“(i) whether the agent or toxin can be used effectively in a biological attack;

“(ii) information available from any biological or bioterrorism risk assessments conducted by the Department of Homeland Security and relevant assessments by other agencies; and

“(iii) such other criteria and information as the Secretary, in coordination with the Secretary of Homeland Security, determines appropriate and relevant.

“(C) INCLUSION OF AGENTS AND TOXINS NOT PREVIOUSLY LISTED.—All agents or toxins designated by the Secretary as Tier I Material Threat Agents shall be included on the list maintained by the Secretary pursuant to paragraph (1).

“(D) EVALUATION OF TIER I MATERIAL THREAT AGENTS.—The Secretary, in coordination with the Secretary of Homeland Security, shall—

“(i) on an ongoing basis, consider the inclusion of additional agents or toxins on the list of Tier I Material Threat Agents, as appropriate; and

“(ii) at least biennially, review the list of Tier I Material Threat agents to determine whether any agents or toxins should be removed from the list.”; and

(3) in paragraph (3), as so redesignated—

(A) by striking “list under paragraph (1)” and inserting “lists under paragraphs (1) and (2)”; and

(B) by striking “revise the list” and inserting “revise the lists”.

(b) AGRICULTURAL BIOTERRORISM PROTECTION ACT OF 2002.—Section 212(a) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following:

“(2) TIER I MATERIAL THREAT AGENTS.—

“(A) DESIGNATION OF TIER I: MATERIAL THREAT AGENTS.—Not later than one year after the date of the enactment of this paragraph, the Secretary, in coordination with the Secretary of Homeland Security, the Secretary of Health and Human Services, and other Federal officials as appropriate, shall by regulation designate as ‘Tier I Material Threat Agents’ those agents and toxins—

“(i) that—

“(I) are determined by the Secretary of Homeland Security under section 319F-2(c)(2) of the Public Health Service Act to present a material threat against the United States population sufficient to affect national security; and

“(II) are determined to warrant designation after applying the criteria in subparagraph (B); or

“(ii) that clearly present a material threat to the Nation as otherwise determined by the Secretary or the Secretary of Homeland Security.

“(B) CRITERIA.—In determining whether to designate an agent or toxin as a Tier I Material Threat Agent under subparagraph (A)(i), the Secretary, in coordination with the Secretary of Homeland Security, shall consider—

“(i) whether the agent or toxin can be used effectively in a biological attack;

“(ii) information available from any biological or bioterrorism risk assessments conducted by the Department of Homeland Security and relevant assessments by other agencies; and

“(iii) such other criteria and information that the Secretary, in coordination with the Secretary of Homeland Security, determines appropriate and relevant.

“(C) INCLUSION OF AGENTS AND TOXINS NOT PREVIOUSLY LISTED.—All agents or toxins designated by the Secretary as Tier 1 Material Threat Agents shall be included on the list maintained by the Secretary pursuant to paragraph (1).

“(D) EVALUATION OF TIER I MATERIAL THREAT AGENTS.—The Secretary, in coordination with the Secretary of Homeland Security, shall—

“(i) on an ongoing basis, consider the inclusion of additional agents or toxins on the list of Tier I Material Threat Agents, as appropriate; and

- “(ii) at least biennially, review the list of Tier I Material Threat agents to determine whether any agents or toxins should be removed from the list.”; and
- (3) in paragraph (3), as so redesignated—
  - (A) by striking “list under paragraph (1)” and inserting “lists under paragraphs (1) and (2)”;
  - (B) by striking “revise the list” and inserting “revise the lists”.

**SEC. 305. BACKGROUND CHECKS.**

Section 351A(e)(3)(A) of the Public Health Service Act (42 U.S.C. 262a(e)(3)(A)) is amended by adding at the end the following: “In identifying whether an individual is within a category specified in subparagraph (B)(ii)(II), the Attorney General shall coordinate with the Secretary of Homeland Security, the Secretary of Defense, and the Secretary of State to determine whether these officials possess any information relevant to the identification of such an individual by the Attorney General.”.

**SEC. 306. BIOTECHNOLOGY RESEARCH, DEVELOPMENT, AND PROCUREMENT.**

Title III of the Public Health Service Act is amended by inserting after section 319M (42 U.S.C. 247d–f) the following:

**“SEC. 319N. BIOTECHNOLOGY RESEARCH, DEVELOPMENT, AND PROCUREMENT.**

“(a) IN GENERAL.—The Secretary shall develop a comprehensive research, development, and acquisition process to counter the biological threat that employs the inherent functions, capabilities, authorities, and responsibilities of NIH, BARDA, and Project BioShield. The process shall—

“(1) assign NIH responsibility for research and development of technologies that range in development from basic principles observed and reported up to model or prototype demonstration in a relevant environment;

“(2) assign BARDA responsibility for research and development of technologies that range in development from model or prototype demonstration in a relevant environment up to a system qualified for application through successful test and demonstration;

“(3) assign Project BioShield responsibility for procurement of technologies that—

“(A) are qualified for application through successful test and demonstration; and

“(B) meet the minimum statutory requirements for emergency use authorization in section 564 of the Federal Food, Drug, and Cosmetic Act; and

“(4) include a formal agreement among NIH, BARDA, and Project BioShield that—

“(A) identifies the need for any specific biological countermeasure, derived from information developed under section 319F–2;

“(B) identifies the current technology readiness level of the countermeasure; and

“(C) requires the development of the biological countermeasure from the current technology readiness level through the procurement of the countermeasure in accordance with paragraph (3).

“(b) RESPONSIBILITY OF NIH.—For countermeasures identified under subsection (a)(4)(A) that have a level of development from basic principles observed and reported up to model or prototype demonstration in a relevant environment, the Director of NIH shall conduct research and development until the Director certifies to the Secretary of Health and Human Services that—

“(1) the countermeasure has completed model or prototype demonstration in a relevant environment; or

“(2) the Director does not believe that completion of model or prototype demonstration in a relevant environment is reasonably achievable.

“(c) RESPONSIBILITY OF BARDA.—For countermeasures identified under subsection (a)(4)(A) that have a level of development of model or prototype demonstration in a relevant environment, including but not limited to those countermeasures certified to have that level of development by the Director of NIH, the Director of BARDA shall conduct research and development until the Director of BARDA certifies to the Secretary of Health and Human Services that—

“(1) the countermeasure has qualified for application through successful test and demonstration; or

“(2) the Director does not believe that qualification for application through successful test and demonstration is reasonably achievable.

“(d) RESPONSIBILITY OF PROJECT BIOSHIELD.—For countermeasures identified under subsection (a)(4)(A) that are qualified for application through successful test and demonstration, including but not limited to those countermeasures certified to have qualified for application through successful test and demonstration by the Di-



rector of BARDA, the Assistant Secretary of Health and Human Services for Preparedness and Response shall use the Project BioShield special reserve fund to may procure the countermeasure if the countermeasure meets the requirements for emergency use authorization described in subsection (a)(3)(B).

“(e) NO REQUIREMENT FOR FOOD AND DRUG ADMINISTRATION GENERAL USE APPROVAL.—The Secretary shall ensure that the Directors of NIH and BARDA and the Assistant Secretary of Health and Human Services for Preparedness and Response do not discontinue any research, development, or procurement of a countermeasure identified under subsection (a)(4)(A) because the Food and Drug Administration has not, or decides against, approving or licensing the countermeasure for general use under chapter V of the Federal Food, Drug, and Cosmetic Act or section 351 of this Act, as applicable.

“(f) INNOVATION.—The Secretary shall require the Directors of NIH and BARDA and the Assistant Secretary of Health and Human Services for Preparedness and Response to aggressively pursue innovative research, development, and procurement of each countermeasure identified under subsection (a)(4)(A).

“(g) DEFINITIONS.—In this section:

“(1) The term ‘BARDA’ means the he Biomedical Advanced Research and Development Authority established under section 319L(c).

“(2) The term ‘NIH’ means the National Institutes of Health.

“(3) The term ‘Project Bioshield’ means the Federal medical countermeasure procurement program established by Public Law 108–276.”.

## TITLE IV—FOREIGN RELATIONS MATTERS

### SEC. 401. INTERNATIONAL COLLABORATION AND INFORMATION SHARING RELATING TO BIOSECURITY.

The Secretary of State, in coordination with the Secretary of Homeland Security, the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal agencies, shall—

(1) support efforts in other countries and regions to develop mechanisms and capabilities for reporting to United Nations organizations validated data on biological attacks or other phenomena that may have serious health consequences for the United States, including wide-scale fatalities or infectious disease outbreaks;

(2) engage other Federal and nongovernmental entities and other countries to advance awareness and understanding of the risk posed by information derived from the life sciences that has the potential for misuse to cause harm, and advance recommendations on how best to address such risk;

(3) engage such entities and countries to promote greater awareness and understanding of the global availability of and access to life science technologies and materials; and

(4) promote the development and use of mechanisms for reporting, preserving, and sharing data on Federal programs and investments in international scientific, agricultural, medical, and public health collaborations in support of efforts to enhance global biosecurity.

### SEC. 402. INTERNATIONAL ENGAGEMENT TO ENHANCE BIODEFENSE AND BIOSECURITY.

The Secretary of State, in coordination and consultation with the Secretary of Homeland Security, and the heads other appropriate Federal agencies, shall, as appropriate—

(1) support efforts of other countries to establish and build capacity to effectively implement legislation criminalizing the development or use of biological weapons or acts of bioterrorism;

(2) engage other countries and international nongovernmental entities to develop and establish common standards, guidance, and best practices for actions relevant to preventing acts of bioterrorism and the illicit use of life sciences;

(3) support the efforts of other countries to enhance biosecurity and safety practices at laboratories and other facilities with materials that could be used in biological weapons or in an act of bioterrorism;

(4) promote the development and adoption of international guidance for the safety and security of high-risk pathogens and toxins; and

(5) promote information sharing relating to threats and best practices between the intelligence community, Federal law enforcement, and international law enforcement and security officials.

**SEC. 403. INTERAGENCY TASK FORCE ON BEST PRACTICES FOR GLOBAL BIOPREPAREDNESS.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that preparedness for a chemical, biological, radiological, or nuclear incident must be undertaken not only domestically but also internationally. Specifically, there is a need for a global preparedness architecture for such an event. Congress supports efforts to provide an international forum for discussion of key health security policies with international dimensions, and the establishment of a formal United States interagency task force to develop best practices and recommendations for implementation of a global preparedness architecture could enhance global preparedness.

(b) **ESTABLISHMENT OF TASK FORCE.**—The Secretary of State shall convene and lead an interagency task force to examine—

- (1) the state of global biopreparedness for a major biological event;
- (2) necessary components of a global biopreparedness architecture that would advance international health security, including considerations of—
  - (A) risk assessments;
  - (B) prevention and deterrence;
  - (C) detection;
  - (D) regional stockpiling of medical countermeasures, including considerations of—
    - (i) security of the stockpile;
    - (ii) delivery planning; and
    - (iii) legal dimensions of and obstacles to implementing such an architecture;
  - (E) attribution;
  - (F) response;
  - (G) other elements that should be a component of such an architecture; and
  - (H) obstacles to implementing such an architecture;

(3) best practices for preparedness based on lessons learned from domestic efforts to address the above issues, and that may be applicable internationally;

(4) activities undertaken through the National Strategy for Countering Biological Threats and the International Health Regulations 2005, as well as other activities deemed relevant by the task force; and

(5) the utility of working through existing international forums as a mechanism for distributing this information to the international community.

(c) **MEMBERSHIP.**—Members of the task force shall include representatives from—

- (1) the Department of Homeland Security;
- (2) the Department of Health and Human Services, including the Centers for Disease Control and Prevention;
- (3) the Department of Agriculture;
- (4) the Department of Defense;
- (5) the Department of Justice;
- (6) the Department of State;
- (7) the United States Agency for International Development;
- (8) the Director of National Intelligence;
- (9) other Federal Departments and agencies, as determined appropriate by the Secretary; and
- (10) other national biosecurity and biodefense stakeholders, including private sector, including the pharmaceutical industry and the biological laboratory community, as determined appropriate by the Secretary.

(d) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the findings of the task force established under this section.

**SEC. 404. BIOLOGICAL AND TOXIN WEAPONS CONVENTION.**

The Secretary of State shall—

(1) promote confidence in effective implementation of and compliance with the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (commonly referred to as the “Biological and Toxin Weapons Convention”) by the States party to the Convention by promoting transparency with respect to legitimate activities and pursuing compliance diplomatically to address concerns;

(2) promote universal membership in the Convention;

(3) develop an action plan for increasing international adherence to the Convention; and

(4) ensure that United States participation in Convention meetings is broadly inclusive of representatives of relevant Federal departments and agencies.

## PURPOSE AND SUMMARY

H.R. 5498, the WMD Prevention and Preparedness Act of 2010, was introduced by Representatives Bill Pascrell (D–NJ) and Peter T. King (R–NY) on June 10, 2010. The purpose of H.R. 5498 is to enhance homeland security by improving efforts to prevent, deter, prepare for, detect, attribute, respond to, and recover from attacks with weapons of mass destruction (WMD).

## BACKGROUND AND NEED FOR LEGISLATION

Title 18 of the “Implementing Recommendations of the 9/11 Commission Act of 2007” (P.L. 110–53; Aug. 3, 2007) authorized the establishment of a bipartisan commission to study the threat that the proliferation of WMD poses to our country. Congress directed the independent, bipartisan Commission for the Prevention of WMD Proliferation and Terrorism (the Commission) to address the WMD threat in general and the nuclear threat specifically.

The Commission, led by former Senator Bob Graham (Chair) and Former Senator Jim Talent (Vice-Chair), was charged with: (1) Assessing Federal activities, initiatives, and programs to prevent WMD proliferation and terrorism; and (2) providing a clear and comprehensive strategy and concrete recommendations to address the WMD threat. The Commission decided to focus on biological and nuclear threats—the two WMD threats that they felt had the greatest potential to kill the largest number of people.

The Commission submitted a report entitled “World at Risk” to the President and Congress in December 2008. The Commission concluded that: (1) unless the global community acts decisively and urgently, a terrorist attack involving WMD will more likely than not occur somewhere in the world by the end of 2013; (2) terrorists are more likely to obtain and use a biological weapon than a nuclear weapon; and (3) the United States government needs to more aggressively limit the proliferation of biological weapons and reduce the prospect of a biological terrorist attack.

In October 2009, the Commission issued a progress report entitled “The Clock is Ticking” to call attention to what the Commission believed to be the lack of progress in implementing its previous recommendations. Subsequently, in January 2010 the Commission released a “Prevention of WMD Proliferation and Terrorism Report Card,” which assessed the actions taken by the United States to address the recommendations made in “World at Risk.”

Former Senators Graham and Talent testified before the Full Committee on Homeland Security on April 21, 2010. At this hearing, the former Senators testified to their belief that a WMD terrorist attack will occur somewhere in the world by 2013. They reiterated their view that the Nation had not done enough to prevent and prepare for a domestic biological attack. They also expressed their concern about the fractured state of Congressional jurisdiction over homeland security matters and their desire to see jurisdiction for the Department of Homeland Security consolidated in the Committee on Homeland Security in the House, and the Homeland Security and Governmental Affairs Committee in the Senate.

Enactment of H.R. 5498 is needed to better address the gaps identified by the Commission and to better organize efforts by the

public and private sectors to prevent, deter, prepare for, detect, attribute, respond to, and recover from an attack involving WMD. This legislation implements the Commission's recommendations by requiring a comprehensive approach to preventing and preparing for biological and other WMD attacks. This approach includes: (1) strengthening intelligence and bioforensics; (2) enhancing security at laboratories with the most dangerous pathogens; (3) reviewing national policies that govern medical countermeasures and vaccinations; (4) enhancing international collaboration against the WMD threat; and (5) improving environmental recovery from a WMD attack.

#### HEARINGS

On June 15, 2010, the Subcommittee on Emerging Threats, Cybersecurity, and Science and Technology held a legislative hearing on H.R. 5498. The Subcommittee received testimony from Sara (Sally) T. Beatrice, PhD, Assistant Commissioner, Public Health Laboratory, Department of Health and Mental Hygiene, City of New York; Randall S. Murch, PhD, Associate Director, Research Program Development, National Capital Region, Virginia Polytechnic Institute and State University; Robert P. Kadlec, MD, Vice President, Global Public Sector, PRTM Management Consulting; and Julie E. Fischer, PhD, Senior Associate, Global Health Security Program, Henry L. Stimson Center.

Previously, on April 21, 2010, the Full Committee held a hearing entitled "Viewpoints on Homeland Security: A Discussion with the WMD Commissioners." The Committee received testimony from former Senator Bob Graham, who chaired the Commission for the Prevention of WMD Proliferation and Terrorism and from former Senator Jim Talent, who was Vice-Chairman of the Commission for the Prevention of WMD Proliferation and Terrorism. Additionally, the following Committee on Homeland Security hearings informed H.R. 5498:

On October 27, 2009, the Subcommittee on Emerging Threats, Cybersecurity, and Science and Technology held a hearing entitled "Real-Time Assessment of the Federal Response to Pandemic Influenza." The Subcommittee received testimony from: Alexander Garza, MD, Chief Medical Officer and Assistant Secretary for Health Affairs, Department of Homeland Security; Nicole Lurie, MD, Assistant Secretary for Preparedness and Response, Department of Health and Human Services; Mr. Richard Serino, Deputy Administrator, Federal Emergency Management Agency, Department of Homeland Security; and Ms. Marcy Forman, Director, Intellectual Property Rights Coordination Center, Department of Homeland Security.

On September 14, 2009, the Subcommittee on Emerging Threats, Cybersecurity, and Science and Technology held a field hearing in Brooklyn, New York entitled "Status Report on Federal and Local Efforts to Secure Radiological Sources." The Subcommittee received testimony from: Mr. Craig Conklin, Director, Sector Specific Agency Executive Management Office, Office of Infrastructure Protection, Department of Homeland Security; Mr. Kenneth Sheely, Associate Assistant Deputy Administrator for Global Threat Reduction, National Nuclear Security Administration, Department of Energy; Mr. Robert Lewis, Director, Division of Materials Safety and State

Agreements, Nuclear Regulatory Commission; Captain Michael Riggio, Counterterrorism Division, Police Department, City of New York, State of New York; Mr. Gene Miskin, Director, Office of Radiological Health, Department of Health and Mental Hygiene, New York City, State of New York; Bonnie Arquilla, DO, Director of Disaster Preparedness, State University of New York Downstate Medical Center; and Mr. Gene Aloise, Director, Natural Resources and Environment, Government Accountability Office.

On July 29, 2009, the Committee on Homeland Security held a hearing entitled “Beyond Readiness: An Examination of the Current Status and Future Outlook of the National Response to Pandemic Influenza.” The Committee received testimony from: Hon. Jane Holl Lute, Deputy Secretary, Department of Homeland Security; Hon. William Corr, Deputy Secretary, Department of Health and Human Services; Ms. Bernice Steinhardt, Director, Strategy Issues, Government Accountability Office; Ms. Colleen M. Kelley, National President, National Treasury Employees Union; Mark B. Horton, MD, MSPH, Director, Department of Public Health, State of California; Mr. Richard G. Muth, Executive Director, Maryland Emergency Management Agency, State Emergency Operations Center, State of Maryland; and Thomas A. Farley, MD, MPH, Health Commissioner, New York City, State of New York.

On July 22, 2008, the Subcommittee on Emerging Threats, Cybersecurity, and Science and Technology held a field hearing in Providence, Rhode Island, entitled “Emerging Biological Threats and Public Health Preparedness: Getting Beyond Getting Ready.” The Subcommittee received testimony from: Jeffrey W. Runge, MD, Chief Medical Officer and Assistant Secretary for Health Affairs, Department of Homeland Security; RADM W. Craig Vanderwagen, MD, Assistant Secretary for Preparedness and Response, Department of Health and Human Services; Captain Peter Boynton, Deputy Regional Principal Federal Official for Pandemic Influenza and Federal Security Director, Bradley International Airport (Connecticut), Transportation Security Administration, Department of Homeland Security; Michael G. Kurilla, MD, PhD, Director, Office of Biodefense Research Affairs and Associate Director for Biodefense Product Development, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Department of Health and Human Services; Daniel M. Sosin, MD, MPH, Director, Biosurveillance Coordination Unit, and Associate Director for Science, Coordination Office for Terrorism Preparedness and Emergency Response, Centers for Disease Control and Prevention, Department of Health and Human Services; David Gifford, MD, MPH, Director of Health, Department of Health, State of Rhode Island; MG Robert T. Bray, Rhode Island Adjutant General, Commanding General, Rhode Island National Guard, Director Rhode Island Emergency Management Agency, and Homeland Security Advisor, State of Rhode Island; Mr. Thomas J. Kilday, Jr., Homeland Security Program Manager, Rhode Island Emergency Management Agency, State of Rhode Island; and Hon. Peter T. Ginaitt, Director, Emergency Preparedness, Lifespan Hospital Network.

On May 15, 2008, the Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment held a hearing entitled “The Resilient Homeland: How DHS Intelligence Should Empower America to Prepare for, Prevent, and Withstand Terrorist Attacks.”

The Subcommittee received testimony from: Stephen E. Flynn, PhD, Jeane J. Kirkpatrick Senior Fellow for National Security Studies, Council on Foreign Relations; Mr. Amos N. Guiora, Professor of Law, University of Utah; and Mr. R.P. Eddy, Ergo Advisors.

On September 18, 2007, the Committee on Homeland Security held a hearing entitled "Protecting the Protectors: Ensuring the Health and Safety of our First Responders in the Wake of Catastrophic Disasters." The Committee received testimony from: Jon R. Krohmer, MD, Deputy Chief Medical Officer and Principal Deputy Assistant Secretary, Office of Health Affairs, Department of Homeland Security; John Howard, MD, Director, National Institute for Occupational Health and Safety, Centers for Disease Control and Prevention, Department of Health and Human Services; Ms. Cynthia A. Bascetta, Director, Health Care, Government Accountability Office; Philip J. Landrigan, MD, MSc, Professor and Chairman, Department of Community and Preventive Medicine, Mount Sinai School of Medicine; Deputy Chief Nicholas Visconti, International Association of Fire Fighters; and Mike D. McDaniel, PhD, Secretary, Department of Environmental Quality, State of Louisiana.

#### COMMITTEE CONSIDERATION

The Committee met on June 23, 2010, to consider H.R. 5498, and ordered the measure to be reported to the House with a favorable recommendation, amended, by a recorded vote of 26 yeas and 0 nays (Roll Call Vote No. 24). The Committee took the following actions:

The Committee adopted H.R. 5498, as amended, by voice vote.

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MR. THOMPSON to H.R. 5498, (#1); was AGREED TO by voice vote.

A unanimous consent request by MR. THOMPSON that all of the amendments listed on the roster be adopted; was AGREED TO without objection.

An Amendment offered by MS. RICHARDSON to the Amendment in the Nature of a Substitute to H.R. 5498, (#1A),

Page 31, after line 14, insert the following:

"(c) Best Practices.—In compiling guidance for individual and community preparedness in order to carry out subsection (a)(3), the Secretary shall give due regard to best practices based on the experience of other countries and agencies and the expertise of academic institutions and non-governmental organizations."; was AGREED TO by unanimous consent.

An Amendment offered by MS. RICHARDSON to the Amendment in the Nature of a Substitute to H.R. 5498, (#1B).

Page 50, line 14, strike "and".

Page 50, after line 14, insert the following:

"(2) in developing the guidance under paragraph (1), review the experiences of other countries and the expertise of academic institutions and non-governmental organizations, and"; was AGREED TO by unanimous consent.

An Amendment offered by MR. AUSTRIA to the Amendment in the Nature of a Substitute to H.R. 5498, (#1C); Page 51, line 19, after “first responder” insert the following: “and first provider”.

Page 52, after line 13, insert the following: “the National Domestic Preparedness Consortium;”.

Page 52, line 14, strike “(3)” and insert “(4)”.

Page 53, line 15, strike “(4)” and insert “(5)”; was AGREED TO by unanimous consent.

An Amendment offered by MR. AUSTRIA to the Amendment in the Nature of a Substitute to H.R. 5498, (#1D), Page 73, after line 7, insert a new section entitled “Sec. 211. University-Based Centers for Homeland Security Criteria for Designation.”; was AGREED TO by unanimous consent.

An Amendment offered by MS. CLARKE to the Amendment in the Nature of a Substitute to H.R. 5498, (#1E), Page 16, after line 14, insert a new section entitled “Sec. 2104. Radiological Materials Security.”; was AGREED TO by unanimous consent.

An Amendment offered by MS. CLARKE to the Amendment in the Nature of a Substitute to H.R. 5498, (#1F), Page 56, line 1, after “outdoor areas” insert the following: “, including subways and other mass transportation facilities.”; was AGREED TO by unanimous consent.

An Amendment offered by MR. GREEN to the Amendment in the Nature of a Substitute to H.R. 5498, (#1G), Page 48, after line 16, insert a new subparagraph entitled “(e) Detailee Program.”

Page 48, line 17, strike “(e)” and insert “(f)”.

Page 48, line 23, strike “(f)” and insert “(g)”; was AGREED TO by unanimous consent.

An Amendment offered by MR. OWENS to the Amendment in the Nature of a Substitute to H.R. 5498, (#1H), In the proposed section 2121(b)(4) of the Homeland Security Act of 2002, as proposed to be inserted by section 201, add at the end the following: “The Secretary shall provide guidance on how State and local, tribal, and private entities can partner with public television stations to disseminate information provided by the Department and shall provide information on best practices on disseminating information to residents of local communities, including leveraging public television stations.”; was AGREED TO by unanimous consent.

An Amendment offered by MR. CUELLAR to the Amendment in the Nature of a Substitute to H.R. 5498, (#1I), Page 22, line 12, strike “The” and insert “At the request of the Secretary, the”; was AGREED TO by unanimous consent.

An Amendment offered by MR. CUELLAR to the Amendment in the Nature of a Substitute to H.R. 5498, (#1J), Page 26, line 11, after “proliferators,” insert the following: “in a manner that acknowledges commerce and trade.”; was AGREED TO by unanimous consent.

#### COMMITTEE VOTES

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

The Committee on Homeland Security considered H.R. 5498 on June 23, 2010, and ordered the measure reported to the House with a favorable recommendation, as amended, by a recorded vote of 26 yeas and 0 nays (Roll Call Vote No. 24). The vote was as follows:

YEAS	NAYS
MR. THOMPSON	
MS. SANCHEZ	
MS. HARMAN	
MS. NORTON	
MR. CUELLAR	
MR. CARNEY	
MS. CLARKE	
MS. RICHARDSON	
MRS. KIRKPATRICK	
MR. PASCRELL	
MR. CLEAVER	
MR. GREEN	
MR. HIMES	
MS. KILROY	
MS. TITUS	
MR. OWENS	
MR. KING	
MR. LUNGREN	
MR. ROGERS	
MR. MCCAUL	
MR. DENT	
MR. BILIRAKIS	
MR. BROUN	
MR. CAO	
MR. AUSTRIA	
MR. GRAVES	

#### COMMITTEE OVERSIGHT FINDINGS

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

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

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 5498, the WMD Prevention and Preparedness Act of 2010, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.



U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 26, 2010.*

Hon. BENNIE G. THOMPSON,  
*Chairman, Committee on Homeland Security,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5498, the WMD Prevention and Preparedness Act of 2010.

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

Sincerely,

*Douglas W. Elmendorf.*

Enclosure.

*H.R. 5498—WMD Prevention and Preparedness Act of 2010*

Summary: CBO estimates that H.R. 5498 would authorize the appropriation of \$565 million over the 2011–2015 period for programs in the Department of Homeland Security (DHS), the Department of Health and Human Services (HHS), and other agencies to address the threat of weapons of mass destruction.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 5498 would cost \$455 million over the 2011–2015 period. We also estimate that enacting the bill would reduce direct spending by \$58 million over the 2011–2015 period and by \$23 million over the 2011–2020 period. In addition, enacting, the bill could have an insignificant effect on revenues. Because H.R. 5498 would affect direct spending and revenues, pay-as-you-go procedures apply.

H.R. 5498 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would require public and private laboratories to comply with new security standards. Because the number of laboratories that would be affected and the types of security measures would depend on future regulations, CBO cannot estimate the costs of the mandates. Consequently, CBO cannot determine whether those costs would exceed the annual thresholds for intergovernmental or private-sector mandates (\$70 million and \$141 million in 2010, respectively, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5498 is shown in the following table. The costs of this legislation fall within budget functions 150 (international affairs), 300 (natural resources and environment), 350 (agriculture), 450 (community and regional development), 550 (health), and 750 (administration of justice)

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011– 2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
DHS Programs:						
Estimated Authorization Level .....	79	75	75	25	25	279
Estimated Outlays .....	25	35	47	55	57	219
HHS Programs:						
Estimated Authorization Level .....	46	54	55	56	57	268
Estimated Outlays .....	17	42	51	53	56	219

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
<b>Other Programs:</b>						
Estimated Authorization Level .....	10	2	2	2	2	18
Estimated Outlays .....	9	2	2	2	2	17
<b>Total Changes:</b>						
Estimated Authorization Level .....	135	131	132	83	84	565
Estimated Outlays .....	51	79	100	110	115	455
<b>CHANGES IN DIRECT SPENDING <sup>a</sup></b>						
Estimated Budget Authority .....	–22	–71	0	30	5	–58
Estimated Outlays .....	–22	–71	0	30	5	–58

Note: DHS = Department of Homeland Security; HHS = Department of Health and Human Services.

<sup>a</sup> Over the 2011–2020 period, CBO estimates that enacting the bill would reduce direct spending by \$23 million.

**Basis of estimate:** CBO estimates that implementing H.R. 5498 would cost \$455 million over the 2011–2015 period, assuming appropriation of the necessary funds. We estimate that enacting the bill also would reduce direct spending by \$58 million over the 2011–2015 period and by \$23 million over the 2011–2020 period. In addition, enacting the bill could have an insignificant effect on revenues.

#### *Spending subject to appropriation*

For this estimate, CBO assumes that the necessary amounts will be appropriated near the start of each fiscal year and that spending will follow historical patterns for similar activities.

**DSH Programs.** CBO estimates that H.R. 5498 would authorize the appropriation of \$279 million over the 2011–2015 period for several DHS programs and activities.

H.R. 5498 would authorize the appropriation of \$50 million annually over the 2011–2013 period for the Federal Emergency Management Agency to make grants to state, local, and tribal governments and nonprofit organizations to improve security at laboratories that contain toxins that present a threat to national security. CBO estimates that implementing this grant program would cost \$98 million over the 2011–2015 period, and an additional \$52 million after 2015.

The bill would authorize DHS to reimburse state and local laboratories for their costs to participate in the BioWatch program, which includes a system of monitors placed near urban areas to detect biological attacks. About 30 labs participate in BioWatch, and each spends, on average, about \$400,000 annually on this activity. We estimate that it would cost \$57 million over the 2011–2015 period to cover the labs' expenses.

The legislation also would direct DHS to establish a program to evaluate the effectiveness of tests to detect certain pathogens. Based on information from DHS about the cost of similar programs, we estimate that it would cost \$47 million over the five-year period to carry out this activity.

H.R. 5498 would require DHS to establish regulations for security measures at laboratories that contain certain toxins. Based on the costs of similar activities, CBO estimates that it would cost DHS about \$9 million to carry out this provision and to assist the Departments of Agriculture and HHS in enforcing the new regulations over the next five years.

Finally, H.R. 5498 also would require DHS to develop strategies, share information, and prepare reports relating to threats from weapons of mass destruction. CBO estimates that it would cost \$8 million over the 2011–2015 period to carry out those activities.

**HHS Programs.** CBO estimates that H.R. 5498 would authorize the appropriation of \$268 million over the 2011–2015 period for activities to be conducted by HHS.

H.R. 5498 would require HHS to establish and implement a strategy for dispensing antidotes or other countermeasures to mitigate the effects of a terrorist attack with chemical, biological, radiological, or nuclear materials. Those activities would overlap to a considerable degree with activities under Executive Order 13527, issued on December 30, 2009; that order requires the Secretaries of Homeland Security and HHS to establish mechanisms for providing medical countermeasures following a biological attack. Based on information from the Centers for Disease Control and Prevention (CDC) and accounting for activities already required by that executive order, CBO estimates that implementing the bill's requirements would cost \$185 million over the 2011–2015 period.

A subsequent executive order, issued on July 2, 2010 (Executive Order 13546), requires the Secretaries of HHS and Agriculture to establish a tiered list of select materials considered threats to the United States. H.R. 5498 would modify and expand those requirements, and it would require those agencies to provide DHS with a list of laboratories and other locations where the most dangerous materials are stored. It also would require HHS to conduct a review of its vaccination and antimicrobial dispensing policy and to issue a report with recommendations to improve that policy. Based on information from CDC and accounting for overlapping activities specified within the executive order, CBO estimates that this provision would cost \$34 million over the 2011–2015 period.

**Other Programs.** CBO estimates that H.R. 5498 would authorize the appropriation of \$18 million over the 2011–2015 period for other programs and activities.

The bill would require the Department of Agriculture (along with HHS) to enforce security regulations for laboratories that contain certain agents. Based on information from the Department of Agriculture, CBO estimates that it would cost the department \$10 million to carry out this responsibility over the next five years.

H.R. 5498 would direct the Environmental Protection Agency (EPA) to assess the capability of federal, state, tribal, and local governments to recover from attacks involving chemical, biological, radiological, or nuclear materials. The bill would require the agency to develop exercises and provide guidance for state, local, and tribal governments to improve environmental decontamination and clean-up methods. Based on information from EPA, CBO estimates it would cost the agency about \$5 million in 2011 to carry out those activities.

Section 403 would require the Secretary of State to establish an interagency task force to examine the current state of—and methods for improving—global preparedness for a major biological attack. The task force would include representatives from several federal departments, including DHS, HHS, and the Department of Defense, and would be required to submit a report detailing its findings to the Congress within 18 months of the bill's enactment.

Based on the cost of similar efforts, CBO estimates that operating the task force would cost approximately \$1 million in 2011 and less than \$500,000 in 2012, assuming the availability of appropriated funds.

H.R. 5498 would authorize the appropriation of \$1 million for fiscal year 2011 for the National Academy of Sciences to prepare a report for the Congress on the use of forensic science to improve homeland security. We estimate that most of those funds would be spent in 2011.

*Direct spending and revenues*

The Project Bioshield Act, enacted in 2004, provides funding for purchasing vaccines and pharmaceutical products that could be used in the event of a chemical, biological, radiological, or nuclear threat. Under that act, HHS, with the concurrence of HHS and approval of the Office of Management and Budget, can enter into contractual agreements to purchase those products up to eight years before they would otherwise be approved for sale to the public. Provisions in H.R. 5498 would alter the criteria for procurement of those vaccines and pharmaceutical products.

CBO anticipates that the new criteria would slow the procurement process for a subset of vaccines and pharmaceutical products by about one year. The delay in procurement is not expected to change total spending under Project Bioshield; however, it would delay some Bioshield spending until after 2020. CBO estimates that enacting those provisions would reduce direct spending by \$58 million over the 2011–2015 period and \$23 million over the 2011–2020 period.

H.R. 5498 could increase revenues because the legislation would establish civil penalties for violations of the security regulations established by DHS. Civil fines are recorded as revenues and deposited in the Treasury. CBO estimates that any additional revenues would not be significant because of the small number of cases likely to be affected.

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. The changes in outlays and revenues that are subject to those pay-as-you-go procedures, are shown in the following table.

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020	
NET INCREASE OR DECREASE (–) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact .....	–22	–71	0	30	5	5	0	9	21	0	–58	–23	

**Intergovernmental and private-sector impact:** Under current law, laboratories must register with the National Select Agent Registry if they possess, use, or transfer select materials or toxins. They must also comply with security standards for conducting risk assessments. H.R. 5498 would impose additional duties on laboratories if they possess, use, or transfer select materials or toxins that are designated as tier I threats. Those laboratories would be required to comply with new security standards in addition to new

standards for conducting background checks, training personnel, and performing vulnerability assessments.

The duty to comply with the new federal regulations would impose intergovernmental and private-sector mandates as defined in UMRA. The Secretary of HHS in coordination with the Secretary of DHS would have broad authority to add to or remove materials from the list of tier I threats at any time. Because the number of laboratories that would be affected and the types of security measures required would depend on those future regulatory actions and would therefore be difficult to predict, CBO cannot estimate the cost of the mandates. Consequently, CBO cannot determine whether resulting costs would exceed the annual thresholds for intergovernmental or private-sector mandates (\$70 million and \$141 million in 2010, respectively, adjusted annually for inflation).

Grant funds authorized in the bill for enhancing security at laboratories would benefit certain, state, local, and tribal governments, including public institutions of higher education.

Estimate prepared by: Federal Costs: DHS—Mark Grabowicz, HHS—Ellen Werble, Stephanie Cameron, and Jamease Kowalczyk, Department of Agriculture—Greg Hitz, Department of State and Intelligence Programs—Jason Wheelock, EPA—Susanne Mehlman; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Sarah Axeen.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 5498 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

The purpose of H.R. 5498 is to enhance homeland security by improving efforts to prevent, deter, prepare for, detect, attribute, respond to, and recover from attacks involving a weapon of mass destruction (WMD).

The goals of this legislation are to prevent, deter, prepare for, detect, attribute, respond to, and recover from attacks with WMD or WMD agents. H.R. 5498 takes a comprehensive approach to the threat that terrorists will attempt to attack the United States with chemical, biological, radiological or nuclear materials and provides a comprehensive response to such a threat.

The objectives of H.R. 5498 are:

- Improving the capabilities of the United States to collect, analyze, and disseminate WMD-related intelligence;

- Integrating national biosecurity and biodefense stakeholders into the homeland security intelligence and information sharing process;

- Strengthening of security at laboratories that possess biological agents that are considered material threats to the Nation; Preventing terrorists from accessing sensitive United States technology and munitions as well as WMD components, precursors, and delivery systems;

- Increasing the awareness of manufacturers and exporters of strategic technologies or commodities through industry outreach;

Requiring the coordination of law enforcement counter-proliferation investigations and intelligence counter-proliferation activities;

Disseminating appropriate WMD threat information and alerts to State, local, and tribal authorities, and the United States public;

Improving WMD-related information dissemination from the Federal government to State, local, and tribal authorities;

Developing and disseminating guidance and other information for individual and community preparedness for and collective response to a WMD attack;

Establishing a national biosurveillance strategy to increase awareness of the biological threat and identify acts of bioterrorism as soon as possible;

Improving the performance of the National Biosurveillance Integration Center;

Improving the selection, procurement, use, and maintenance of emergency responder equipment through the System Assessment and Validation for Emergency Responders program;

Providing integrated laboratory support to Federal law enforcement agencies as they investigate incidents involving WMD and/or their agents;

Establishing a national bioforensics strategy to increase national bioforensics capabilities;

Improving recognition of and response to situations involving potential biological threats, including the performance of coordinated joint criminal and epidemiological investigations;

Developing voluntary guidance for first responders, first providers, and others to follow when responding to a WMD attack or event;

Developing and issuing guidance for clean-up and restoration of areas that have been affected by a biological attack or event, with submission of a report to the appropriate Congressional committees within one year of enactment and annually thereafter regarding this guidance;

Improving preparedness for environmental recovery from WMD attacks or events and requiring the submission of a progress report on the assessment of preparedness requirements for environmental recovery to the appropriate Congressional committees no later than one year after enactment;

Improving biotechnology research, development, and procurement by directing that boundaries for the research activities of the National Institutes of Health, the Biodefense Advanced Research and Development Authority, and the Project BioShield Special Reserve Fund be established;

Evaluating whether agents already identified as material threats to the Nation still pose threats sufficient to affect United States homeland security and national security;

Ensuring that United States vaccination and antimicrobial distribution policies are adequate to respond to

the risks of terrorist-sponsored biological attacks or to other events with significant health consequences to the United States;

Reducing the misuse of life sciences and enhancing global biosecurity through increased international collaboration and information sharing;

Increasing international engagement to enhance bio-defense and biosecurity;

Identifying and communicating best practices for preparedness based on lessons learned from United States domestic efforts that may be useful or applicable internationally; and

Promoting the Biological and Toxin Weapons Convention.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

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

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

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

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 1, which grants Congress the power to provide for the common Defense of the United States.

#### APPLICABILITY TO LEGISLATIVE BRANCH

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

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

#### TITLE I—INTELLIGENCE MATTERS

*Section 1. Short Title; Table of Contents.*

This Act may be cited as the “WMD Prevention and Preparedness Act of 2010.”

*Section 2. Definitions.*

This section defines the following terms: (1) “appropriate congressional committees”; (2) “weapon of mass destruction”; (3) “Intelligence Community”; and (4) “national biosecurity and biodefense stakeholders.”

The Committee intends for the term “biosecurity and biodefense stakeholders” to be broadly construed and include officials from the Federal, State, local, and tribal authorities and individuals from the private sector who are involved in efforts to prevent, deter, prepare for, detect, attribute, respond to, and recover from a biological attack or other phenomena that may have serious health consequences for the United States, including wide-scale fatalities or infectious disease outbreaks.

*Section 101. National Intelligence Strategy for Countering the Threat from WMD.*

This section directs the Director of National Intelligence, in consultation with the Secretary of Homeland Security and the heads of other appropriate Federal departments and agencies, to develop the National Intelligence Strategy for Countering the Threat from WMD and an associated implementation plan. The purpose of the strategy is to improve the capabilities of the United States to collect, analyze, and disseminate intelligence related to WMD. The strategy shall address workforce issues, collaboration, domestic analysis and collection, and each type of WMD. The Director of National Intelligence shall, as the Director considers appropriate, coordinate with nongovernmental organizations and members of the public and private sectors to develop the strategy.

The implementation plan shall include actions to better share intelligence on WMD throughout the Intelligence Community, disseminate WMD intelligence to stakeholders in unclassified formats, and provide open-source WMD intelligence to others in the public and private sectors. The implementation plan shall also include objectives to be accomplished over a five-year period, assignment of roles and responsibilities to elements of the Intelligence Community, and a schedule for assessment of the effectiveness and efficiency of the strategy.

The Director of National Intelligence shall, as the Director considers appropriate, coordinate with nongovernmental organizations and members of the public and private sectors to develop the strategy.

Not later than one year after enactment of this legislation, the Director of National Intelligence, in consultation with the Secretary of Homeland Security, shall submit the strategy and implementation plan to the appropriate congressional committees. The report shall be in unclassified form, but may include a classified annex as appropriate.

The Committee recognizes that the Intelligence Community addresses the WMD threat in various parts of the National Intelligence Strategy; however, the Committee believes that the establishment of a targeted national strategy for countering this homeland security threat is necessary given that the responses to this emerging threat are dissimilar from responses to traditional threats. Accordingly, the Committee intends for the strategy to take these differences into account and to contain goals and objectives that are tailored to the unique characteristics of the WMD threat.



The Committee believes that individuals with considerable knowledge of WMD may reside in the United States government but outside of the Intelligence Community. The Committee intends for the Intelligence Community to reach out to these experts and, where appropriate, to ask these experts to assist in the analysis of technical information related to WMD.

*Section 102. National Intelligence Strategy for Countering Biological Threats.*

This section directs the Director of National Intelligence, in consultation with the Secretary of Homeland Security and the heads of other appropriate Federal departments and agencies, to develop and implement the “National Intelligence Strategy for Countering Biological Threats” and an implementation plan for the strategy. This strategy should be integrated into the National Intelligence Strategy for Countering the Threat from Weapons of Mass Destruction.

The strategy shall include a plan for increasing the number of individuals in the Intelligence Community and collaboration with those in the private sector that have the experience, education, and expertise to better collect information and/or analyze that information to produce intelligence that addresses the biological threat.

The strategy shall also address domestic and international intelligence needs regarding the biological threat, seek improvement of tactical and strategic intelligence regarding the threat, ensure that the commitment of human and other resources to address the biological threat is sustained, and make the biological threat an intelligence priority.

The implementation plan shall include actions to share intelligence throughout the Intelligence Community on biological weapons and organisms that could be used for biological terrorism, and shall address the strategic and tactical intelligence activities (i.e., human intelligence, measurement and signature intelligence, technical intelligence, medical intelligence, and open source intelligence) necessary to implement the strategy.

The implementation plan shall also include objectives to be accomplished over a five-year period, assignment of roles and responsibilities to elements of the Intelligence Community, a schedule for assessment of the effectiveness and efficiency of the strategy, and a schedule for regularly evaluating effort and progress in understanding and countering the biological threat.

Not later than one year after enactment, the Director of National Intelligence, in consultation with the Secretary of Homeland Security, shall submit the strategy and implementation plan to the appropriate congressional committees. The report shall be in unclassified form but with a classified annex, as appropriate.

The Committee intends for this strategy to build on the National Intelligence Strategy for Countering Biological Threats, as initially produced in 2007 and to authorize the activities already in place regarding the National Intelligence Strategy for Countering Biological Threats. The Committee also intends for the Director of National Intelligence to draw upon knowledge in the National Counterproliferation Center, the National Counterterrorism Center and other members of the Intelligence Community, as appropriate.

The Committee believes that the Intelligence Community’s capability to address the unique aspects of biological WMD threats

would be enhanced by the recruitment of more personnel who can understand, analyze, and collect information on the biological threat. To better hire, attract, recruit, and retain these experts, the Committee believes that the Director of National Intelligence should first define the functions, capabilities, and gaps that exist in the current intelligence workforce.

## TITLE II—HOMELAND SECURITY MATTERS

### *Section 201. Weapons of Mass Destruction Prevention and Preparedness.*

This section amends the Homeland Security Act of 2002 by adding a new “Title XXI—Weapons of Mass Destruction Prevention and Preparedness.” This new title is comprised of six subtitles, which address all aspects of counter-WMD activities: (A) prevention and deterrence; (B) preparedness; (C) detection; (D) attribution; (E) response; (F) recovery.

### SUBTITLE A—PREVENTION AND DETERRENCE

#### *Section 2101. Weapons of Mass Destruction Intelligence and Information Sharing Unit.*

This section establishes a unit for WMD intelligence and information sharing in the Department of Homeland Security Office of Intelligence and Analysis. This office shall conduct intelligence-sharing activities in accordance with the National Intelligence Strategy for Countering the Threat from WMD (section 101 of this Act) and the National Intelligence Strategy for Countering Biological Threats (section 102 of this Act). The unit will analyze information regarding: (1) terrorist actors, claims, and plans for chemical, biological, radiological, and nuclear attacks; and (2) global infectious disease, public health, food, agricultural, and veterinary issues that could impact homeland security. Also, the unit will provide State, local, and tribal authorities, as well as members of the public health, scientific, and response communities with analytical support on the WMD threat and perform other responsibilities, as assigned by the Secretary. Where appropriate, the unit shall coordinate with others in the Intelligence Community.

Not later than one year after the date of enactment and annually thereafter, the Secretary shall report to the appropriate congressional committees on the intelligence and information sharing activities to counter the threat from WMD conducted by this unit and all relevant entities within the Department. The Secretary will also report on how the Department acted in accordance with relevant intelligence strategies.

The Committee intends to authorize a pre-existing unit (or any successor) within the Office of Intelligence and Analysis of the Department of Homeland Security that is engaged in WMD intelligence and information sharing activities. The Committee believes that this unit should work to the greatest extent possible with other Department of Homeland Security components (operational and intelligence), headquarters elements, and State, local, and tribal authorities in order to advance the Department’s counter-WMD activities. State, local, and tribal participation, in particular, should

include officials from high threat areas. The Committee does not intend for this unit to conduct the same activities already conducted by the National Counterterrorism Center, the Federal Bureau of Investigation, or other members of the Intelligence Community. The Committee believes that strict adherence to relevant national intelligence strategies will ensure clarity of mission.

*Section 2102. Information Sharing and Collaboration for Biosecurity and Biodefense.*

This section increases situational awareness for homeland security purposes with respect to biological threats. The section directs the Secretary, acting through the Under Secretary for Intelligence and Analysis, to: (1) integrate national biosecurity and biodefense stakeholders into the homeland security, intelligence, and information sharing process; (2) develop a framework for homeland security intelligence and information sharing with national biosecurity and biodefense stakeholders; (3) enable these stakeholders to provide recommendations on how to integrate information they possess into the homeland security, intelligence, and information sharing process; (4) leverage fusion centers (and other homeland security capabilities and structures) to counter biological attacks or other phenomena that may have serious health consequences for the United States, such as wide-scale fatalities or infectious disease outbreaks; and (5) partner with other Federal departments and agencies to perform biological threat and risk assessments. The Secretary shall coordinate with the Secretary of State, the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal agencies in carrying out these activities.

The Committee intends for intelligence and information sharing activities to: (1) build upon the existing intelligence-sharing programs established by public health and health care deliverers; (2) expand to incorporate the larger group of national biosecurity and biodefense stakeholders, including local officials from high threat areas; and (3) obtain input from national biosecurity and biodefense stakeholders on how to integrate information gathered from these stakeholders to increase situational awareness. The Committee also intends for the Office of Intelligence and Analysis to continue to manage and facilitate this activity.

*Section 2103. Bioterrorism Risk Assessments.*

This section directs the Secretary, in coordination with the heads of other appropriate Federal departments and agencies, to produce biennial integrated Bioterrorism Risk Assessments to identify and assess the evolving terrorist risk of a biological attack or other phenomena that may have serious health consequences for the United States, such as wide-scale fatalities or infectious disease outbreaks. These assessments shall: (1) identify the threat, vulnerability, and consequences of a biological terrorist attack against the United States; (2) take into account intelligence and information regarding terrorist intentions, capabilities, plans, and actions; (3) inform and guide other homeland security biological threat assessments and determinations, and help determine the prioritization of other homeland security activities, as appropriate; (4) inform investments in national strategic biodefense research, development, planning, preparedness, and collective response to biological attacks; (5) iden-

tify key gaps in knowledge and data regarding the biological threat; (6) define critical biodefense vulnerabilities; (7) prioritize agents that could be used for bioterrorism, based on risk; and (8) evaluate progress in implementing national biopreparedness policy.

To execute these activities, the Secretary shall: (1) convene an interagency task force of subject matter experts to advise the Department of Homeland Security Under Secretary for Science and Technology on whether the methodology used in the Assessments is adequate and to establish requirements and standards for these Assessments; (2) solicit input from national biosecurity and biodefense stakeholders about the Assessments, as appropriate; and (3) ensure that the Assessments inform the risk management decisions of the Department and can be made available to national biosecurity and biodefense stakeholders, as appropriate.

The Committee acknowledges that the Science and Technology Directorate of the Department of Homeland Security presently undertakes outreach to experts to help assess the risk of bioterrorism. The Committee urges the Science and Technology Directorate to continue to seek the opinion of experts in risk assessment, the threat of bioterrorism, and other relevant disciplines (e.g., threat assessment, consequence determination, and vulnerability assessment) in order to help ensure that the Bioterrorism Risk Assessments remain relevant. The Committee urges the Science and Technology Directorate to address the criticisms that have been levied at the Bioterrorism Risk Assessments; it believes that engaging these criticisms will enhance the assessments' credibility and utility. The Committee urges the Science and Technology Directorate to continue to improve the methodology used to develop the Bioterrorism Risk Assessments and seek assistance from the Office of Risk Management and Analysis (within the National Protection and Programs Directorate) and the Office of Intelligence and Analysis. The Committee also urges the Science and Technology Directorate to make maximum use of persons within the Department of Homeland Security who could advise on information sharing, intelligence, and methodology, and provide other relevant insights.

The Committee recognizes the need for the sharing of the bioterrorism risk assessment with Federal, State, local, and tribal agencies and be made available to the State, local and tribal first responder community so as to inform their bioterrorism preparedness activities. Further, the Committee recommends that the representatives from the first responder community at the State, local, and tribal levels be provided the opportunity to participate, as appropriate, in the bioterrorism risk assessment task force.

*Section 2104. Radiological Materials Security.*

This section directs the Secretary to conduct annual risk assessments regarding the threat, vulnerability, and consequences of theft or other procurement of radiological materials that could be used by a terrorist in a radiological dispersion device. These radiological risk assessments shall include any specific threat information regarding possible terrorist attacks using a radiological dispersion device.

In conducting these radiological terrorism risk assessments, the Secretary shall: (1) consult with the Secretary of Energy, the Secretary of Health and Human Services, and the Nuclear Regulatory Commission; (2) consider relevant studies conducted by other Fed-

eral agencies, or other reputable organizations; (3) designate certain materials as high-risk radiological materials; (4) consider the availability, ability to disperse, and ease of handling various radiological materials; (5) assess the vulnerability of different facilities for theft or other procurement of radiological materials; (6) consider the consequences of a successful radiological dispersion device attack as these consequences may include death, injury, and economic loss; and (7) consult with the Intelligence Community, the Secretary of Energy and the Field Intelligence Elements of the National Laboratories, and the Nuclear Regulatory Commission, the Secretary of Health and Human Services, and other appropriate experts.

The Secretary shall disseminate the findings of the radiological terrorism risk assessments and any associated specific risk information to all participating agencies as well as to State and local agencies and to those facilities that both house radiological source material and are regulated by the Nuclear Regulatory Commission. The Secretary shall, as appropriate, share these radiological terrorism risk assessments with law enforcement and critical infrastructure operators with appropriate security clearances. The Secretary shall also make available an unclassified version to each agency with which the Secretary is required to consult, State and local law enforcement and public health authorities, and facilities that the Department of Energy has authorized to possess radiological materials.

The Committee believes that radiological materials used in medical, industrial, academic, and other facilities must be secured to prevent theft and use in a radiological dispersion device by terrorists. The Committee intends for the Secretary of Homeland Security to take additional and measured steps to secure these materials by conducting a radiological terrorism risk assessment that will serve both as the basis for future action and to inform Federal and non-Federal agencies and organizations that possess or otherwise deal with radiological materials. In accordance with the definition of unclassified information, the Committee does not intend for the unclassified version of the risk assessment to contain information that would increase the vulnerability to a radiological terrorist attack or the number of crimes involving the theft of these radiological materials.

*Section 2105. Enhanced Biosecurity Measures.*

This section directs the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal agencies, to establish enhanced biosecurity measures for persons or laboratories that possess, use, or transfer Tier I Material Threat Agents, using a negotiated rulemaking committee. The biosecurity measures to be established shall include: (1) standards for personnel surety programs; (2) standards for biosecurity practices and training of responsible officials, laboratory personnel, and support personnel; (3) standards for performing laboratory vulnerability assessments; (4) risk-based laboratory security performance standards; (5) penalties (including civil money penalties and intermediate sanctions) in addition to any other penalties that may apply; and (6) any other security standards determined necessary by the Secretary, the Secretary of Agriculture, the Secretary of Health and Human Services,

and other agencies as appropriate. Any recommendations with respect to proposed regulations shall be provided to the Secretary and the heads of the other appropriate Federal agencies not later than one year after the date of enactment of this section. A final rule shall be promulgated no later than two years after enactment of this Act.

The negotiated rulemaking committee shall include a representative from: (1) the Department of Homeland Security; (2) the Department of Health and Human Services; (3) the Department of Agriculture; (4) the Department of Defense; (5) the Department of Energy; (6) the Department of Justice; (7) for-profit research institutions; (8) academic research institutions; (9) non-profit research institutions; and (10) other stakeholders, as the Secretary determines appropriate.

The negotiated rulemaking committee should consider the following factors: (1) the recommendations of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism; (2) the National Science Advisory Board for Biosecurity; (3) any working group established under Executive Order 13486 relating to strengthening laboratory biosecurity; (4) the Chemical Facility Anti-Terrorism Act of 2009; and (5) methods to minimize any disincentives to biological research arising from enhanced biosecurity measures.

The Secretary of Agriculture and the Secretary of Health and Human Services shall: (1) enforce the measures established and any standards promulgated, in consultation with the Secretary, as appropriate; (2) develop training programs that comply with such measures and standards, in coordination with the Secretary and the heads of other Federal agencies, as appropriate; and (3) develop and implement procedures that determine when and how penalties and intermediate sanctions may be imposed, in consultation with the Secretary and the heads of other Federal agencies, as appropriate.

With respect to inspections, the Secretary of Agriculture and the Secretary of Health and Human Services shall periodically provide the Secretary with all data concerning inspections of laboratories that handle Tier 1 Material Threat Agents. This data will help to ensure that the regulations are uniformly enforced and to identify areas where the Secretary can advise the Secretary of Agriculture or the Secretary of Health and Human Services on approaches to enhancing security at specific laboratories. Inspections of the same laboratories by different Federal agencies shall be conducted simultaneously to the greatest extent practicable and shall use common inspection procedures in order to minimize the administrative burden on these laboratories. Each inspection report shall be made available to each laboratory that is the subject of the inspection as well as each Federal agency that supports laboratory activities at that laboratory.

The Committee intends for a top tier of Select Agents that pose material threats to the Nation be developed. The Committee intends for laboratories that contain these Tier 1 Material Threat Agents to be better secured. The Committee believes that the Department of Homeland Security will be responsible for addressing cases in which these agents are obtained illicitly, used for terrorist purposes, or accidentally released. The Committee further observes

that the two Departments in charge of the Select Agent Program—the Department of Agriculture and the Department of Health and Human Services—are not national security organizations. Therefore, the Committee believes that the Department of Homeland Security should have a substantial role in developing security protocols to enhance security at laboratories containing Tier 1 Material Threat Agents.

The Committee intends for the Department of Homeland Security to be responsible for convening a negotiated rulemaking committee, composed of representatives from every Federal Department and agency, as well as private sector agencies, that work with, transfer, obtain, or otherwise process Tier 1 Material Threat Agents. The Committee encourages the Secretary to include local officials, including first responders, from high threat areas as participants. The Committee intends for this negotiated rulemaking committee to consider the threat posed by Tier 1 Material Threat Agents, the threat to facilities that contain these agents, and the ability of our nation's enemies to obtain and use these agents. The Committee also intends for the negotiated rulemaking committee to issue any necessary new standards, rules, and requirements for securing Tier 1 Material Threat Agents. In addition, the Committee intends for the Department of Agriculture and the Department of Health and Human Services to enforce any new regulations. However, due to the potential impact on the Nation and implications for action by the Department of Homeland Security, the Committee intends for the Department of Agriculture and the Department of Health and Human Services to report inspection and other regulatory data to the Department of Homeland Security. This reporting of data will allow the Department of Homeland Security to better advise and make recommendations regarding security at laboratories that possess Tier 1 Material Threat Agents and to provide these laboratories with additional grants so that they may increase their security.

The Committee does not intend for the Department of Homeland Security to supplant efforts by other Federal agencies (including those of the Department of Agriculture and the Department of Health and Human Services) to enforce Select Agent regulations. However, the Committee does not believe that laboratories containing Select Agents are as secure as they could be; this fact is evidenced by incidents and inspections (such as those conducted by the Inspector General) that reveal insufficient security. The Committee also agrees with the assessment of the Commission that laboratory security must be increased. Therefore, the Committee intends for the Department of Homeland Security to partner with the Department of Agriculture and the Department of Health and Human Services in order to improve laboratory security for those laboratories in possession of Tier 1 Material Threat Agents.

The Committee urges all Federal departments and agencies that conduct inspections of laboratories possessing Tier 1 Material Threat Agents (as part of regulating Select Agent laboratories, ensuring contractors are performing in accordance with contractual obligations to the government, and so forth) to conduct these inspections in a manner that seeks to minimize disruption to affected laboratories. The Committee urges inspections be coordinated among Federal departments and agencies so as to avoid unneces-

sary duplicative inspections. The Committee also intends for Federal Departments and agencies to share inspection information in order to identify any ongoing security problems at particular laboratories.

The Committee intends for a representative from the Office of the Director of National Intelligence to participate in the activities addressed in this section. The Committee anticipates that the representative can articulate how agency decisions (particularly decisions made by the negotiated rulemaking committee) will impact research and development efforts by the Intelligence Community as well as other activities within the Community. The Committee also intends for these measures to enhance laboratory security for Tier 1 Material Threat Agents, while simultaneously allowing for legitimate research activities to continue. Additionally, the Committee intends for this section to support and reinforce Presidentially-driven reforms of laboratory security activities to avoid unnecessarily redundant burdens on research and allow for input from all relevant Federal departments and agencies regarding laboratory security requirements.

*Section 2106. Tier 1 Material Threat Agent Locations.*

This section directs the Secretary of Agriculture and the Secretary of Health and Human Services to provide to the Secretary of Homeland Security (at the request of the Secretary) with lists of laboratories and other locations where Tier 1 Material Threat Agents are present in the United States and its territories.

The Committee intends for the Department of Homeland Security to know where all laboratories possessing Tier 1 Material Threat Agents are located in the United States and its territories. However, the Committee does not intend for the Department of Homeland Security to replicate work that is already being done by the Department of Agriculture and the Department of Health and Human Services regarding Select Agent laboratories (of which Tier 1 Material Threat Agent laboratories are only a portion). The Committee intends for the Department of Agriculture and the Department of Health and Human Services to provide lists of Tier 1 Material Threat Agent laboratories and their locations to the Department of Homeland Security at the request of the Secretary of Homeland Security and as often as the Department of Agriculture and the Department of Health and Human Services feel is necessary to help ensure homeland security. The Committee intends for classified information (such as classified locations) to be communicated to the Department of Homeland Security, and for the Department to handle this information in accordance with the rules and procedures that protect classified information.

*Section 2107. High Containment Biological Laboratory Security Grants.*

This section permits the Secretary of Homeland Security to provide grants to academic and non-profit organizations and to State, local, and tribal authorities to enhance the security of those laboratories that handle Tier 1 Material Threat Agents and other agents requiring high containment. This section authorizes the Secretary, acting through the Administrator of the Federal Emergency Management Agency, to award grants based on risk to academic and non-profit organizations and to State, local, and tribal authorities



that possess, use, or transfer Tier I Material Threat Agents. The grants are designed to enhance security at laboratories handling Tier 1 Material Threat Agents. This section authorizes \$50,000,000 per year to be appropriated for fiscal years 2011 through 2013 to the Department of Homeland Security.

The Committee intends to raise the security standards at laboratories that possess Tier 1 Material Threat Agents. The Committee believes that it would not be fair to ask high containment laboratories to take make new investments to increase laboratory security to address the WMD threat without providing funding to help the laboratories meet the higher security standards. The Committee intends for funding provided under this section to augment (not replace) funding provided by other Federal departments and agencies. The Committee intends for these grants to be awarded to State, local and tribal public health laboratories as well as to academic and non-profit laboratories that find their activities would be limited without the additional funding necessary to achieve the higher laboratory security standards for Tier 1 Material Threat Agents. Such laboratories include, but are not limited to the regional biocontainment laboratories, including Biosafety Level 4 laboratories, that received awards from National Institutes of Health.

*Section 2108. Laboratory Biosecurity Information Sharing.*

This section directs the Secretary of Homeland Security to establish procedures (with appropriate access controls) for the sharing of homeland security information (vulnerability assessments, security plans, best practices, and other laboratory biosecurity-related information) with, as the Secretary determines appropriate, State, local, and tribal government authorities, including law enforcement authorities and emergency response providers. In carrying out this responsibility, the Secretary shall have access to and may use information from the national databases established under section 212(d)(2) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401(d)(2)) and subsections (d)(2) and (f)(3) of section 351A of the Public Health Service Act (42 U.S.C. 262a). The Committee intends for any information disseminated under this section to be handled in accordance with rules and procedures for protecting classified information and sensitive law enforcement information, intelligence sources, and intelligence methods.

The Committee intends for the Department of Homeland Security to share information necessary to improve and ensure high containment laboratory security-particularly regarding those laboratories that possess Tier 1 Material Threat Agents. The Committee believes that it is important for State, local, and tribal authorities to participate fully in the homeland security mission, and that in order to do so, these authorities must be empowered with knowledge. The Committee urges the Department of Homeland Security to share as much information as possible with State, local, and tribal authorities in order to help these authorities take the necessary actions and maintain the necessary awareness to secure laboratories, transport Select Agents (including Tier 1 Material Threat Agents), and so forth. Although the Committee believes that the Department of Homeland Security has taken some actions to date in this regard, the Committee believes that the entire community would benefit from the Department of Homeland Security es-

tablishing clear procedures, with appropriate controls for access to, and for the sharing of, this homeland security information.

*Section 2109. Periodic Homeland Security Review of Criminal Statutes.*

This section directs the Secretary, in coordination with the Attorney General and the heads of other Federal departments and agencies, as appropriate, to address the risk of misuse of life sciences by terrorists and others. The bill requires the Secretary to: (1) periodically review and recommend updates to relevant criminal laws; and (2) ensure that relevant guidance is available to national biosecurity and biodefense stakeholders. Not later than one year after enactment and biannually thereafter, the Secretary, in coordination with the Attorney General, shall submit to the appropriate congressional committees recommended updates to relevant criminal laws.

The Committee is concerned that, in some instances, the law enforcement community may have been hindered by criminal laws that do not adequately address the threat or are not well suited to the evolving risks of the misuse of life sciences. The Committee believes that criminal law may need to evolve as the threat evolves.

*Section 2110. Export Enforcement for Counter-Proliferation.*

This section authorizes the Secretary of Homeland Security, in coordination with the Secretary of Commerce, the Secretary of Defense, the Attorney General, the Secretary of State, the Secretary of the Treasury, the Director of National Intelligence, and the heads of other appropriate Federal Departments and agencies, to conduct homeland security investigations and enforce criminal violations of United States customs and export laws to prevent individuals and terrorist groups from obtaining sensitive United States technology and munitions, and WMD components, precursors, and delivery systems. This section also directs the Secretary of Homeland Security to conduct outreach to United States manufacturers and businesses that export technologies or commodities that both terrorist organizations (and the countries that support them) and countries that proliferate weapons may try to procure. The outreach should be conducted in a manner that acknowledges commerce and trade. Additionally, this section directs the Secretary to manage national export enforcement coordination at the Department of Homeland Security, with participants from the Department, the Department of Commerce, the Department of Defense, the Department of Energy, the Department of Justice, the Department of State, the Intelligence Community, and other Federal agencies as appropriate. Law enforcement counter-proliferation investigations, intelligence counter-proliferation activities, licensing, and outreach to and training for the export trade community will be coordinated.

The Committee supports the Obama Administration's efforts to create greater efficiencies in the export control community. The Committee intends to authorize activities underway at the Department of Homeland Security, most notably U.S. Immigration and Customs Enforcement's counter-proliferation efforts. The Committee recognizes the investigations that Immigration and Customs Enforcement and other Federal law enforcement agencies conduct in this regard, and intends to better support these efforts. The Committee also believes that outreach to the private sector is crit-

ical, and intends to authorize industry outreach activities like those conducted by U.S. Immigration and Customs Enforcement.

The Committee intends to authorize export enforcement coordination activities already occurring under the auspices of Immigration and Customs and Enforcement in the Department of Homeland Security; it believes that a network for such coordination will increase efficiencies and better integrate law enforcement, intelligence, and other related activities for export control. The Committee also intends for these activities to be undertaken with an understanding of the commerce and security-related context in which counter-proliferation activities must occur. The Committee does not intend to subsume counter-proliferation activities conducted by the Intelligence Community under the Department of Homeland Security.

#### SUBTITLE B—PREPAREDNESS

##### *Section 2121. Communication of Threat Information and Alerts.*

This section directs the Secretary of Homeland Security, in coordination with appropriate Federal agencies, to ensure that homeland security information concerning terrorist threats is provided to State, local, and tribal authorities and to the public within the United States, as appropriate, so that they can better prepare for and collectively respond to terrorism. This coordination shall occur through the use of: (1) threat bulletins; (2) threat and risk assessments; (3) guidance to State, local, and tribal authorities; and (4) the use of existing resources (such as websites, communications systems, and information networks). This section also directs the Secretary to provide guidance to State, local, tribal and private sector entities about partnering with and leveraging public television stations to help disseminate information from the Department of Homeland Security.

The Committee believes that State, local, and tribal authorities, as well as the public, are critical partners in ensuring homeland security. However, in order to be effective partners, these authorities and the public must be empowered with knowledge and information. The Committee urges the Department of Homeland Security to be expansive in its determination of how much information to share with these authorities and the public, while also using its best judgment to determine what and how much information must be secured. The Department is encouraged to develop a formal mechanism for early warning to appropriate State, local, and tribal officials of imminent or highly probable events. Additionally, the Committee intends for the Department of Homeland Security to partner with public television stations and use this valuable resource to better disseminate homeland security information. Further, the Committee intends for the Department to identify and provide best practices on leveraging public television to accomplish these purposes.

##### *Section 2122. Individual and Community Preparedness for Weapons of Mass Destruction.*

This section directs the Secretary of Homeland Security, acting through the Administrator of the Federal Emergency Management Agency, to help State, local, and tribal authorities improve and pro-

mote individual and community preparedness for and collective response to WMD and terrorist attacks. The Administrator of the Federal Emergency Management Agency shall: (1) develop and disseminate prevention and preparedness guidance and checklists; (2) disseminate first responder guidance regarding WMD attacks; (3) provide preparedness information and training materials; and (4) conduct outreach. Where appropriate, the Secretary shall coordinate with private sector and nongovernmental organizations to carry out these activities. When compiling this guidance, the Administrator shall take into account best practices based on the experience of other countries and agencies, and the expertise of academic institutions and non-governmental organizations. The Committee believes that State, local, and tribal authorities, as well as the public, are critical partners in preparing for and responding to WMD and terrorist attacks against the United States. The Committee recognizes that although the Department of Homeland Security has carried out many activities in this regard (particularly by the Federal Emergency Management Agency) the Committee agrees with the Commission that more can and must be done. The Committee intends for the Federal Emergency Management Agency to provide State, local, and tribal authorities, as well as individuals, with the tools, training, and information they need to prepare for and respond to WMD and terrorist attacks individually and collectively. To ensure that the guidance remains relevant, the Federal Emergency Management Agency Administrator is encouraged to periodically review new and existing guidance and update such guidance, as appropriate. The Committee also intends for the Federal Emergency Management Agency to apply and communicate best practices that other countries and institutions identify. The Committee urges the Federal Emergency Management Agency to seek out the expertise and knowledge available at academic institutions and within programs like the National Preparedness Leadership Initiative.

#### SUBTITLE C—DETECTION

##### *Section 2131. National Biosurveillance Strategy.*

This section directs the Secretary of Homeland Security to examine the state of national and global biosurveillance and to develop and maintain a national strategy for biosurveillance. This strategy shall take into consideration the following: (1) current biosurveillance activities; (2) homeland security material threat assessments and determinations; (3) global trends identified by the Intelligence Community regarding the biological threat; (4) types of information available in biosurveillance systems and information technology changes to better incorporate and integrate this information; (5) Intelligence Community requirements; and (6) costs associated with integrating biosurveillance systems. This strategy shall address: (1) situational awareness; (2) key elements of biosurveillance information; (3) fostering information sharing between the public health, law enforcement, security, intelligence, and life science communities to identify potential threats, reduce vulnerabilities, and improve collective response to and investigations of suspected biological attacks; and (4) the National Biosurveillance Integration Center

resident at the Department of Homeland Security (including strategic and implementation plans for this Center).

The Committee believes that there are many challenges associated with analyzing biosurveillance data sets, collected nationally and internationally, sharing the data between and among different professions, and dealing with relevant classified information. Similarly, developing a national biosurveillance strategy that addresses these elements is also challenging. The Committee recognizes that the Department of Health and Human Services has been trying to meet this challenge and develop a national biosurveillance strategy targeted at human disease outbreaks. However, given that comprehensive biosurveillance draws upon more data sources than those under the control of the Department of Health and Human Services, it is important that the Department of Homeland Security play a central role in developing a national biosurveillance strategy. At the same time, the Committee strongly believes in the mission of the National Biosurveillance Integration Center, as managed by the Department of Homeland Security but is frustrated with the lack of participation by other appropriate Federal agencies. The Committee expects the national strategy to include strategic and implementation plans for the National Biosurveillance Integration Center to realize its mission.

*Section 2132. Detection of Biological Attacks.*

This section establishes the national BioWatch biological detectors program within the Department of Homeland Security, and directs the Secretary of Homeland Security to: (1) deploy these detectors throughout the Nation; (2) provide data generated by these detectors to participating host laboratories for their use in monitoring public health; (3) provide data generated by these detectors to public health and law enforcement personnel throughout government; and (4) provide advanced planning tools, concepts of operations (including alarm resolution protocols) and training for collective response to and recovery from biological attacks.

This section also directs the Secretary of Homeland Security to enter into agreements with the Director of the Centers for Disease Control and Prevention, the Administrator of the Environmental Protection Agency, and the heads of other Federal departments and agencies, to set roles and responsibilities regarding filter testing by and coordination with State, local, and tribal agencies. The Secretary shall also determine annually whether the distribution of these detectors throughout the Nation, as well as their capabilities, sufficiently protects the United States. Additionally, acting through the Under Secretary for Science and Technology and in consultation with the Director of the Centers for Disease Control and Prevention, the Secretary shall implement an assay equivalency program for biological threat assays. Additionally, the Secretary is authorized to contract directly with participating laboratories for: (1) testing detector filters on a fee-for-service, prepayment, or other similar basis; and (2) administrative and other costs regarding hosting BioWatch personnel and equipment.

The Committee intends to authorize the already existing BioWatch activity within the Department of Homeland Security. The Committee recognizes that the success of the BioWatch program depends on effective interaction with, provision of information and guidance to, and receipt of support from host State and

local public health laboratories that are also members of the Laboratory Response Network for Bioterrorism. The Committee intends for the Department of Homeland Security to have resources to reimburse the State and local public health laboratories that host BioWatch activities for laboratory services and administrative costs.

*Section 2133. Rapid Biological Threat Detection and Identification.*

This section directs the Department of Homeland Security Under Secretary for Science and Technology, in consultation with the heads of other relevant operational components of the Department, to assess whether the Department of Homeland Security Science and Technology Directorate should develop screening capabilities for biological WMD agents, pandemic influenza, and other infectious diseases to screen people entering and exiting the United States at our ports of entry. If the Under Secretary determines that such screening capabilities should be developed, the Secretary of Homeland Security shall, to the extent possible, initiate the development of such methods that are safe and effective to rapidly screen incoming travelers at ports of entry for exposure to biological WMD agents, pandemic influenza, and other infectious diseases, collaborating with the heads of other Federal agencies, as needed.

Currently, international borders offer very little protection from the spread of infectious disease due to the inability to quickly and effectively screen travelers. The Committee believes that the Department must assess whether the use of screening technologies could be effective in controlling the spread of disease or the trafficking of biological weapons. If the Department believes that such screening tools are necessary, the Committee intends for the Science and Technology Directorate of the Department to develop these screening capabilities.

*Section 2134. Establishment of the System Assessment and Validation for Emergency Responders (SAVER) Program.*

This section directs the Secretary of Homeland Security, acting through the Department of Homeland Security Under Secretary for Science and Technology, to: (1) assess and validate commercially-produced emergency response equipment and systems (including hand-held detectors for WMD agents); (2) ensure that a network of scientists assess and validate the equipment and systems; (3) provide results and other information to the emergency response provider community in a form they find useful in the operational setting; (4) provide information on the equipment on the Department of Homeland Security authorized equipment list; (5) provide information to enable decision-makers and responders to better select, procure, use, and maintain emergency responder equipment; and (6) share this information with the emergency response provider community.

The Committee intends to authorize this already existing activity within the Science and Technology Directorate of the Department of Homeland Security. The Committee believes that many systems and equipment for first responders and others do not produce sufficiently valid and/or reliable results. The Committee urges greater

support for this program because the program works to determine the validity and reliability of these systems and equipment, and to provide that information to first responders so that they may make better purchasing decisions. The Committee also urges SAVER program personnel to reach out to the Federal Bureau of Investigation and other Federal agencies who have conducted evaluations of such equipment and systems for other purposes, to get their views and other relevant input into the program.

*Section 2135. Payment for Bioterrorism Laboratory Services.*

This section authorizes the Secretary of Homeland Security, the Attorney General, and the heads of other participating Federal agencies to contract with State and local laboratories that compose the Laboratory Response Network (LRN)—and any other qualified laboratories—for testing services on a fee-for-service, prepayment, or similar basis.

The Committee recognizes the important work of the participating laboratories in the LRN. The Committee also recognizes that the vast amount of initial laboratory testing of suspicious powders and other materials is conducted by State and local public health member laboratories. Additionally, the Committee understands that at least one Federal agency has made an unsuccessful attempt to transfer funds to the Department of Health and Human Services for support of LRN laboratories. The Committee intends for the provision to allow Federal agencies participating in the LRN to be able to contract directly with State and local LRN laboratories to pay for laboratory testing services on a fee-for-service or similar basis, without going through other Federal agencies. The Committee does not intend for such payment for LRN services to supplant or replace other funding that State and local public health laboratories receive from other sources, including those from the Department of Health and Human Services.

*Section 2136. Establishment of the Integrated Consortium of Laboratory Networks (ICLN).*

This section establishes the Integrated Consortium of Laboratory Networks (ICLN) as an activity that is facilitated by the Secretary of Homeland Security. This section directs that the ICLN shall: (1) be composed of networks of laboratories (such as the LRN) capable of and equipped for conducting the testing necessary for detection, response to, and recovery from WMD attacks, acts of terrorism, and other incidents requiring laboratory response capabilities; (2) ensure that the activities of member laboratory networks are coordinated and integrated; (3) provide limited containment and analysis of biological samples in support of the Federal Bureau of Investigation and other law enforcement agencies as they investigate incidents involving WMD or WMD agents; and (4) support studies to characterize threat agents, assay evaluation, research, and development.

The Committee intends to authorize this already existing activity within the Department of Homeland Security. The Committee recognizes that the various laboratory response networks that are, or could be, members of the ICLN are at various stages of development. The Committee urges the Department of Homeland Security to seek consensus in pursuing ICLN activities (e.g. establishing standards for testing and reporting). Additionally, the Committee

believes that the Secretary of Homeland Security should consider whether the ICLN should be moved out of the Science and Technology Directorate of the Department of Homeland Security and to another organizational entity within the Department.

The Committee intends for the Department of Homeland Security to facilitate coordination of the ICLN through its position as chair and role as executive secretariat of the ICLN. The Committee believes that the ICLN should be managed by consensus among the various participating Federal agencies that participate in the coordination and leadership oversight activities of the ICLN. The Committee does not intend for ICLN member laboratories to carry out threat agent characterization studies and assay evaluation, research, and development themselves, but instead, the Committee intends for these laboratories to support those activities carried out by various Federal Departments and agencies in this regard.

#### SUBTITLE D—ATTRIBUTION

##### *Section 2141. Bioforensics Capabilities and Strategy.*

This section establishes the National Bioforensic Analysis Center (NBFAC) within the Department of Homeland Security and designates the NBFAC as the lead Federal facility to: (1) forensically examine biological agents and related evidence; (2) provide the necessary containment to conduct forensic examinations of such evidence safely and securely; (3) integrate law enforcement, national security, and homeland security bioforensics requirements; (4) support other Federal agencies that are responsible for preventing, deterring, responding to, attributing, and recovering from biological attacks; (5) develop national standards for bioforensics; (6) maintain the distributed national bioforensics repository collection to assist with making forensic comparisons and identifying biological agents; and (7) support the characterization of threat agents, as well as research and development regarding the evaluation of bioforensics laboratory tests.

This section directs the National Bioforensics Analysis Center to maintain a national repository collection of organisms and toxins for bioforensics activities that are not centralized, but are distributed throughout the country. This distributed repository collection shall: (1) receive, store, and distribute biological threat agents and toxins; (2) allow such organisms and toxins to be compared to those sent to the Center so that they may be identified and characterized; and (3) support the characterization of threat agents and the development of laboratory tests and analyses. In order to create this distributed repository collection, this section directs the Secretary of Homeland Security, the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Director of National Intelligence, and the head of any other appropriate executive agency with a collection of organisms or toxins to provide either samples of or information on these organisms or toxins to this distributed repository collection.

These samples and information must be useful for: (1) bioforensics analysis; (2) identification and characterization of biological agents; and (3) evaluation and development of laboratory tests and other bioforensics methods. The Secretary of Homeland



Security will determine what organisms and toxins are relevant for bioforensics, in consultation with the head of the Federal agency that possesses these organisms or toxins. The Secretary will also require the samples or information on organisms or toxins in those public and private sector collections that were Federally-funded and that the Secretary determines are relevant for bioforensics. This section directs the Secretary to provide any Federal agency that has contributed organisms or toxins to this distributed national repository collection with access. The Secretary is also directed to: (1) establish a mechanism to allow other public and private sector entities access to this collection, as determined to be appropriate by the Secretary; and (2) ensure that classified information, law enforcement sensitive information, and intellectual property rights are protected.

Not later than one year after enactment, and annually thereafter, the Secretary in consultation with all other agencies that contribute specimens or information to the distributed repository collection will submit a report on the collection to the appropriate committees of Congress.

This section directs the Secretary of Homeland Security, in coordination with the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Health and Human Services, the Director of National Intelligence, and the heads of other appropriate Federal Departments and agencies (as determined by the Secretary), to develop, coordinate, and maintain a national bioforensics strategy to increase national bioforensics capabilities in a coordinated fashion across the Federal government. The strategy will include: (1) guidance for sample collection, processing, and analysis; (2) reporting requirements; and (3) requirements for the distributed bioforensics repository collection. Not later than one year after enactment and biennially thereafter, the Secretary, in consultation with the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Health and Human Services, the Director of National Intelligence, and the heads of other appropriate agencies (as determined by the Secretary), shall submit the national bioforensics strategy to the appropriate committees of Congress.

This section also directs the Secretary, in coordination with the Attorney General and the heads of any other appropriate Federal agencies, to ensure that a detailed concept of operations for information sharing and all-source analysis supporting timely attribution of biological attacks is available. Additionally, this section allows the Secretary to implement a detailee program to detail appropriately cleared governmental national biosecurity and bio-defense stakeholders on a reimbursable basis to the NBFAC. Lastly, this section directs the Secretary, in coordination with the Attorney General and the heads of any other appropriate Federal agencies, to establish a national-level research and development strategy and implementation plan to advance the field of bioforensics.

The Committee intends to authorize the existing NBFAC within the Science and Technology Directorate of the Department of Homeland Security. The Committee is aware that activities envisioned for the NBFAC have not occurred according to schedule. The Committee believes delays have occurred at least in part because

the NBFAC has not benefited from an overarching national strategy that would indicate how the NBFAC fits with and supports other governmental bioforensics activities. The Committee intends for the Federal members of the homeland security, intelligence, and defense communities that conduct bioforensics activities to: (1) work together to develop the national bioforensics strategy and (2) clearly identify roles, responsibilities, possibilities for transfer of technologies, and sharing of specimen-related information.

The Committee intends for the national bioforensics repository collection to be distributed and not entirely centralized. The Committee intends for either physical specimens or information/data regarding specimens that would have utility for bioforensics purposes to compose the national bioforensics repository collection. Such a dispersed collection would take advantage of imaging and other technologies and would reduce the security risks associated with housing all specimens in one centralized, identifiable location. The Committee intends for information about and specimens contained within the repository to be accessible to all contributors, as the Secretary of Homeland Security deems appropriate.

The Committee intends for the detailees to the NBFAC to assist the Department of Homeland Security in establishing sound bioforensic scientific practices, and to better align its activities with those in the broader scientific community. Considering that many of the potential specimens that could be considered part of the distributed national bioforensics repository collection are found throughout the United States government, the Committee believes that such detailees could provide critical insights and more realistic perspectives on establishing the collection. Additionally, the Committee believes that such detailees could help to build the relationships necessary for the NBFAC to carry out its job efficiently and effectively.

*Section 2142. Federal Law Enforcement Training to Investigate Biological Threats.*

This section directs the Secretary of Homeland Security, in coordination with the Attorney General, the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal Departments and agencies, to make training, tactics, and techniques available to law enforcement, public health, and security personnel at the Federal Law Enforcement Training Center (FLETC) for recognizing and responding to situations involving potential biological threats, including the performance of coordinated joint criminal and epidemiological investigations.

The Committee intends to authorize these already existing training activities within FLETC. The Committee urges FLETC to learn from other similar, related, and applicable training activities already occurring at the Federal Bureau of Investigation, the Department of Health and Human Services, and other Federal Departments and agencies.

SUBTITLE E—RESPONSE

*Section 2151. First Responder Guidance Concerning Weapons of Mass Destruction Attacks.*

This section directs the Secretary of Homeland Security (in consultation with the heads of appropriate Federal Departments and agencies, the National Advisory Council, the National Domestic Preparedness Consortium, State, local, and tribal authorities, nongovernmental organizations, and private industry, and reviewing the experiences of other countries and the expertise of academic institutions and nongovernmental organizations) to develop voluntary guidance for first responders and first providers on responding to releases of chemical, biological, radiological, or nuclear material. This section also directs the Secretary of Homeland Security to make this guidance available to government and nongovernmental organizations, the private sector, and the public. This guidance shall address: (1) protective actions for first responders and first providers; (2) the effects of chemical, biological, radiological, or nuclear material on those exposed to these agents; and (3) best practices for first responders and first providers to effectively deal with affected individuals.

At least every two years, this section directs the Secretary of Homeland Security to: (1) periodically review this guidance; (2) make revisions, as appropriate; and (3) make revised guidance available to government and nongovernmental organizations, the private sector, and the public. In carrying out the requirements of this section, the Secretary of Homeland Security shall: (1) inventory existing relevant HAZMAT response guidance; (2) enable first responders and first providers to recommend areas in which guidance is still needed; (3) determine who should be consulted; (4) regularly prioritize which guidance should be developed or revised; and (5) develop and disseminate the guidance.

Not later than 18 months after enactment and annually thereafter, this section directs the Secretary to provide the appropriate congressional committees with: (1) a description of established procedures; (2) any guidance in effect; (3) a list of entities to which the guidance was disseminated; (4) a plan for reviewing the guidance; (5) guidance and methodology used by the Secretary for prioritization; and (6) a plan for developing, revising and disseminating the guidance.

The Committee intends for the Department of Homeland Security to provide needed guidance to the first responder and first provider communities, as well as others that will be responding to WMD and terrorist attacks involving WMD agents. The Committee urges the Department of Homeland Security to review relevant existing Federal, non-Federal, international, academic, and nongovernmental materials when developing the guidance to be issued under this section. The Committee also intends for the Department of Homeland Security to provide clear mechanisms for the first responder and first provider communities to identify areas for which they feel they are in need of guidance (as opposed to the Federal government making these determinations for them). The Committee believes that guidance promulgated under this section should be integrated into curricula for first responder training provided by the Center for Domestic Preparedness and other such accredited facilities to enhance WMD capabilities among our Nation's first responders. The Committee recognizes the importance of aligning response throughout the chain of leadership in response to a WMD attack or incident.

For the purposes of this legislation, first providers are considered those personnel who provide immediate medical care when first at the scene of a chemical, biological, radiological, or nuclear incident. Such personnel include trained medical professionals, as well as other emergency personnel who have received some medical training (such as police, firefighters, and civilians that have received first aid and other certified training) but are not considered medical professionals.

*Section 2152. Integrated Plume Modeling for Collective Response.*

This section requires the Secretary of Homeland Security to acquire, use and disseminate timely plume models that integrate protective action guidance and other appropriate information (called “integrated plume models”) to enable quicker response to a chemical, biological, radiological, or nuclear attack or event. This section directs the Secretary to: (1) rapidly develop and distribute these models to appropriate government officials to enable immediate response to these types of incidents; (2) establish mechanisms for appropriate emergency response officials to disseminate these models to nongovernmental organizations and the public; (3) assess the development and dissemination of these models during exercises administered by the Department of Homeland Security; and (4) ensure that lessons learned from this assessment are incorporated into the Department of Homeland Security Lessons Learned Information Sharing system. Not later than one year after enactment, and annually thereafter, the Secretary of Homeland Security shall submit to the appropriate congressional committees a report regarding: (1) the acquisition, use, and dissemination of these models; (2) lessons learned from the assessment of these models; and (3) recommendations for improving these models, as appropriate.

The Committee recognizes that agencies other than the Department of Homeland Security (such as the Department of Energy and the Defense Advanced Research Projects Agency) have produced many plume models for a variety of theoretical and real-world events. The Committee does not intend for the Department of Homeland Security to redo this work. Instead, the Committee intends for the Department of Homeland Security to acquire plume models from these agencies, work with them to integrate protective action guidelines and other appropriate information, and subsequently use and disseminate them subsequently.

#### SUBTITLE F—RECOVERY

*Section 2161. Recovery and Restoration from a Biological Attack or Incident Guidance.*

This section directs the Secretary of Homeland Security, in coordination with the Administrator of the Environmental Protection Agency and in consultation with the Director of the Occupational Safety and Health Agency, and the Director of the National Institute for Occupational Safety and Health, to develop and issue guidance for cleaning and restoring indoor and outdoor areas that have been affected by a biological attack or event. These guidelines shall address: (1) what is acceptable as far as the presence of an organism in a sample taken from an affected area, after it has been cleaned-up; (2) standards for effective clean up; (3) standards for

people to safely reoccupy these sites; (4) requirements to make sure that decontamination procedures used by different organizations working to clean up the sites do not conflict; (5) use of a uniform system for tracking costs and performance of clean-up contractors; (6) personal protection equipment; (7) negative air pressure in buildings; (8) proper selection and use of personal protective equipment; (9) air sampling procedures; and (10) how to develop appropriate health and safety plans for responders.

At least every two years, the Secretary shall: (1) review this guidance; (2) make appropriate revisions; and (3) make the revised guidance available to government and nongovernment organizations, the private sectors, as the public.

In order to develop and revise this guidance, the Secretary of Homeland Security shall: (1) inventory any existing relevant guidance; (2) enable the public to recommend areas for which they think guidance is needed; (3) determine which entities should be consulted; (4) prioritize (on a regular basis) guidance that should be developed or revised; and (5) develop and disseminate the guidance.

Not later than one year after enactment, this guidance shall be developed and issued. Not later than one year after enactment and annually thereafter, the Secretary of Homeland Security shall provide appropriate congressional committees with: (1) a description of the procedures established; (2) any guidance in effect on the date of the report; (3) a list of entities to which the guidance was disseminated; (4) a plan for reviewing the guidance; (5) the prioritized list of the guidance required and the methodology used by the Secretary to set these priorities; and (6) a plan for developing, revising, and disseminating the guidelines.

The Committee intends to authorize this already existing activity within the Science and Technology Directorate of the Department of Homeland Security, and add additional requirements to: (1) address clean-up and restoration of pseudo-internal/outdoor areas, such as subways; (2) produce a decision framework for local officials to determine how much of an organism growing in specimens taken from places that have been cleaned is acceptable; (3) establish effective clean up standards; and (4) establish standards for safe occupancy of affected sites after they have been cleaned-up. The guidance should be straight-forward and sufficiently detailed to help local officials restore their communities and ensure that affected areas are appropriately sampled, assessed, characterized, and cleaned.

*Section 202. Definitions.*

The following terms are defined in this section: (1) “weapon of mass destruction”; (2) “Intelligence Community”; “national biosecurity and biodefense stakeholders”; and (3) “Tier 1 Material Threat Agent.”

*Section 203. Dual-Use Terrorist Risks from Synthetic Genomics.*

This section directs the Secretary of Homeland Security, acting through the Under Secretary for Science and Technology, to examine and report within a year from enactment on the homeland security implications of the dual-use nature of synthetic genomics and, if the Under Secretary determines that research into this area is appropriate, to conduct research in this area. This research will:

(1) determine the current capability of providers of synthetic nucleic acids to effectively differentiate between legitimate customers and potential terrorists or other malicious actors; (2) determine the current capability of synthetic nucleic acid providers to effectively screen orders for sequences of homeland security concern; and (3) make recommendations regarding capability gaps uncovered by the study.

The field of synthetic genomics has the potential to facilitate enormous gains in fundamental discovery and biotechnological applications, but it also has inherent dual-use homeland security risks that must be managed. The Committee intends for the Department of Homeland Security to ascertain whether companies that produce and sell synthesized DNA have the ability to support legitimate researchers while screening out and preventing bad actors from obtaining these materials.

*Section 204. Dissemination of Information Analyzed by the Department to State, Local, Tribal, and Private Entities with Responsibilities Relating to Homeland Security.*

This section expands the list of entities in section 201(d)(8) of the Homeland Security Act of 2002 to which the Department of Homeland Security disseminates information to include State, local, tribal and private sector entities with homeland security responsibilities, and as appropriate, to the public, in order to assist in preventing, deterring, and responding to acts of terrorism against the United States. Not later than one year after enactment, the Secretary of Homeland Security shall submit a report to the appropriate congressional committees on the implementation of this section.

The Committee intends for the Department of Homeland Security to disseminate information to State, local, tribal, and private sector entities with homeland security responsibilities, and as appropriate to the public. The Committee intends for the Department of Homeland Security to prioritize the goals of preventing, deterring, and responding to acts of terrorism against the United States in mind regarding needed information, and for the Department of Homeland Security to report on its activities in this regard.

*Section 205. National Biosurveillance Integration Center (NBIC).*

This section moves the NBIC to the Office of Intelligence and Analysis at the Department of Homeland Security (and out of the Department of Homeland Security Office of Health Affairs) and directs participating Federal Departments and agencies to detail personnel to the Department of Homeland Security on a reimbursable basis. Not later than one year after enactment, and annually thereafter, the Secretary shall submit to the appropriate congressional committees an interim report on the: (1) status of NBIC; (2) efforts of the Office of Intelligence and Analysis to take responsibility for NBIC; and (3) efforts to integrate the surveillance efforts of Federal, State, local, and tribal governments.

The Committee is disappointed that the Department of Homeland Security has been unable to secure participation in the NBIC by other necessary Federal partners. The Committee intends to improve Federal participation by mandating both their participation and reimbursement for the costs of their participation by the Department of Homeland Security. The Committee believes that by

moving the NBIC operation to the Office of Intelligence and Analysis, the Center will have the opportunity to leverage existing channels for exchange of information with governmental and non-governmental partners, as exist within the Office of Intelligence and Analysis. The Committee also believes that the NBIC would benefit from exposure to the intelligence activities in the Office of Intelligence and Analysis regarding the biological threat.

*Section 206. Report on Establishment of the System Assessment and Validation for Emergency Responders (SAVER) Program.*

This section directs the Secretary of Homeland Security to submit a report to the appropriate congressional committees on the SAVER program (see section 2134 above) not later than one year after enactment.

*Section 207. National Academy of Sciences Study of Forensic Science in Homeland Security.*

This section directs the Secretary of Homeland Security, acting through the Under Secretary for Science and Technology, to enter into an agreement (no later than 90 days after enactment) with the National Academy of Sciences. This agreement will be for the National Academy of Sciences to undertake a study on the role of forensic science in homeland security and to issue appropriate recommendations to enhance this capability to investigate WMD attacks, terrorist incidents, and other crimes investigated by the Department of Homeland Security. Not later than two years after enactment, the Secretary shall submit a report containing the results of the study, together with any recommendations from the Secretary. There is authorized to be appropriated \$1,000,000 to the Department of Homeland Security for fiscal year 2011 to carry out this section.

The Committee recognizes the National Academy of Sciences' previous work in studying forensic science and is aware of its 2009 report on forensics. The Committee intends for the National Academy of Sciences to undertake a comprehensive study of forensics in furtherance of the Department of Homeland Security law enforcement activities conducted by U.S. Immigration and Customs and Enforcement, the U.S. Secret Service, and other law enforcement agencies and agencies with law enforcement elements that conduct investigations with homeland security implications. Additionally, the Committee intends for the National Academy of Sciences to address forensics for WMD and acts of terrorism using other types of agents. The Committee intends for the National Academy of Sciences to also study forensics that are used by other Federal agencies (e.g., the Department of Defense and the Intelligence Community) for homeland security purposes. The Committee intends for the National Academy of Sciences to pay particular attention to bioforensics for homeland security and national security purposes used by the homeland security, intelligence, and defense communities.

*Section 208. Harmonization of Regulations.*

This section harmonizes regulations in the Homeland Security Act of 2002, the Public Health Service Act, and the Agricultural Bioterrorism Protection Action of 2002 to ensure that such regula-

tions are not redundant or in conflict with the regulations promulgated under section 2104 (see above).

The Committee does not intend for new regulations put forward by the WMD Prevention and Preparedness Act of 2010 to be redundant or conflict with regulations in the Public Health Service Act or the Agricultural Bioterrorism Protection Act of 2002.

*Section 209. Communications Planning for Weapons of Mass Destruction Information Dissemination.*

This section directs the Secretary, acting through the Administrator of the Federal Emergency Management Agency (in consultation with State, local, and tribal authorities and in coordination with other Federal Departments and agencies, as appropriate) to develop a communications plan for providing information to the public on preventing, preparing for, and responding to attacks with WMD and acts of terrorism. This section directs the Administrator of the Federal Emergency Management Agency to incorporate this plan into Federal Emergency Management Agency operational plans.

This section also directs the Administrator of the Federal Emergency Management Agency to develop pre-scripted messages and message templates (in consultation with State, local, and tribal authorities and in coordination with other Federal Departments and agencies, as appropriate) and disseminate them to State, local, and tribal authorities so that they can incorporate them into their own emergency plans, and quickly disseminate critical information to the public in anticipation of or immediately after a WMD or terrorist incident. These pre-scripted messages and message templates will also be incorporated into the National Exercise Program, included in the Department of Homeland Security Lessons Learned Information Sharing system, and issued in multiple formats. Not later than one year after enactment, the Administrator shall submit to the appropriate congressional committees the communications plans required to be developed under this section (including the pre-scripted messages or message templates) and a description of how they will be used to deliver these messages.

The Committee intends for the Federal Emergency Management Agency to disseminate as much information as possible in advance by developing pre-scripted messages and message templates, and disseminating these to State, local, and tribal authorities, so that they can plan in advance as well.

*Section 210. Environmental Recovery from Chemical, Biological, Radiological, and Nuclear Attacks.*

This section directs the Administrator of the Environmental Protection Agency, in coordination with the Administrator of the Federal Emergency Management Agency, to: (1) assess capability gaps in preparedness for environmental recovery from chemical, biological, radiological, and nuclear attacks; (2) provide guidance to State, local, and tribal authorities for such recovery; and (3) develop exercises that enhance collective response to and recovery from such attacks. No later than one year after enactment, the Administrator of the Environmental Protection Agency shall submit to the appropriate congressional committees a report on the Administrator's assessment (see section 2162 above).



The Committee intends to identify the Environmental Protection Agency as the lead agency to accomplish this mission, and provides clear requirements for its responsibilities in this regard. Although the Committee recognizes the challenges inherent in addressing environmental recovery requirements, the Committee believes that there is a great need for the Environmental Protection Agency to establish such requirements.

*Section 211. University-Based Centers for Homeland Security Criteria for Designation.*

This section adds additional clarifying criteria to that used to designate university-based centers for homeland security. This section states that demonstrated expertise in emergency and diagnostic medical services shall include: (1) medical readiness training and research; and (2) community resiliency for public health and healthcare critical infrastructure.

The Committee intends to ensure that universities that have demonstrated expertise in medical readiness training and research, and community resiliency for public health and healthcare critical infrastructure, are able to seek designation as university-based centers for homeland security. The Committee encourages universities with this demonstrated expertise to seek such designation.

### TITLE III—PUBLIC HEALTH MATTERS

*Section 301. National Medical Countermeasure Dispensing Strategy.*

This section directs the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, the Secretary of Agriculture, and the heads of other appropriate Federal Departments and agencies, to develop, implement, and update periodically a National Medical Countermeasure Dispensing Strategy to help prepare for and collectively respond to a terrorist attack on humans or animals with chemical, biological, radiological, or nuclear agents. This section directs the Secretary of Health and Human Services to coordinate with State, local, tribal, and non-governmental organizations on this Strategy. Not later than one year after enactment, the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, shall submit the National Medical Countermeasures Dispensing Strategy to the appropriate congressional committees.

The Committee recognizes that the Department of Health and Human Services has been developing medical countermeasures, and has addressed medical countermeasures to a limited extent in the National Health Security Strategy. The Committee intends for the Department of Health and Human Services to give enhanced focus to developing a strategy for dispensing medical countermeasures, and to work with other Federal Departments and agencies to develop the National Medical Countermeasure Strategy. That detailed strategy should include an implementation plan and be adaptable to the needs of a local jurisdiction. The Committee believes that the strategy and implementation plan be developed in a manner that is closely aligned with ongoing work in the area by the Secretary. The Secretary is encouraged to seek input on the strategy from State and local public health officials.

*Section 302. Material Threat Assessments and Determinations.*

Recognizing the evolving nature of the threat, advances in technology, and changing priorities, this section amends the BioShield Act to require the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services and the heads of other appropriate Federal Departments and agencies, to review and reassess existing material threat determinations and decide whether the agents addressed continue to present material threats against the United States population, affecting homeland security and national security.

The Committee recognizes that some agents pose material threats to the Nation; it acknowledges, however, the possibility that these agents may not always pose materials threats to the Nation or the same material threats over time. Congress has authorized the Department of Homeland Security to assess various agents and to determine whether they are material threats to the United States. The Committee intends for the list of material threat agents to be composed of agents that present current material threats to the Nation. The Committee also intends for agents to be removed from this list when they no longer pose material threats to the Nation. Additionally, the Committee intends for these decisions to be made in light of availability of medical and other countermeasures, new science and technologies, immunization rates, and other relevant factors.

*Section 303. National Pre-Event Vaccination and Antimicrobial Dispensing Policy Review.*

This section directs the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, to determine whether domestic vaccination policy, policy regarding dispensing of antibiotics and other antimicrobials, as well as related guidance and information provided to the public are adequate, taking into consideration known terrorist risks of biological attacks or events with significant health consequences to the United States. In carrying out this review, the Secretary shall consider the following: (1) material threat assessments and determinations conducted by the Department of Homeland Security; (2) global trends identified by the Intelligence Community regarding the biological threat; (3) availability of vaccine and antimicrobials, and recommendations relating to voluntarily getting immunized and keeping a personal store of antimicrobials in advance of biological attacks or events with significant health consequences; and (4) making surplus or expiring vaccine and antimicrobials available to first responders. Not later than one year after enactment, the Secretary of Health and Human Services shall submit this review to the appropriate congressional committees, with any recommendations relating to the availability of domestic vaccine and antimicrobials to give to the public, as well as voluntary immunization of first responders.

The Committee notes that current vaccination policy varies according to threats from specific agents and does not require that vaccines that could prevent horrific diseases (e.g., smallpox) be provided on a mandatory or voluntary basis in advance of the terrorist use of biological agents. For purposes of this Act, the Committee believes that vaccination policy should align with material threat determinations. If certain biological agents pose material threats to

the United States, then different policies may be needed (e.g., policy may change to allow first responders to be immunized against these agents on a voluntary basis, or to allow expiring or surplus vaccines and antimicrobials to be released from the national stockpile for more immediate use).

In carrying out this section, the Departments of Health and Human Services and Homeland Security should take into consideration the views of public health, public safety, and homeland security experts in the course of conducting this examination of vaccination and antimicrobial dispensing practices. The Committee also intends for this examination to specifically address (in addition to other issues deemed important by the Secretary of Health and Human Services and the Secretary of the Homeland Security) voluntary immunization of first responders, further pre-distribution of antimicrobials to the public or a subset of the public, and sending expired vaccine and antimicrobials from the national stockpile to other countries that could make immediate use these expiring medicines.

*Section 304. Designation of Tier 1 Material Threat Agents.*

This section directs the Secretaries of Agriculture and Health and Human Services, in coordination with the Secretary of Homeland Security and the heads of other appropriate Federal Departments and agencies, to issue regulations to create a top tier of Select Agents that are considered material threats to the United States (Tier 1 Material Threat Agents), and therefore require additional security. These Tier 1 Material Threat Agents will be designated as such no later than one year after enactment. Criteria for designation include: (1) whether the agent or toxin can be used effectively in a biological attack; (2) information available from biological or bioterrorism risk assessments; and (3) other criteria and information that the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, determines are appropriate and relevant. All Tier 1 Material Threat Agents will be added to the Select Agents list, if they are not already there.

This section also directs the Secretary of Agriculture and the Secretary of Health and Human Services, in coordination with the Secretary of Homeland Security, to consider whether other agents should be designated Tier 1 Material Threat agents on an ongoing basis. The Secretaries will also biennially consider whether agents should be removed from the list of Tier 1 Material Threat agents.

The Committee believes that agents in this tier (such as smallpox) must be secured at the highest levels. The Committee recognizes that these agents are both Select Agents (having the potential to cause significant amounts of illness and death) and considered to be material threats to the United States (having been weaponized for military purposes, having had state and/or non-state actors attempt to obtain them, and so forth). The Committee believes that it is imperative that we not allow terrorists and other criminals to access these particular agents.

In carrying out this section, the Committee intends for the Tier 1 Material Threat list to be developed with great focus to ensure that the number of material threats is appropriately limited. The Committee recognizes that the Select Agent Program carries with it significant biosafety and laboratory security requirements to

begin with, so there is no need to have a large number of Tier 1 Material Threat Agents. The Committee urges the Department of Homeland Security, the Department of Agriculture, the Department of Health and Human Services, and other appropriate Federal Departments and agencies that make or inform these determinations to ensure that this list contains only those agents that must be represented, and to periodically remove agents from the list, as appropriate.

*Section 305. Background Checks.*

This section directs the Attorney General to coordinate with the Secretary of Homeland Security, the Secretary of Defense, and the Secretary of State to determine if these Departments possess any information relevant to the identification of individuals who should not be given access to Select Agents because they are reasonably suspected of knowing involvement with an organization that engages in domestic or international terrorism or with any other organization that engages in crimes of violence. In requiring inter-agency coordination and exchange of information: (1) these Federal Departments may not have to duplicate background investigations; (2) personnel who should not be working with Select Agents may be more quickly identified; and (3) it will be that much more difficult for malevolent actors to gain access to Select Agents in general, and Tier 1 Material Threat Agents specifically.

The Committee intends for Federal agencies to share information on individuals that should not be provided access to Select Agents, to prevent duplication of background investigations and the inappropriate accessing of Select Agents. The Committee intends for all previous legislation addressing background investigations, sole use considerations, etc., to remain in place.

*Section 306. Biotechnology Research, Development, and Procurement.*

This section directs the Secretary of Health and Human Services to develop a comprehensive research, development, and acquisition process to counter the biological threat. This process will link the activities of the National Institutes of Health, the Biodefense Advanced Research and Development Authority, and the Project BioShield Special Reserve Fund. The process shall clearly make: (1) the National Institutes of Health responsible for basic research to development of models and prototypes; (2) the Biodefense Advanced Research and Development Authority responsible for development of models and prototypes to demonstrate that the systems work; and (3) the Project BioShield Special Reserve Fund responsible for procuring technologies that have been demonstrated to work and that meet the requirements for emergency use authorization. There is no requirement for General Use Approval by the Food and Drug Administration.

This section also directs that the National Institutes of Health, the Biodefense Advanced Research and Development Authority, and the Project BioShield Special Reserve Fund to formally agree that: (1) a specific biological countermeasure is clearly necessary; (2) what the current level of technology is for that countermeasure; and (3) that the countermeasure will be procured. Further, this section directs the Director of the National Institutes of Health, the Biodefense Advanced Research and Development Authority, and

the Assistant Secretary for Preparedness and Response of the Department of Health and Human Services to be aggressive in pursuing innovative research, development, and procurement of these countermeasures.

The Committee, through its oversight work, has observed that there is a need for lines of demarcation between the National Institutes of Health, the Biomedical Advanced Research and Development Authority, and the Project BioShield Special Reserve Fund as to their relative responsibilities regarding biosecurity research and development. The Committee intends for clear guidance regarding the roles and responsibilities of the National Institutes of Health, the Biodefense Advanced Research and Development Authority, and the Project BioShield Special Reserve Fund be issued to companies wishing to engage in technology development. The Committee also intends to create requirements for the Department of Health and Human Services to transfer projects from one to the other without creating gaps, in order to ensure future success in countermeasure development and procurement.

#### TITLE IV—FOREIGN RELATIONS MATTERS

##### *Section 401. International Collaboration and Information Sharing Relating to Biosecurity.*

This section directs the Secretary of State, in coordination with the Secretary of Homeland Security, the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal Departments and agencies, to support efforts in other countries to: (1) report information regarding biological attacks and events with significant health consequences to the United Nations; (2) prevent misuse of life sciences; and (3) promote greater awareness of how much life science technology is both available and accessible; and (4) promote the development of mechanisms to report, preserve, and share data regarding Federal activities to collaborate and enhance global biosecurity.

The Committee intends for the United States to support efforts in other countries to increase biosecurity throughout the world, recognizing that: (1) diseases spread across borders; (2) biological weapons are proliferating overseas; and (3) lack of laboratory security could result in thefts and accidents that could in turn affect other countries, including the United States

##### *Section 402. International Engagement to Enhance Biodefense and Biosecurity.*

This section directs the Secretary of State, in coordination and consultation with the Secretary of Homeland Security and the heads of other appropriate Federal Departments and agencies, to address biosecurity in the international arena, to: (1) support other countries as they work to criminalize bioterrorism and the development and use of biological weapons; (2) engage international governmental and nongovernmental partners in developing and establishing common standards, guidance, and best practices to prevent the illicit use of life sciences; (3) support the efforts of other countries to enhance biological security and safety practices at laboratories that work with dangerous biological materials; (4) promote the development and adoption of international guidance regarding

the safe handling and security of dangerous biological materials; and (5) promote the sharing of information between and among the intelligence, law enforcement, and security communities.

*Section 403. Interagency Task Force on Best Practices for Global Biopreparedness.*

This section expresses the sense of the Committee that preparedness for chemical, biological, radiological, or nuclear incidents must be undertaken both domestically and internationally, and that a global preparedness architecture is necessary for such events. This section also directs the Secretary of State to convene and lead an interagency task force to examine: (1) how prepared the world is for a major biological event; (2) the necessary elements of this architecture; (3) best practices for preparedness based on lessons learned from domestic efforts that may be applicable internationally; (4) relevant activities, including but not limited to those directed by the National Strategy for Countering Biological Threats and the International Health Regulations of 2005; and (5) whether existing international forums can distribute relevant information to the global community. The task force shall include representatives from the Department of Homeland Security, the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Justice, the Department of State, the United States Agency for International Development, and the Office of the Director of National Intelligence. Other Federal Departments and agencies, and other national biosecurity and biodefense stakeholders, including State and local public health and law enforcement officials, may also be members of the task force, as the Secretary determines they are appropriate. No later than 18 months after enactment, the Secretary shall submit a report regarding task force findings to the appropriate congressional committees.

The Committee recognizes that the United States is ahead of many nations with respect to efforts to prevent, deter, prepare for, detect, attribute, respond to, and recover from WMD attacks. The Committee also recognizes that other countries may benefit from United States' lessons learned, best practices, and other information as they work to undertake these activities. The Committee intends for the Federal government to gather and communicate this information to other countries, as appropriate, without compromising homeland and national security.

*Section 404. Biological and Toxin Weapons Convention (BWC).*

This section directs the Secretary of State to promote the Biological and Toxin Weapons Convention (BWC) by promoting transparency, pursuing compliance diplomatically, promoting universal BWC membership, developing an action plan for increasing international adherence to the BWC, and ensuring that United States participation in BWC meetings is broadly inclusive of representatives from all of its relevant Federal Departments and agencies.

The Committee believes that the United States should support and promote the BWC. The Committee intends for the leadership role of the Department of State to be strengthened in this regard.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, 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 XXI—WEAPONS OF MASS DESTRUCTION PREVENTION AND PREPAREDNESS*

*Subtitle A—Prevention and Deterrence*

- Sec. 2101. Weapons of Mass Destruction Intelligence and Information Sharing Unit.*
- Sec. 2102. Information sharing and collaboration for biosecurity and biodefense.*
- Sec. 2103. Bioterrorism risk assessments.*
- Sec. 2104. Radiological materials security.*
- Sec. 2105. Enhanced biosecurity measures.*
- Sec. 2106. Tier I Material Threat Agent locations.*
- Sec. 2107. High containment biological laboratory security grants.*
- Sec. 2108. Laboratory biosecurity information sharing.*
- Sec. 2109. Periodic homeland security review of criminal statutes.*
- Sec. 2110. Export enforcement for counter-proliferation.*

*Subtitle B—Preparedness*

- Sec. 2121. Communication of threat information and alerts.*
- Sec. 2122. Individual and community preparedness for weapons of mass destruction.*

*Subtitle C—Detection*

- Sec. 2131. National biosurveillance strategy.*
- Sec. 2132. Detection of biological attacks.*
- Sec. 2133. Rapid biological threat detection and identification.*
- Sec. 2134. Establishment of the system assessment and validation for emergency responders (SAVER) program.*
- Sec. 2135. Payment for bioterrorism laboratory services.*
- Sec. 2136. Establishment of the integrated consortium of laboratory networks.*

*Subtitle D—Attribution*

- Sec. 2141. Bioforensics capabilities and strategy.*
- Sec. 2142. Federal law enforcement training to investigate biological threats.*

*Subtitle E—Response*

- Sec. 2151. First responder guidance concerning weapons of mass destruction attacks.*
- Sec. 2152. Integrated plume modeling for collective response.*

*Subtitle F—Recovery*

- Sec. 2161. Recovery and restoration from a biological attack or incident guidance.*

\* \* \* \* \*

**SEC. 2. DEFINITIONS.**

\* \* \* \* \*

(19) *The term “weapon of mass destruction” has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302).*

(20) *The term “Intelligence Community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).*

(21) *The term “national biosecurity and biodefense stakeholders” means officials from the Federal, State, local, and tribal authorities and individuals from the private sector who are involved in efforts to prevent, deter, prepare for, detect, attribute, respond, and recover from a biological attack or other phenomena that may have serious health consequences for the United States, including wide-scale fatalities or infectious disease outbreaks.*

(22) *The term “Tier I Material Threat Agent” means a substance so designated under section 351A(a)(2) of the Public Health Service Act or section 212(a)(2) of the Agricultural Bioterrorism Protection Act of 2002.*

\* \* \* \* \*

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

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

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

(a) \* \* \*

\* \* \* \* \*

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

(1) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*



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

\* \* \* \* \*

### SEC. 308. CONDUCT OF RESEARCH, DEVELOPMENT, DEMONSTRATION, TESTING AND EVALUATION.

(a) \* \* \*

(b) EXTRAMURAL PROGRAMS.—

(1) \* \* \*

(2) UNIVERSITY-BASED CENTERS FOR HOMELAND SECURITY.—

(A) \* \* \*

(B) CRITERIA FOR DESIGNATION.—Criteria for the designation of colleges or universities as a center for homeland security, shall include, but are not limited to, demonstrated expertise in—

(i) \* \* \*

\* \* \* \* \*

(iii) Emergency and diagnostic medical services, including medical readiness training and research, and community resiliency for public health and healthcare critical infrastructure.

\* \* \* \* \*

### SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

(a) ESTABLISHMENT.—The Secretary shall establish, operate, and maintain a National Biosurveillance Integration Center (referred to in this section as the “NBIC”), which shall be headed by a Directing Officer, under [an office or directorate of the Department that is in existence as of the date of the enactment of this section.] *the Office of Intelligence and Analysis.*

\* \* \* \* \*

(d) RESPONSIBILITIES OF THE DIRECTING OFFICER OF THE NBIC.—

(1) \* \* \*

(2) ASSESSMENTS.—The Directing Officer of the NBIC shall—

(A) \* \* \*

(B) integrate *and disseminate* homeland security information, including information and intelligence generated elsewhere within the *Office of Intelligence and Analysis and the Department*, with NBIC data to provide overall situational awareness and determine whether a biological event of national concern has occurred.

\* \* \* \* \*

(e) RESPONSIBILITIES OF THE NBIC MEMBER AGENCIES.—

(1) IN GENERAL.—Each Member Agency shall—

[(A) use its best efforts to integrate biosurveillance information into the NBIC, with the goal of promoting information sharing between Federal, State, local, and tribal governments to detect biological events of national concern;]

(A) *integrate biosurveillance information into the NBIC, with the goal of promoting information sharing between*

*Federal, State, local, and tribal authorities to detect biological attacks and events of homeland concern;*

\* \* \* \* \*

(f) ADMINISTRATIVE AUTHORITIES.—

(1) \* \* \*

[(2) DETAIL OF PERSONNEL.—Upon the request of the Directing Officer of the NBIC, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Department to assist the NBIC in carrying out this section.]

(2) *DETAIL OF PERSONNEL.—The head of a participating Federal department or agency shall detail, on a reimbursable basis, any of the personnel of that department or agency to the Department to assist the NBIC in carrying out this section.*

\* \* \* \* \*

(j) ANNUAL REPORT.—*Not later than one year after the date of the enactment of the WMD Prevention and Preparedness Act of 2010 and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report on—*

(1) *the status of operations at the National Biosurveillance Integration Center of the Department under section 316;*

(2) *efforts by the Office of Intelligence and Analysis to take responsibility for the National Biosurveillance Integration Center; and*

(3) *efforts to integrate the biosurveillance efforts of Federal, State, local, and tribal authorities.*

[(j)] (k) DEFINITIONS.—In this section:

(1) \* \* \*

\* \* \* \* \*

## **TITLE XXI—WEAPONS OF MASS DESTRUCTION PREVENTION AND PREPAREDNESS**

### ***Subtitle A—Prevention and Deterrence***

#### **SEC. 2101. WEAPONS OF MASS DESTRUCTION INTELLIGENCE AND INFORMATION SHARING UNIT.**

(a) *IN GENERAL.—There is established in the Office of Intelligence and Analysis of the Department a unit for weapons of mass destruction intelligence and information sharing. The unit shall conduct intelligence and information sharing activities consistent with the National Intelligence Strategy for Countering the Threat from Weapons of Mass Destruction under section 101 of the WMD Prevention and Preparedness Act of 2010 and the National Intelligence Strategy for Countering Biological Threats under section 102 of that Act and shall—*

(1) *evaluate and establish a baseline of terrorist actors, their claims, and their plans to conduct attacks involving chemical, biological, radiological, and nuclear materials against the Nation;*

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

(3) provide tailored analytical support on these threats to State, local, and tribal authorities as well as members of the public health, scientific, and response communities; and

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

(b) **COORDINATION.**—Where appropriate, the unit shall coordinate with others in the Intelligence Community, including the National Counter Proliferation Center.

(c) **REPORT.**—Not later than one year after the date of the enactment of this section and annually thereafter, the Secretary shall report to the appropriate congressional committees on the intelligence and information sharing activities of the unit for weapons of mass destruction intelligence and information sharing established under subsection (a) and all relevant entities within the Department to counter the threat from weapons of mass destruction and how the Department acted in accordance with relevant intelligence strategies, including the National Intelligence Strategy for Countering the Threat from Weapons of Mass Destruction and the National Intelligence Strategy for Countering Biological Threats.

**SEC. 2102. INFORMATION SHARING AND COLLABORATION FOR BIOSECURITY AND BIODEFENSE.**

(a) **RESPONSIBILITIES OF SECRETARY OF HOMELAND SECURITY.**—To increase situational awareness, the Secretary, acting through the Under Secretary for Intelligence and Analysis, shall—

(1) to the greatest extent practicable, integrate into the homeland security, intelligence, and information sharing process national biosecurity and biodefense stakeholders;

(2) develop an information sharing framework for homeland security intelligence and information sharing with the national biosecurity and biodefense stakeholders;

(3) enable national biosecurity and biodefense stakeholders to provide recommendations with respect to the development of mechanisms and protocols to integrate information from national biosecurity and biodefense stakeholders;

(4) leverage existing and emerging homeland security capabilities and structures, including fusion centers established pursuant to section 210A, to enhance prevention, detection, preparedness, and collective response, attribution, and recovery efforts of from a biological attack or other phenomena that may have serious health consequences for the United States, including wide-scale fatalities or infectious disease outbreaks; and

(5) advance partnerships between the Department and other Federal departments and agencies in assessing potential threats and the risks from the intentional use of biological agents by terrorists or other actors.

(b) **COORDINATION WITH OTHER DEPARTMENTS AND AGENCIES.**—The Secretary shall work in coordination with the Secretary of State, the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal agencies.

**SEC. 2103. BIOTERRORISM RISK ASSESSMENTS.**

(a) *RISK ASSESSMENT.*—The Secretary, in coordination with the heads of other appropriate Federal departments and agencies, shall produce biennial integrated risk assessments, to be known as “Bioterrorism Risk Assessments” to identify and assess the evolving terrorist risk of a biological attack or other phenomena that may have serious health consequences for the United States, including wide-scale fatalities or infectious disease outbreaks. These assessments shall—

- (1) identify the threat, vulnerability, and consequences of a biological terrorist attack against the United States;
- (2) take into account intelligence and information regarding terrorist intentions, capabilities, plans, and actions;
- (3) be used to inform and guide threat assessments and determinations made by the Secretary regarding agents and toxins pursuant to section 302(9), and to guide prioritization of other homeland security activities, as appropriate;
- (4) provide the basis for risk-informed investments in national strategic biodefense research, development, planning, preparedness, and collective response to biological attacks;
- (5) identify key knowledge and data gaps;
- (6) define critical biodefense vulnerabilities;
- (7) provide risk-based prioritization of agents for bioterrorism; and
- (8) evaluate progress in implementing national biopreparedness policy.

(b) *REQUIREMENT.*—The Secretary shall—

- (1) convene an interagency task force of subject matter experts to provide recommendations to the Under Secretary for Science and Technology as to the adequacy of the methodology used in the Assessments and to establish requirements and standards for the Assessments;
- (2) engage with national biosecurity and biodefense stakeholders to obtain their input regarding the Assessments, as appropriate; and
- (3) ensure, to the greatest extent practicable, that the Assessments inform the risk management decisions of the Department and can be made available to national biosecurity and biodefense stakeholders, as appropriate.

**SEC. 2104. RADIOLOGICAL MATERIALS SECURITY.**

(a) *RISK ASSESSMENT.*—The Secretary shall enhance domestic preparedness for and collective response to terrorism by conducting annual risk assessments regarding the threat, vulnerability, and consequences of theft or other procurement of radiological materials that could be used by a terrorist in a radiological dispersion device, including any specific threat information pertinent to the use of radiological materials in a possible terrorist attack using a radiological dispersion device.

(b) *CONSIDERATIONS.*—In conducting the terrorism risk assessments under subsection (a), the Secretary shall—

- (1) consult with Secretary of Energy, Secretary of Health and Human Services, and the Nuclear Regulatory Commission;
- (2) consider relevant studies previously prepared by other Federal agencies, or other reputable sources;

(3) focus on those radiological materials that constitute the greatest risk, and designate those materials as high-risk radiological materials for purposes of this section;

(4) consider the potential radiological dispersion device value of different radiological materials including availability, dispersability, and ease of handling of such materials;

(5) consider the vulnerability for theft or other procurement that different facilities represent; and

(6) consider the consequences of a successful radiological dispersion device attack, including risk of death or injury and economic losses.

(c) **CONSULTATION.**—In conducting the terrorism risk assessments under subsection (a), the Secretary shall consult with the Intelligence Community, the Secretary of Energy and the Field Intelligence Elements of the National Laboratories, and the Nuclear Regulatory Commission, the Secretary of Health and Human Services, and other appropriate experts to integrate and analyze information needed to develop the risk assessment.

(d) **DISSEMINATION OF FINDINGS.**—The Secretary shall disseminate the findings of the risk assessments and any specific risk information developed in the assessment to all participating agencies including those described in subsection (c), as well State and local agencies, and the facilities containing radiological source material and regulated by the Nuclear Regulatory Commission.

(e) **CLASSIFICATION.**—The Secretary shall, as appropriate, share the terrorism risk assessments with law enforcement and critical infrastructure operators with appropriate security clearances. The Secretary shall also make available an unclassified version to each agency with which the Secretary is required to consult under subsection (c), as well as State and local law enforcement and public health authorities, and facilities possessing radiological materials with the support of the Department of Energy.

**SEC. 2105. ENHANCED BIOSECURITY MEASURES.**

(a) **REGULATIONS.**—At the request of the Secretary, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal agencies, shall, through a negotiated rulemaking committee under subchapter III of chapter 5 of title 5, United States Code, establish enhanced biosecurity measures for persons or laboratories that possess, use, or transfer Tier I Material Threat Agents. Such measures shall include—

(1) standards for personnel surety programs;

(2) standards for biosecurity practices and training of responsible officials, laboratory personnel, and support personnel;

(3) standards for performing laboratory vulnerability assessments in collaboration with each facility;

(4) risk-based laboratory security performance standards;

(5) penalties (including civil money penalties and intermediate sanctions), in addition to any other penalties that may apply under provisions of law; and

(6) any other security standards determined necessary by the Secretary, the Secretary of Agriculture, Secretary of Health and Human Services, and other agencies as appropriate.

(b) **NEGOTIATED RULEMAKING COMMITTEE.**—The Secretary shall establish a negotiated rulemaking committee for purposes of sub-

section (a). Such committee shall include a representative from each of the following:

- (1) The Department.
- (2) The Department of Health and Human Services.
- (3) The Department of Agriculture.
- (4) The Department of Defense.
- (5) The Department of Energy.
- (6) The Department of Justice.
- (7) For-profit research institutions.
- (8) Academic research institutions.
- (9) Nonprofit research institutions
- (10) Other stakeholders, as the Secretary determines appropriate.

(c) **TIME REQUIREMENT.**—The procedures for the negotiated rulemaking referred to in subsection (a) shall be conducted in a timely manner to ensure that—

(1) any recommendations with respect to proposed regulations are provided to the Secretary and the heads of the other appropriate Federal agencies not later than one year after the date of the enactment of this section; and

(2) a final rule is promulgated not later than two years after the date of the enactment of this section.

(d) **FACTORS TO BE CONSIDERED.**—In developing proposed and final standards pursuant to the negotiated rulemaking referred to in subsection (a), the negotiated rulemaking committee shall consider—

(1) the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (established under section 1851 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 121 Stat. 501));

(2) the National Science Advisory Board for Biosecurity (established under section 217a of title 42, United States Code, section 222 of the Public Health Service Act, and section 205 of the Pandemic and All-Hazards Preparedness Act);

(3) any working group established under Executive Order 13486 (74 Fed. Reg. 2289) relating to strengthening laboratory biosecurity;

(4) the Chemical Facility Anti-Terrorism Act of 2009; and

(5) views from representatives of biosecurity and biodefense stakeholders for methods to minimize any disincentives to biological research arising from enhanced biosecurity measures.

(e) **IMPLEMENTATION OF ENHANCED BIOSECURITY MEASURES.**—

(1) **ENFORCEMENT.**—The Secretary of Agriculture and the Secretary of Health and Human Services, in consultation with the Secretary, as appropriate, shall enforce the measures established under subsection (a) and any standards promulgated pursuant to such section.

(2) **TRAINING PROGRAMS.**—The Secretary of Agriculture and the Secretary of Health and Human Services, in coordination with the Secretary and the heads of other Federal agencies, as appropriate, shall develop training programs that comply with such measures and standards.

(3) **PROCEDURES.**—The Secretary of Agriculture and the Secretary of Health and Human Services, in consultation with the Secretary and the heads of other Federal agencies, as appro-

appropriate, shall develop and implement procedures with respect to when and how penalties and intermediate sanctions may be imposed. Such procedures shall provide for notice, a reasonable opportunity to respond to the proposed penalty or intermediate sanction, and appropriate procedures for appealing determinations relating to the imposition of a penalty or intermediate sanction.

(4) **SIMULTANEOUS LABORATORY INSPECTIONS.**—

(A) **INSPECTION DATA SHARING AND ENFORCEMENT UNIFORMITY.**—The Secretary of Agriculture and the Secretary of Health and Human Services shall periodically provide the Secretary with all data concerning inspections of laboratories that handle Tier 1 Material Threat Agents to ensure uniformity in enforcement of the regulations enacted under subsection (a) and to identify areas where the Secretary can provide guidance to the Secretary of Agriculture or the Secretary of Health and Human Services about approaches to enhance security at specific laboratories.

(B) **SIMULTANEOUS INSPECTIONS.**—Any inspections of the same laboratory conducted by the Secretary of Agriculture pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 and the Secretary of Health and Human Services for compliance with regulations promulgated under the Select Agent Program under section 351A(a)(1) of the Public Health Service Act, shall be conducted simultaneously to the extent practicable.

(C) **COMMON INSPECTION PROCEDURES.**—Departments conducting simultaneous inspections of a laboratory under this subsection shall ensure, to the maximum extent practicable, that such inspections are conducted using a common set of inspection procedures across such departments in order to minimize the administrative burden on such laboratory.

(D) **INSPECTION REPORTS.**—Inspection reports generated under this paragraph shall be made available to each Federal agency that supports select agent laboratory activities at the institution that is the subject of the inspection report, and to the institutions that are the object of inspections.

**SEC. 2106. TIER I MATERIAL THREAT AGENT LOCATIONS.**

The Secretary of Agriculture and the Secretary of Health and Human Services shall provide to the Secretary a list of laboratories and other locations where Tier I Material Threat Agents are present in the United States and its territories.

**SEC. 2107. HIGH CONTAINMENT BIOLOGICAL LABORATORY SECURITY GRANTS.**

(a) **GRANTS AUTHORIZED.**—The Secretary, acting through the Administrator of the Federal Emergency Management Agency, may award grants based on risk to academic and nonprofit organizations and to State, local, and tribal authorities that possess, use, or transfer Tier I Material Threat Agents, to enhance security at laboratories of such organizations and authorities.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Department of Homeland Security to carry

out this subsection \$50,000,000 for each of fiscal years 2011 through 2013.

**SEC. 2108. LABORATORY BIOSECURITY INFORMATION SHARING.**

(a) *IN GENERAL.*—Consistent with the responsibilities of the Secretary under section 201(d), the Secretary shall establish procedures, with appropriate controls on access, for the sharing of homeland security information, including vulnerability assessments, security plans, best practices and other laboratory biosecurity-related information, as the Secretary determines appropriate, with State, local, and tribal government authorities, including law enforcement authorities and emergency response providers.

(b) *ACCESS TO INFORMATION IN DATABASES.*—In carrying out this section, the Secretary shall have access to and may use information from the national databases established under section 212(d)(2) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401(d)(2)) and subsections (d)(2) and (f)(3) of section 351A of the Public Health Service Act (42 U.S.C. 262a).

(c) *CLASSIFIED AND SENSITIVE INFORMATION.*—The Secretary shall ensure that any information disseminated under this section is handled consistent with—

(1) the authority of the Director of National Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures or similar authorities of the Attorney General concerning sensitive law enforcement information;

(2) section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974); and

(3) other relevant laws.

**SEC. 2109. PERIODIC HOMELAND SECURITY REVIEW OF CRIMINAL STATUTES.**

(a) *IN GENERAL.*—The Secretary, in coordination with the Attorney General and the heads of other Federal departments and agencies, as appropriate, shall, for purposes of enhancing homeland security—

(1) periodically review and recommend updates to criminal laws to ensure that such laws are well suited to the evolving risks of misuse of life sciences by terrorists and others; and

(2) ensure that national biosecurity and biodefense stakeholders at unique risk of exploitation have access to guidance regarding actions that can reduce the risk of misuse of life sciences by terrorists and others.

(b) *REPORT.*—Not later than one year after the date of the enactment of this section, and biannually thereafter, the Secretary, in coordination with the Attorney General, shall submit to the appropriate congressional committees the recommended updates to criminal laws, as described in subsection (a)(1).

**SEC. 2110. EXPORT ENFORCEMENT FOR COUNTER-PROLIFERATION.**

(a) *IN GENERAL.*—The Secretary, in coordination with the Secretary of Commerce, the Secretary of Defense, the Attorney General, the Secretary of State, the Director of National Intelligence, and the heads of other appropriate Federal agencies shall—

(1) conduct homeland security investigations and enforce criminal violations of customs and export laws of the United States related to military items, controlled commodities, and



*sanctioned or embargoed countries to prevent individuals, terrorist groups, foreign adversaries, and hostile nations from—*

- (A) illegally obtaining sensitive United States technology and munitions; and*
- (B) obtaining weapons of mass destruction components, precursors, and delivery systems, including—*
  - (i) United States military technical data, hardware, small arms and defense services;*
  - (ii) dual-use technical data/source code and commodities; and*
  - (iii) deemed exports; and*
- (2) conduct industry outreach with manufacturers and exporters of strategic commodities that may be targeted for procurement by terrorist organizations and the countries that support them as well as countries identified as weapons proliferators, in a manner that acknowledges commerce and trade, by—*
  - (A) educating companies and individuals on the export laws of the United States;*
  - (B) discussing export licensing issues and requirements;*
  - (C) identifying red flag indicators used in illegal procurement;*
  - (D) identifying the government agencies responsible for the licensing of export-controlled commodities and technology; and*
  - (E) establishing and fostering relationships whereby companies and individuals can report suspicious contacts or attempts to violate the export laws of the United States.*

**(b) NATIONAL EXPORT ENFORCEMENT COORDINATION.—**

*(1) ESTABLISHMENT; MEMBERSHIP.—There is established in the Department a unit responsible for national export enforcement coordination that is managed by the Secretary. The unit shall be composed of members who are representatives from the Department, the Department of Commerce, the Department of Defense, the Department of Energy, the Department of Justice, the Department of State, the Intelligence Community, and other Federal agencies as appropriate.*

*(2) RESPONSIBILITIES.—The unit shall carry out the following responsibilities:*

- (A) Coordinating law enforcement counter-proliferation investigations and intelligence counter-proliferation activities.*
- (B) Addressing licensing inquiries, reviews, requests, checks, and verifications.*
- (C) Conducting outreach and providing training to the export trade community.*

## **Subtitle B—Preparedness**

**SEC. 2121. COMMUNICATION OF THREAT INFORMATION AND ALERTS.**

*(a) FINDINGS.—Congress makes the following findings:*

- (1) The Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism recommended that “the Federal Government should practice greater openness of public*

information so that citizens better understand the threat and the risk this threat poses to them”.

(2) There are unique challenges for community preparedness for attacks from weapons of mass destruction and their agents.

(b) **TERRORISM THREAT AWARENESS.**—

(1) **TERRORISM THREAT AWARENESS.**—The Secretary, in coordination with the heads of appropriate Federal agencies, shall ensure that homeland security information concerning terrorist threats is provided to State, local, and tribal authorities and the public within the United States, as appropriate, for purposes of preparedness and collective response to terrorism and for other purposes.

(2) **THREAT BULLETINS.**—

(A) **IN GENERAL.**—Consistent with the requirements of paragraph (1), the Secretary shall, on a timely basis, prepare unclassified terrorism-related threat and risk assessments.

(B) **REQUIREMENTS.**—Each assessment required under subparagraph (A) shall—

(i) include guidance to the public for preventing and responding to acts of terrorism; and

(ii) be made available on the Internet website of the Department and other publicly accessible Internet websites, communication systems, and information networks.

(3) **GUIDANCE TO STATE, LOCAL, AND TRIBAL AUTHORITIES.**—The Secretary—

(A) acting through the Administrator of the Federal Emergency Management Agency, shall provide to State, local, and tribal authorities written guidance on communicating terrorism-related threats and risks to the public within their jurisdictions; and

(B) shall identify and articulate the governmental rationale for identifying particular communities as being at heightened risk of exploitation.

(4) **USE OF EXISTING RESOURCES.**—The Secretary shall use Internet websites, communication systems, and information networks in operation on the date of an assessment under this subsection to satisfy the requirements of paragraph (2)(B)(ii). The Secretary shall provide guidance on how State, local, tribal, and private entities can partner with public television stations to disseminate information provided by the Department and shall provide information on best practices on disseminating information to residents of local communities, including leveraging public television stations.

**SEC. 2122. INDIVIDUAL AND COMMUNITY PREPAREDNESS FOR WEAPONS OF MASS DESTRUCTION.**

(a) **IN GENERAL.**—The Secretary, acting through the Administrator for the Federal Emergency Management Agency, shall assist State, local, and tribal authorities in improving and promoting individual and community preparedness and collective response to weapons of mass destruction and terrorist attacks involving chemical, biological, radiological, and nuclear materials against the United States by—

(1) *developing guidance and checklists of recommended actions for individual and community prevention and preparedness efforts and disseminating such guidance and checklists to communities and individuals;*

(2) *disseminating the guidance developed under section 2151 to communities and individuals, as appropriate;*

(3) *providing information and training materials in support of individual and community preparedness efforts;*

(4) *conducting individual and community preparedness outreach efforts; and*

(5) *such other actions as the Secretary determines appropriate.*

(b) *COORDINATION.—Where appropriate, the Secretary shall coordinate with private sector and nongovernmental organizations to promote individual and community preparedness and collective response to weapons of mass destruction and terrorist attacks involving chemical, biological, radiological, and nuclear materials against the United States.*

(c) *BEST PRACTICES.—In compiling guidance for individual and community preparedness in order to carry out subsection (a)(3), the Secretary shall give due regard to best practices based on the experience of other countries and agencies and the expertise of academic institutions and non-governmental organizations.*

## **Subtitle C—Detection**

### **SEC. 2131. NATIONAL BIOSURVEILLANCE STRATEGY.**

(a) *CURRENT STATE OF BIOSURVEILLANCE.—The Secretary shall examine of the state of domestic and global biosurveillance.*

(b) *STRATEGY FOR BIOSURVEILLANCE.—The Secretary shall submit to the appropriate congressional committees a national strategy for biosurveillance.*

(c) *MATTERS FOR INCLUSION.—*

(1) *IN GENERAL.—In developing the strategy required under subsection (b), the Secretary shall take into consideration—*

(A) *the state of biosurveillance domestically and internationally;*

(B) *material threat assessments and determinations developed by the Secretary in accordance with the Project Bio-Shield Act of 2004 (Public Law 108–276) and the amendments made by that Act;*

(C) *reports on global trends produced by the Office of the Director of National Intelligence regarding the biological threat;*

(D) *information available in biosurveillance systems and changes to information technology to allow for the incorporation and integration of this information;*

(E) *Intelligence Community needs as articulated in relevant intelligence strategies; and*

(F) *costs associated with establishing and maintaining the necessary infrastructure to integrate biosurveillance systems.*

(2) *ADDITIONAL REQUIREMENTS.—This strategy required under subsection (b) shall—*

(A) include a plan for advancing situational awareness;  
 (B) identify key elements of information to be shared, critical sensitivities to be protected, and a framework for enabling information exchange;

(C) include a plan for fostering information sharing between law enforcement, security, intelligence, and national biosecurity and biodefense stakeholders to identify potential threats, reduce vulnerabilities and improve collective response activities to and investigations of suspected biological attacks; and

(D) include strategic and implementation plans for the National Biosurveillance Integration Center under section 316.

**SEC. 2132. DETECTION OF BIOLOGICAL ATTACKS.**

(a) PROGRAM.—The Secretary shall carry out a program in the Department to detect a biological attack or event. Through such program, the Secretary shall—

(1) deploy detectors to areas, based on risk, to indicate the presence of biological agents;

(2) provide information to participating laboratories for their use in monitoring public health, and biological material from these detectors to participating laboratories for testing;

(3) provide information about the presence of biological agents to public health and law enforcement personnel at all levels of government; and

(4) provide advanced planning tools, concepts of operations (including alarm resolution protocols), and training exercises for collective response to and recovery from biological attacks.

(b) PROGRAM REQUIREMENTS.—Under the program required under subsection (a), the Secretary shall—

(1) enter into memoranda of agreement or interagency agreements under the Economy Act of 1933 (31 U.S.C. 1535 et seq.) with the Director of the Centers of Disease Control and Prevention and the Administrator of the Environmental Protection Agency, and the heads of other Federal departments and agencies, setting forth roles and responsibilities, including with respect to filter testing protocols for participating laboratories and coordination with appropriate State, local, and tribal agencies;

(2) determine, on an annual basis, whether plans for biological detector capabilities and coverage sufficiently protect the United States population; and

(3) acting through the Under Secretary for Science and Technology, and in consultation with the Director for the Centers for Disease Control and Prevention, implement an assay equivalency program for biological threat assays that—

(A) may evaluate biological threat detection assays, their protocols for use, and their associated response algorithms for confirmation of biological threat agents, taking performance measures and concepts of operation into consideration;

(B) may develop assay equivalency standards based on the findings of the evaluation under subparagraph (A);

(C) will be updated as necessary;

(D) shall require implementation of the standards developed under subparagraph (B) for all Department biological detection programs; and

- (E) shall make such standards available to support all other Federal biological detection programs.
- (c) **CONTRACT AUTHORITY.**—The Secretary is authorized to enter into contracts with participating laboratories for—
- (1) the provision of laboratory services to test detector filters on a fee-for-service basis or on a prepayment or other similar basis; and
  - (2) administrative and other costs related to hosting program personnel and equipment in these laboratories.
- (d) **DEFINITIONS.**—In this section:
- (1) The term “participating laboratory” means a laboratory that has been accepted as a member of the Laboratory Response Network for Bioterrorism that—
    - (A) is fully equipped to detect and respond quickly to acts of biological terrorism;
    - (B) provides biocontainment and microbiological analysis in support of the Department, the Federal Bureau of Investigation and other law enforcement agencies with responsibilities for investigating biological incidents; and
    - (C) supports threat agent characterization studies and assay evaluation, research and development.
  - (2) The term “assay” means any scientific test that is designed to detect the presence of a biological threat agent that is of a type selected under criteria established by the Secretary.

**SEC. 2133. RAPID BIOLOGICAL THREAT DETECTION AND IDENTIFICATION.**

(a) **IN GENERAL.**—Notwithstanding section 302(4) the Secretary shall require the Under Secretary for Science and Technology, in consultation with the heads of other relevant operational components of the Department, assess whether the development of screening capabilities for biological agents, pandemic influenza, and other infectious diseases should be undertaken by the Science and Technology Directorate to support entry and exit screening at ports of entry and for other purposes.

(b) **DEVELOPMENT OF METHODS.**—If the Under Secretary determines that the development of such screening capabilities should be undertaken, the Secretary shall, to the extent possible, initiate development of safe and effective methods to rapidly screen incoming travelers at ports of entry for biological agents, pandemic influenza, and other infectious diseases.

(c) **COLLABORATION.**—In developing methods under subsection (b), the Secretary may collaborate with the heads of other Federal agencies, as needed.

**SEC. 2134. ESTABLISHMENT OF THE SYSTEM ASSESSMENT AND VALIDATION FOR EMERGENCY RESPONDERS (SAVER) PROGRAM.**

The Secretary, acting through the Under Secretary for Science and Technology, shall carry out a program for system assessment and validation of emergency response equipment at the Department, to be known as the “SAVER Program”. The Secretary shall ensure that such program—

- (1) conducts objective, impartial, practitioner-relevant, and operationally-oriented assessments and validations of commercial emergency responder equipment and systems, including

*hand-held detectors for agents used in weapons of mass destruction;*

*(2) is supported by a network of scientists who perform the assessment and validation activities;*

*(3) provides results along with other relevant equipment information to the emergency response provider community in an operationally useful form;*

*(4) provides information on equipment that falls within the categories listed in the Department's authorized equipment list;*

*(5) provides information that enables decision-makers and responders to better select, procure, use and maintain emergency responder equipment; and*

*(6) shares such information nationally with the emergency response provider community.*

**SEC. 2135. PAYMENT FOR BIOTERRORISM LABORATORY SERVICES.**

*In carrying out their functions, responsibilities, authorities, and duties to counter biological terrorism, the Secretary, the Attorney General, and the heads of other participating Federal agencies are authorized to enter into contracts with the State and local public health laboratories that compose the Laboratory Response Network for Bioterrorism, and any other qualified laboratories, for the provision of laboratory testing services on a fee-for-service basis or on a prepayment or other similar basis.*

**SEC. 2136. ESTABLISHMENT OF THE INTEGRATED CONSORTIUM OF LABORATORY NETWORKS.**

*(a) ESTABLISHMENT.—There is established in the Department an Integrated Consortium of Laboratory Networks that is managed by the Secretary.*

*(b) REQUIREMENTS.—The Integrated Consortium of Laboratory Networks shall—*

*(1) be composed of networks of laboratories capable of integrated and coordinated response to and consequence management of attacks from weapons of mass destruction, acts of terrorism, and other incidents requiring laboratory response capabilities;*

*(2) be a coordinated and operational system of laboratory networks that provide timely, high quality results for early detection and effective consequence management of attacks from weapons of mass destruction, acts of terrorism, and other events requiring an integrated laboratory response;*

*(3) serve as a system of laboratory networks that are equipped to detect and respond quickly to attacks from weapons of mass destruction and acts of terrorism;*

*(4) provide limited containment and analysis in support of the Department, the Federal Bureau of Investigation, and other law enforcement agencies with responsibilities for investigating incidents involving weapons of mass destruction or their agents; and*

*(5) support threat agent characterization studies and assay evaluation, research and development.*

## **Subtitle D—Attribution**

### **SEC. 2141. BIOFORENSICS CAPABILITIES AND STRATEGY.**

(a) *NATIONAL BIOFORENSICS ANALYSIS CENTER.*—*There is established in the Department a National Bioforensics Analysis Center which shall serve as the lead Federal facility to—*

- (1) *provide definitive forensic examination of bioterror agents and related evidence;*
- (2) *provide necessary biocontainment;*
- (3) *integrate bioforensics requirements for law enforcement, national security, and homeland security;*
- (4) *provide bioforensics analysis in support of the executive agencies with primary responsibilities for preventing, deterring, responding to, attributing, and recovering from biological attacks;*
- (5) *develop national bioforensics standards;*
- (6) *maintain the national bioforensics repository collection as a reference collection of biological agents and toxins for bioforensics comparisons and identifications; and*
- (7) *support threat agent characterization studies and bioforensics assay evaluation research and development.*

(b) *NATIONAL BIOFORENSICS REPOSITORY COLLECTION.*—

(1) *IN GENERAL.*—*The National Bioforensics Analysis Center shall maintain a distributed national bioforensics repository collection.*

(2) *ACTIVITIES.*—*The national bioforensics repository collection shall—*

(A) *receive, store, and distribute biological threat agents and toxins;*

(B) *serve as a distributed reference collection for comparative bioforensics identifications and characterizations; and*

(C) *support threat agent characterization studies and the development of bioforensics assays, genomic analyses, organic and inorganic chemical analyses, electron microscopy analyses, and other relevant assays, analyses, and tests.*

(3) *PARTICIPATION.*—

(A) *IN GENERAL.*—*The Secretary, the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Director of National Intelligence, and the head of any other appropriate executive agency with a biological agent or toxin collection that is useful for the bioforensics analysis of biological attacks, performance of biological threat agent identification and characterization studies, or evaluation and development of bioforensics assays and methods shall provide to the distributed national bioforensics repository collection authenticated replicate samples of, or information on, all relevant biological strains and toxins, as determined by the Secretary, in consultation with the head of the executive agency possessing the agent or toxin.*

(B) *OTHER BIOLOGICAL AGENTS AND TOXINS.*—*The Secretary shall require the contribution to the national*

*bioforensics repository collection of authenticated replicate samples of, or information on, all relevant biological strains and toxins, as determined by the Secretary, from public and private biological agent and toxin collections that were collected or created with support from a Federal grant or contract and that support the functions described in paragraph (2).*

(4) *ACCESS.—The Secretary shall—*

*(A) provide any executive agency that submits a biological agent or toxin, or information on a biological agent or toxin, to the national bioforensics repository collection with access to the collection; and*

*(B) establish a mechanism to provide public and private entities with access to agents or toxins in, or information regarding, the national bioforensics repository collection, as determined appropriate by the Secretary, with appropriate protection of classified or law enforcement sensitive information and intellectual property rights.*

(5) *REPORT.—*

*(A) IN GENERAL.—Not later than one year after the date of the enactment of this section, and annually thereafter, the Secretary, in consultation with the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Director of National Intelligence, and the head of any other appropriate executive agency that participates in or contributes agents, or toxins, or information to the national bioforensics repository collection, shall submit to the appropriate committees of Congress a report regarding the national bioforensics repository collection.*

*(B) CONTENTS.—The report submitted under subparagraph (A) shall—*

*(i) discuss the status of the establishment of the distributed national bioforensics repository collection;*

*(ii) identify domestic and international biological agent and toxin collections that would prove useful in carrying out the functions of the distributed national bioforensics repository collection;*

*(iii) examine any access or participation issues affecting the establishment of the distributed national bioforensics repository collection or the ability to support bioforensics analysis, threat agent characterization studies, or bioforensics assay evaluation, research, and development, including—*

*(I) intellectual property concerns;*

*(II) access to collected or created biological agent or toxin collections funded by a Federal grant or contract;*

*(III) costs incurred by domestic and international biological agent and toxin collections to access or contribute biological agents or toxins to the national bioforensics repository collection; and*

*(IV) access to the national bioforensics repository collection by public and private researchers to support threat agent characterization studies,*



*bioforensics assay evaluation, research, and development, and biosecurity research and development; and*

*(iv) other issues determined appropriate.*

*(c) NATIONAL BIOFORENSICS STRATEGY.—*

*(1) IN GENERAL.—The Secretary, in coordination with the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Health and Human Services, the Director of National Intelligence, and the head of any other appropriate executive agency, as determined by the Secretary, shall develop, coordinate, and maintain a national bioforensics strategy.*

*(2) CONTENTS.—The national bioforensics strategy shall—*

*(A) provide for a coordinated approach across all executive agencies with responsibilities for—*

*(i) conducting bioforensics examination of biological threat agents and related evidence; and*

*(ii) generating bioforensics requirements for law enforcement, national security, and homeland security;*

*(B) describe the roles and responsibilities of all relevant executive agencies, including—*

*(i) research to characterize threat agents;*

*(ii) assay evaluation, research, and development; and*

*(iii) funding;*

*(C) establish mechanisms, in coordination with State, local, and tribal authorities, for coordinating with public health, homeland security, and law enforcement agencies for the collection or receipt, transfer, or submission of bioforensics evidence for analysis and its use; and*

*(D) include—*

*(i) guidance for collecting, processing, and analyzing samples;*

*(ii) requirements for reporting bioforensics information to appropriate agencies; and*

*(iii) requirements for the distributed national bioforensics repository collection.*

*(3) REPORT.—Not later than one year after the date of the enactment of this section, and biennially thereafter, the Secretary, in consultation with the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Health and Human Services, the Director of National Intelligence, and the heads of other appropriate agencies, as determined by the Secretary, shall submit to the appropriate committees of Congress the national bioforensics strategy.*

*(d) CONCEPT OF OPERATIONS.—The Secretary, in coordination with the Attorney General and the heads of any other appropriate Federal agencies shall ensure the availability of a detailed concept of operations for information sharing and all-source analysis to support timely attribution of biological attacks.*

*(e) DETAILEE PROGRAM.—Subject to the availability of appropriations, the Secretary may implement a detailee program to detail from governmental entities national biosecurity and biodefense stakeholders with appropriate clearances, on a reimbursable basis, to the National Bioforensics Analysis Center for the purpose of—*

(1) providing training and other educational benefits for such stakeholders to help them to better understand the policies, procedures, and laws governing national bioforensics activities; and

(2) bolstering the capabilities and information sharing activities of the National Bioforensics Analysis Center with national biosecurity and biodefense stakeholders.

(f) **RESEARCH AND DEVELOPMENT.**—The Secretary, in coordination with the Attorney General and the heads of any other appropriate Federal agencies, shall establish a national-level research and development strategy and implementation plan to advance the field of bioforensics.

(g) **DEFINITION OF BIOFORENSICS.**—In this section, the term “bioforensics” means the scientific discipline dedicated to analyzing evidence from an attack with a biological weapon of mass destruction, an act of bioterrorism, a biological agent- or toxin-based criminal act, or the inadvertent release of a biological agent or toxin for attribution purposes.

**SEC. 2142. FEDERAL LAW ENFORCEMENT TRAINING TO INVESTIGATE BIOLOGICAL THREATS.**

The Secretary, in coordination with the Attorney General, the Secretary of Agriculture, the Secretary of Health and Human Services, and the heads of other appropriate Federal departments and agencies, shall make available to law enforcement, public health, and security personnel at the Federal Law Enforcement Training Center training on recognizing and responding to situations involving potential biological threats, including performing joint criminal and epidemiological investigations, and shall—

(1) ensure that tailored tactics, techniques, and procedures are made available to law enforcement and security personnel, including access to the tools needed to respond to biological threats;

(2) promote the use of simulation among Federal partners to exercise capabilities, refine operational concepts, and strengthen relationships across the Government; and

(3) make training available that will ensure that law enforcement, public health, and agricultural investigations of biological threats are coordinated.

## **Subtitle E—Response**

**SEC. 2151. FIRST RESPONDER GUIDANCE CONCERNING WEAPONS OF MASS DESTRUCTION ATTACKS.**

(a) **ESTABLISHMENT OF VOLUNTARY GUIDANCE.**—Not later than one year after the date of the enactment of this section, the Secretary shall—

(1) develop for police, fire, emergency medical services, emergency management, and public health personnel, voluntary guidance for responding to a release of chemical, biological, radiological, or nuclear material;

(2) in developing the guidance under paragraph (1), review the experiences of other countries and the expertise of academic institutions and non-governmental organizations; and

(3) *make such guidance available to State, local, and tribal authorities, nongovernmental organizations, the private sector, and the public.*

(b) *CONTENTS.—The guidance developed under subsection (a)(1) shall include—*

(1) *protective action guidance for ensuring the security, health, and safety of emergency response providers;*

(2) *specific information regarding the effects of the chemical, biological, radiological, or nuclear material on those exposed to the agent; and*

(3) *best practices for emergency response providers to effectively deal with individuals affected by an incident involving chemical, biological, radiological, or nuclear material.*

(c) *REVIEW AND REVISION OF GUIDANCE.—The Secretary shall—*

(1) *review the guidance developed under subsection (a)(1) at least once every 2 years,*

(2) *make revisions to the guidance as appropriate; and*

(3) *make any revised guidance available to State, local, and tribal authorities, nongovernmental organizations, the private sector, and the public.*

(d) *PROCEDURES FOR DEVELOPING AND REVISING GUIDANCE.—In carrying out the requirements of this section, the Secretary shall establish procedures to—*

(1) *inventory existing relevant hazardous material response guidance;*

(2) *enable members of the first responder and first provider community to submit recommendations of areas in which guidance is needed and could be developed under subsection (a)(1);*

(3) *determine which entities should be consulted in developing or revising the guidance;*

(4) *prioritize, on a regular basis, guidance that should be developed or revised; and*

(5) *develop and disseminate the guidance in accordance with the prioritization under paragraph (4).*

(e) *CONSULTATIONS.—The Secretary shall develop and revise the guidance developed under subsection (a)(1), and the procedures required under subsection (d), in consultation with—*

(1) *the heads of other Federal departments and agencies, as appropriate;*

(2) *the National Advisory Council established under section 508;*

(3) *the National Domestic Preparedness Consortium;*

(4) *State, local, and tribal authorities; and*

(5) *nongovernmental organizations and private industry.*

(f) *REPORTING REQUIREMENTS.—Not later than 18 months after the date of the enactment of this section and annually thereafter, the Secretary shall submit to the appropriate congressional committees—*

(1) *a description of the procedures established under subsection (d);*

(2) *any guidance in effect on the date of the report;*

(3) *a list of entities to which the guidance described in paragraph (2) was disseminated;*

(4) *a plan for reviewing the guidance described in paragraph (2), in accordance with subsection (e);*

- (5) guidance required under subsection (d)(4), and the methodology used by the Secretary for such prioritization; and  
 (6) a plan for developing, revising, and disseminating the guidance.

**SEC. 2152. INTEGRATED PLUME MODELING FOR COLLECTIVE RESPONSE.**

(a) **DEVELOPMENT.**—

(1) **IN GENERAL.**—The Secretary shall acquire, use, and disseminate integrated plume models to enable rapid response activities following a chemical, biological, nuclear, or radiological attack or event.

(2) **SCOPE.**—The Secretary shall—

(A) ensure the rapid development and distribution of integrated plume models to appropriate officials of the Federal Government and State, local, and tribal authorities to enable immediate response to a chemical, biological, or radiological attack or event;

(B) establish mechanisms for dissemination by appropriate emergency response officials of the integrated plume models described in paragraph (1) to nongovernmental organizations and the public to enable appropriate collective response activities;

(C) ensure that the development and dissemination of integrated plume models are assessed during exercises administered by the Department; and

(D) ensure that lessons learned from assessing the development and dissemination of integrated plume models during exercises administered by the Department are put into the Department of Homeland Security Lessons Learned Information Sharing system.

(b) **REPORT.**—Not later than one year after the date of enactment of this section, and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report regarding—

(1) the acquisition, use, and dissemination of integrated plume models under this section;

(2) lessons learned from assessing the development and dissemination of integrated plume models during exercises administered by the Department; and

(3) recommendations for improving integrated plume models, as appropriate.

(c) **DEFINITIONS.**—For purposes of this section:

(1) The term “plume model” means the assessment of the location and prediction of the spread of agents following a chemical, biological, radiological, or nuclear attack or event.

(2) The term “integrated plume model” means a plume model that integrates protective action guidance and other information as the Secretary determines appropriate.

## **Subtitle F—Recovery**

**SEC. 2161. RECOVERY AND RESTORATION FROM A BIOLOGICAL ATTACK OR INCIDENT GUIDANCE.**

(a) **ESTABLISHMENT OF GUIDANCE.**—Not later than one year after the date of the enactment of this section, the Secretary, in coordina-

tion with the Administrator of the Environmental Protection Agency and in consultation with the Director of the Occupational Safety and Health Agency, and the Director of the National Institute for Occupational Safety and Health, shall develop and issue guidance for clean-up and restoration of indoor and outdoor areas, including subways and other mass transportation facilities, that have been affected by a biological attack or event.

(b) *CONTENTS.*—The guidance developed under subsection (a) shall include—

- (1) acceptable levels of growth of the organism in post-remediation area samples from affected sites;
- (2) standards for effective clean-up of affected sites;
- (3) standards for safe post-event occupancy of affected sites;
- (4) requirements to ensure that the decontamination procedures for responding organizations do not conflict;
- (5) requirements that each responding organization uses a uniform system for tracking costs and performance of clean-up contractors;
- (6) levels of personal protection equipment;
- (7) maintenance of negative air pressure in buildings;
- (8) standards for proper selection and use of personal protective equipment;
- (9) air sampling procedures; and
- (10) how to develop occupational health and safety plans that are appropriate for the specific risk to responder health.

(c) *REVIEW AND REVISION OF GUIDANCE.*—The Secretary shall—

- (1) not less frequently than once every 2 years, review the guidance developed under subsection (a);
- (2) make revisions to the guidance as appropriate; and
- (3) make the revised guidance available to the Federal government, State, local, and tribal authorities, nongovernmental organizations, the private sector, and the public.

(d) *PROCEDURES FOR DEVELOPING AND REVISING GUIDANCE.*—In carrying out the requirements of this section, the Secretary shall establish procedures to—

- (1) inventory existing relevant guidance;
- (2) enable the public to submit recommendations of areas in which guidance is needed;
- (3) determine which entities should be consulted in developing or revising the guidance;
- (4) prioritize, on a regular basis, guidance that should be developed or revised; and
- (5) develop and disseminate the guidance in accordance with the prioritization under paragraph (4).

(e) *CONSULTATIONS.*—The Secretary shall develop and revise the guidance developed under subsection (a), and the procedures required under subsection (d), in consultation with—

- (1) the heads of other Federal departments and agencies, as appropriate;
- (2) State, local, and tribal authorities; and
- (3) nongovernmental organizations and private industry.

(f) *REPORT.*—Not later than one year after the date of the enactment of this section, and annually thereafter, the Secretary shall provide appropriate congressional committees with—

- (1) a description of the procedures established under subsection (d);
- (2) any guidance in effect on the date of the report;
- (3) a list of entities to which the guidance described in paragraph (2) were disseminated;
- (4) a plan for reviewing the guidance described in paragraph (2), in accordance with subsection (e);
- (5) the prioritized list of the guidance required under subsection (d)(4), and the methodology used by the Secretary for such prioritization; and
- (6) a plan for developing, revising, and disseminating the guidance.

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**POST-KATRINA EMERGENCY MANAGEMENT REFORM  
ACT OF 2006**

\* \* \* \* \*

**TITLE VI—NATIONAL EMERGENCY  
MANAGEMENT**

\* \* \* \* \*

**Subtitle C—Comprehensive Preparedness  
System**

**CHAPTER 1—NATIONAL PREPAREDNESS SYSTEM**

\* \* \* \* \*

**SEC. 653. FEDERAL PREPAREDNESS.**

(a) AGENCY RESPONSIBILITY.—In support of the national preparedness system, the President shall ensure that each Federal agency with responsibilities under the National Response Plan—

(1) \* \* \*

\* \* \* \* \*

(4) develops deliberate operational plans and the corresponding capabilities, including crisis planning, to respond effectively to natural disasters, acts of terrorism, and other man-made disasters, *and a communications plan described in subsection (f)* in support of the National Response Plan to ensure a coordinated Federal response; and

\* \* \* \* \*

(f) COMMUNICATIONS PLAN.—

(1) IN GENERAL.—A communications plan developed under subsection (a)(4) shall be designed to provide information to the public related to preventing, preparing for, and responding to attacks from weapons of mass destruction and acts of terrorism;

(2) CONSULTATION.—As appropriate, the Administrator shall consult with State, local, and tribal authorities and coordinate with other Federal departments and agencies in developing communications plans under paragraph (1).

(3) PRE-SCRIPTED MESSAGES AND MESSAGE TEMPLATES.—

(A) *IN GENERAL.*—The Administrator shall develop and disseminate pre-scripted messages and message templates to be provided to State, local, and tribal authorities so that those authorities can quickly and rapidly disseminate critical information to the public in anticipation of, during, or in the immediate aftermath of an attack from a weapon of mass destruction or terrorist incident, and to be included in the Department of Homeland Security’s Lessons Learned Information Sharing system.

(B) *DEVELOPMENT AND DESIGN.*—The pre-scripted messages or message templates shall—

(i) be developed in consultation with State, local, and tribal authorities and in coordination with other appropriate Federal departments and agencies;

(ii) be designed to provide accurate, essential, and appropriate information and instructions to the population directly affected by an incident, including information regarding an evacuation, sheltering in place, hospital surge operations, health, and safety; and

(iii) be designed to provide accurate, essential, and appropriate information and instructions to emergency response providers and medical personnel responding to an incident.

(C) *COMMUNICATIONS FORMATS.*—The Administrator shall develop pre-scripted messages or message templates under this paragraph in multiple formats to ensure delivery—

(i) in cases where the usual communications infrastructure is unusable; and

(ii) to individuals with disabilities or other special needs and individuals with limited English proficiency.

(D) *DISSEMINATION AND TECHNICAL ASSISTANCE.*—The Administrator shall ensure that all pre-scripted messages and message templates developed under this paragraph are made available to State, local, and tribal authorities so that those authorities may incorporate them, as appropriate, into their emergency plans. The Administrator shall also make available relevant technical assistance to those authorities to support communications planning.

(E) *EXERCISES.*—To ensure that the pre-scripted messages or message templates developed under this paragraph can be effectively utilized in a disaster or incident, the Administrator shall incorporate such pre-scripted messages or message templates into exercises conducted under the National Exercise Program described in section 648 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748).

\* \* \* \* \*

**PUBLIC HEALTH SERVICE ACT**

**TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE**

\* \* \* \* \*

**PART B—FEDERAL-STATE COOPERATION**

\* \* \* \* \*

**SEC. 319F-2. STRATEGIC NATIONAL STOCKPILE AND SECURITY COUNTERMEASURE PROCUREMENTS.**

(a) \* \* \*

\* \* \* \* \*

(c) **ADDITIONAL AUTHORITY REGARDING PROCUREMENT OF CERTAIN COUNTERMEASURES; AVAILABILITY OF SPECIAL RESERVE FUND.—**

(1) \* \* \*

(2) **DETERMINATION OF MATERIAL THREATS.—**

(A) **MATERIAL THREAT.—**The Homeland Security Secretary, in consultation with the Secretary and the heads of other agencies as appropriate, shall on an ongoing basis—

(i) assess current and emerging threats of chemical, biological, radiological, and nuclear agents; **[and]**

(ii) determine which of such agents present a material threat against the United States population sufficient to affect national security**[.]; and**

(iii) *review and reassess determinations under clause (ii) to determine whether agents continue to present a material threat against the United States population sufficient to affect national security and homeland security.*

\* \* \* \* \*

**SEC. 319F-5. NATIONAL MEDICAL COUNTERMEASURE DISPENSING STRATEGY.**

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

(1) *the term “dispense” means to provide medical countermeasures to an affected population in response to a threat or incident; and*

(2) *the term “medical countermeasure” means a qualified countermeasure (as defined in section 319F-1(a)(2)).*

(b) **STRATEGY.—***The Secretary, in coordination with the Secretary of Homeland Security, the Secretary of Agriculture, and other appropriate Federal agencies, shall develop, implement, and, as appropriate, periodically update a National Medical Countermeasure Dispensing Strategy to enhance preparedness and collective response to a terrorist attack on humans or animals with any chemical, biological, radiological, or nuclear material.*

(c) **COORDINATION.—***Where appropriate, the Secretary shall coordinate with State, local, and tribal authorities, private sector, and nongovernmental organizations on the National Medical Countermeasures Dispensing Strategy.*

(d) **REPORT.—***Not later than one year after the date of the enactment of this section, the Secretary, in coordination with the Secretary of Homeland Security, shall submit the National Medical*



*Countermeasures Dispensing Strategy to the appropriate congressional committees.*

\* \* \* \* \*

**SEC. 319N. BIOTECHNOLOGY RESEARCH, DEVELOPMENT, AND PROCUREMENT.**

(a) *IN GENERAL.*—*The Secretary shall develop a comprehensive research, development, and acquisition process to counter the biological threat that employs the inherent functions, capabilities, authorities, and responsibilities of NIH, BARDA, and Project BioShield. The process shall—*

(1) *assign NIH responsibility for research and development of technologies that range in development from basic principles observed and reported up to model or prototype demonstration in a relevant environment;*

(2) *assign BARDA responsibility for research and development of technologies that range in development from model or prototype demonstration in a relevant environment up to a system qualified for application through successful test and demonstration;*

(3) *assign Project BioShield responsibility for procurement of technologies that—*

(A) *are qualified for application through successful test and demonstration; and*

(B) *meet the minimum statutory requirements for emergency use authorization in section 564 of the Federal Food, Drug, and Cosmetic Act; and*

(4) *include a formal agreement among NIH, BARDA, and Project BioShield that—*

(A) *identifies the need for any specific biological countermeasure, derived from information developed under section 319F-2;*

(B) *identifies the current technology readiness level of the countermeasure; and*

(C) *requires the development of the biological countermeasure from the current technology readiness level through the procurement of the countermeasure in accordance with paragraph (3).*

(b) *RESPONSIBILITY OF NIH.*—*For countermeasures identified under subsection (a)(4)(A) that have a level of development from basic principles observed and reported up to model or prototype demonstration in a relevant environment, the Director of NIH shall conduct research and development until the Director certifies to the Secretary of Health and Human Services that—*

(1) *the countermeasure has completed model or prototype demonstration in a relevant environment; or*

(2) *the Director does not believe that completion of model or prototype demonstration in a relevant environment is reasonably achievable.*

(c) *RESPONSIBILITY OF BARDA.*—*For countermeasures identified under subsection (a)(4)(A) that have a level of development of model or prototype demonstration in a relevant environment, including but not limited to those countermeasures certified to have that level of development by the Director of NIH, the Director of BARDA shall*

conduct research and development until the Director of BARDA certifies to the Secretary of Health and Human Services that—

(1) the countermeasure has qualified for application through successful test and demonstration; or

(2) the Director does not believe that qualification for application through successful test and demonstration is reasonably achievable.

(d) **RESPONSIBILITY OF PROJECT BIOSHIELD.**—For countermeasures identified under subsection (a)(4)(A) that are qualified for application through successful test and demonstration, including but not limited to those countermeasures certified to have qualified for application through successful test and demonstration by the Director of BARDA, the Assistant Secretary of Health and Human Services for Preparedness and Response shall use the Project BioShield special reserve fund to may procure the countermeasure if the countermeasure meets the requirements for emergency use authorization described in subsection (a)(3)(B).

(e) **NO REQUIREMENT FOR FOOD AND DRUG ADMINISTRATION GENERAL USE APPROVAL.**—The Secretary shall ensure that the Directors of NIH and BARDA and the Assistant Secretary of Health and Human Services for Preparedness and Response do not discontinue any research, development, or procurement of a countermeasure identified under subsection (a)(4)(A) because the Food and Drug Administration has not, or decides against, approving or licensing the countermeasure for general use under chapter V of the Federal Food, Drug, and Cosmetic Act or section 351 of this Act, as applicable.

(f) **INNOVATION.**—The Secretary shall require the Directors of NIH and BARDA and the Assistant Secretary of Health and Human Services for Preparedness and Response to aggressively pursue innovative research, development, and procurement of each countermeasure identified under subsection (a)(4)(A).

(g) **DEFINITIONS.**—In this section:

(1) The term “BARDA” means the he Biomedical Advanced Research and Development Authority established under section 319L(c).

(2) The term “NIH” means the National Institutes of Health.

(3) The term “Project Bioshield” means the Federal medical countermeasure procurement program established by Public Law 108–276.

\* \* \* \* \*

**PART F—LICENSING—BIOLOGICAL PRODUCTS AND CLINICAL LABORATORIES**

\* \* \* \* \*

**Subpart 1—Biological Products**

\* \* \* \* \*

**SEC. 351A. ENHANCED CONTROL OF DANGEROUS BIOLOGICAL AGENTS AND TOXINS.**

(a) **REGULATORY CONTROL OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.**—

(1) \* \* \*

(2) **TIER I MATERIAL THREAT AGENTS.**—

(A) DESIGNATION OF TIER I: MATERIAL THREAT AGENTS.—  
Not later than 1 year after the date of the enactment of this paragraph, the Secretary, in coordination with the Secretary of Homeland Security and other Federal officials as appropriate, shall by regulation designate as “Tier I Material Threat Agents” those agents and toxins—

(i) that—

(I) are determined by the Secretary of Homeland Security under section 319F–2(c)(2) to present a material threat against the United States population sufficient to affect national security; and

(II) are determined to warrant designation after applying the criteria in subparagraph (B); or

(ii) that clearly present a material threat to the Nation as otherwise determined by the Secretary or the Secretary of Homeland Security.

(B) CRITERIA.—In determining whether to designate an agent or toxin as a Tier I Material Threat Agent under subparagraph (A)(i), the Secretary, in coordination with the Secretary of Homeland Security, shall consider—

(i) whether the agent or toxin can be used effectively in a biological attack;

(ii) information available from any biological or bioterrorism risk assessments conducted by the Department of Homeland Security and relevant assessments by other agencies; and

(iii) such other criteria and information as the Secretary, in coordination with the Secretary of Homeland Security, determines appropriate and relevant.

(C) INCLUSION OF AGENTS AND TOXINS NOT PREVIOUSLY LISTED.—All agents or toxins designated by the Secretary as Tier I Material Threat Agents shall be included on the list maintained by the Secretary pursuant to paragraph (1).

(D) EVALUATION OF TIER I MATERIAL THREAT AGENTS.—The Secretary, in coordination with the Secretary of Homeland Security, shall—

(i) on an ongoing basis, consider the inclusion of additional agents or toxins on the list of Tier I Material Threat Agents, as appropriate; and

(ii) at least biennially, review the list of Tier I Material Threat agents to determine whether any agents or toxins should be removed from the list.

[(2)] (3) BIENNIAL REVIEW.—The Secretary shall review and republish the [list under paragraph (1)] lists under paragraphs (1) and (2) biennially, or more often as needed, and shall by regulation [revise the list] revise the lists as necessary in accordance with such paragraph.

\* \* \* \* \*

(e) SAFEGUARD AND SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

(1) \* \* \*

\* \* \* \* \*

(3) SUBMITTED NAMES; USE OF DATABASES BY ATTORNEY GENERAL.—

(A) IN GENERAL.—Upon the receipt of names and other identifying information under paragraph (2)(B), the Attorney General shall, for the sole purpose of identifying whether the individuals involved are within any of the categories specified in subparagraph (B), promptly use criminal, immigration, national security, and other electronic databases that are available to the Federal Government and are appropriate for such purpose. *In identifying whether an individual is within a category specified in subparagraph (B)(ii)(II), the Attorney General shall coordinate with the Secretary of Homeland Security, the Secretary of Defense, and the Secretary of State to determine whether these officials possess any information relevant to the identification of such an individual by the Attorney General.*

\* \* \* \* \*

**AGRICULTURAL BIOTERRORISM PROTECTION ACT OF 2002**

**TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS**

\* \* \* \* \*

**Subtitle B—Department of Agriculture**

\* \* \* \* \*

**SEC. 212. REGULATION OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.**

(a) REGULATORY CONTROL OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.—

(1) \* \* \*

(2) *TIER I MATERIAL THREAT AGENTS.*—

(A) *DESIGNATION OF TIER I: MATERIAL THREAT AGENTS.*—*Not later than one year after the date of the enactment of this paragraph, the Secretary, in coordination with the Secretary of Homeland Security, the Secretary of Health and Human Services, and other Federal officials as appropriate, shall by regulation designate as “Tier I Material Threat Agents” those agents and toxins—*

(i) *that—*

(I) *are determined by the Secretary of Homeland Security under section 319F-2(c)(2) of the Public Health Service Act to present a material threat against the United States population sufficient to affect national security; and*

(II) *are determined to warrant designation after applying the criteria in subparagraph (B); or*

(ii) *that clearly present a material threat to the Nation as otherwise determined by the Secretary or the Secretary of Homeland Security.*

(B) *CRITERIA.*—*In determining whether to designate an agent or toxin as a Tier I Material Threat Agent under subparagraph (A)(i), the Secretary, in coordination with the Secretary of Homeland Security, shall consider—*

*(i) whether the agent or toxin can be used effectively in a biological attack;*

*(ii) information available from any biological or bioterrorism risk assessments conducted by the Department of Homeland Security and relevant assessments by other agencies; and*

*(iii) such other criteria and information that the Secretary, in coordination with the Secretary of Homeland Security, determines appropriate and relevant.*

(C) *INCLUSION OF AGENTS AND TOXINS NOT PREVIOUSLY LISTED.*—*All agents or toxins designated by the Secretary as Tier I Material Threat Agents shall be included on the list maintained by the Secretary pursuant to paragraph (1).*

(D) *EVALUATION OF TIER I MATERIAL THREAT AGENTS.*—*The Secretary, in coordination with the Secretary of Homeland Security, shall—*

*(i) on an ongoing basis, consider the inclusion of additional agents or toxins on the list of Tier I Material Threat Agents, as appropriate; and*

*(ii) at least biennially, review the list of Tier I Material Threat agents to determine whether any agents or toxins should be removed from the list.*

[(2)] (3) *BIENNIAL REVIEW.*—*The Secretary shall review and republish the [list under paragraph (1)] lists under paragraphs (1) and (2) biennially, or more often as needed, and shall by regulation [revise the list] revise the lists as necessary in accordance with such paragraph.*

\* \* \* \* \*

## COMMITTEE CORRESPONDENCE

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMANPETER T. KING, NEW YORK  
RANKING MEMBER

One Hundred Eleventh Congress  
U.S. House of Representatives  
Committee on Homeland Security  
Washington, DC 20515

November 17, 2010

The Honorable Silvestre Reyes  
Chairman  
Permanent Select Committee on Intelligence  
U.S. House of Representatives  
HVC-304, The United States Capitol  
Washington, DC 20515

Dear Chairman Reyes:

Thank you for your letter regarding H.R. 5498, the "WMD Prevention and Preparedness Act of 2010."

I acknowledge that H.R. 5498 contains provisions within the jurisdictional interest of the Permanent Select Committee on Intelligence. I appreciate your agreement to forgo further consideration or action on this legislation and acknowledge that your decision to do so does not affect the jurisdiction of the Permanent Select Committee on Intelligence.

Further, I recognize that your Committee reserves the right to seek appointment of conferees on the bill for the portions of the bill that are within the jurisdiction of the Permanent Select Committee on Intelligence, and I agree to support such a request.

I will ensure that this exchange of letters is included in the legislative report on H.R. 5498 and in the *Congressional Record* during floor consideration of the bill. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

A handwritten signature in cursive script that reads "Bennie G. Thompson".

Bennie G. Thompson  
Chairman

cc: The Honorable Nancy Pelosi, Speaker  
The Honorable Peter T. King, Ranking Member  
The Honorable John Sullivan, Parliamentarian

SILVESTRE REYES, TEXAS, CHAIRMAN  
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 JOHN A. BOEHNER, REPUBLICAN LEADER

U.S. HOUSE OF REPRESENTATIVES  
 PERMANENT SELECT COMMITTEE  
 ON INTELLIGENCE

HVC-304, THE CAPITOL  
 WASHINGTON, DC 20515  
 (202) 225-7690

MICHAEL J. DELANEY  
 STAFF DIRECTOR  
 JAMES M. LEWIS  
 MINORITY STAFF DIRECTOR

November 17, 2010

The Honorable Bennie G. Thompson  
 Chairman  
 Committee on Homeland Security  
 U.S. House of Representatives  
 Washington, DC 20515

Dear Mr. Chairman:

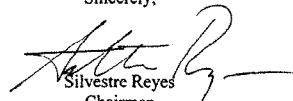
I write to you regarding H.R. 5498, the W.M.D. Prevention and Preparedness Act of 2010.

H.R. 5498 contains provisions that are within the jurisdiction of the Permanent Select Committee on Intelligence. Our committee recognizes the importance of H.R. 5498 and the need for the legislation to move expeditiously. Therefore, I am willing to waive this Committee's right to mark up H.R. 5498. My decision to waive further consideration of H.R. 5498 should not be construed as waiving, reducing, or otherwise affecting the jurisdiction of the Permanent Select Committee on Intelligence.

I respectfully request that a copy of this letter and your response acknowledging this Committee's jurisdictional interest will be included in the Committee Report and as part of the Congressional Record during consideration of this bill by the House.

The Permanent Select Committee on Intelligence also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any conference between the House and the Senate.

Sincerely,

  
 Silvestre Reyes  
 Chairman

Cc: **The Honorable Nancy Pelosi, Speaker of the House**  
**The Honorable Peter Hoekstra, Ranking Member**  
**The Honorable John Sullivan, Parliamentarian**



BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN



PETER T. KING, NEW YORK  
RANKING MEMBER

One Hundred Eleventh Congress  
U.S. House of Representatives  
Committee on Homeland Security  
Washington, DC 20515

November 18, 2010

The Honorable Howard L. Berman  
Chairman  
Committee on Foreign Affairs  
U.S. House of Representatives  
2170, Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Berman:

Thank you for your letter regarding H.R. 5498, the "WMD Prevention and Preparedness Act of 2010."

I acknowledge that H.R. 5498 contains provisions within the jurisdictional interest of the Committee on Foreign Affairs. I appreciate your agreement to forgo further consideration or action on this legislation and acknowledge that your decision to do so does not affect the jurisdiction of the Committee on Foreign Affairs.

Further, I recognize that your Committee reserves the right to seek appointment of conferees on the bill for the portions of the bill that are within the jurisdiction of the Committee on Foreign Affairs.

I will ensure that this exchange of letters is included in the legislative report on H.R. 5498 and in the *Congressional Record* during floor consideration of the bill. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

A handwritten signature in black ink that reads "Bennie G. Thompson".

Bennie G. Thompson  
Chairman

cc: The Honorable Nancy Pelosi, Speaker  
The Honorable Peter T. King, Ranking Member  
The Honorable John Sullivan, Parliamentarian

HOWARD L. BERMAN, CALIFORNIA  
Chairman

GARY L. ACKERMAN, NEW YORK  
BOB F. FALEOMAVAEGA, AMERICAN SAMOA  
DONALD M. PAYNE, NEW JERSEY  
BRAD SHERMAN, CALIFORNIA  
ELIOT L. ENGEL, NEW YORK  
BILL DELAHUNT, MASSACHUSETTS  
GREGORY W. MEeks, NEW YORK  
DIANE E. WATSON, CALIFORNIA  
RUSS CARMANAK, MISSOURI  
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KATH ELLISON, MINNESOTA  
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RON KLEIN, FLORIDA

RICHARD J. NESSLER  
Staff Director

DOUGLAS J. CAMPBELL  
Deputy Staff Director

SHARINA WINTERS  
General Counsel and Senior Policy Advisor

ONE HUNDRED ELEVENTH CONGRESS  
CONGRESS OF THE UNITED STATES  
COMMITTEE ON FOREIGN AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515

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ILEANA ROS-LEHTINEN, FLORIDA  
Ranking Republican Member

CHRISTOPHER H. SMITH, NEW JERSEY  
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JOHN BOOZMAN, ARIZONA  
J. GRESHAM BARRETT, SOUTH CAROLINA  
CONNIE MACK, FLORIDA  
JEFF FORTENBERRY, NEBRASKA  
MICHAEL T. MCCALL, TEXAS  
TED POE, TEXAS  
BOB HELLS, SOUTH CAROLINA  
GUS M. BLIRANKS, FLORIDA

November 18, 2010

YVES D. POBLETE  
Republican Staff Director

MARK C. GAGE  
Republican Deputy Staff Director and  
Director, Europe and European Affairs

DOUGLAS C. ANDERSON  
Republican Chief Counsel

The Honorable Bennie G. Thompson  
Chairman  
Committee on Homeland Security  
H2-176 Ford House Office Bldg.  
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to you concerning H.R. 5498, the "WMD Prevention and Preparedness Act of 2010."

This bill contains provisions within the Rule X jurisdiction of the Committee on Foreign Affairs. In the interest of permitting your Committee to proceed expeditiously to floor consideration of this important bill, I am willing to waive this Committee's right to mark up this bill. I do so with the understanding that by waiving consideration of the bill, the Committee on Foreign Affairs does not waive any future jurisdictional claim over the subject matters contained in the bill which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of Foreign Affairs Committee conferees during any House-Senate conference convened on this legislation.

Please include a copy of this letter and your response in the *Congressional Record* during consideration of the measure on the House floor.

Sincerely,

HOWARD L. BERMAN  
Chairman

HLB:ds/mco

## ADDITIONAL VIEWS OF CONGRESSMAN PETE OLSON

I was unavoidably absent for the consideration of H.R. 5498, the WMD Prevention and Preparedness Act of 2010. Had I been present I would have voted “aye.” Nonetheless, there are provisions of the legislation, specifically the provisions affecting our nation’s National Labs that, I believe, warrant comment.

First, and most notably, similar legislation introduced by Senator Lieberman and Senator Collins, S. 1649, mistakenly requires the Department of Homeland Security to inspect select agent labs currently overseen by HHS and USDA labs. Thankfully, H.R. 5498 makes a crucial and wise revision. H.R. 5498 permits HHS and USDA to continue to inspect labs housing select agents but requires them to provide DHS the data concerning inspections of laboratories that handle Tier 1 Material Threat Agents. This will ensure uniformity of enforcement of the enhanced biosecurity measures.

The Houston-Galveston region—a region I represent in Congress—is the proud home of the Galveston National Laboratory (GNL). The GNL is an academic research center located on the campus of the University of Texas Medical Branch (UTMB) in Galveston, Texas. The GNL’s renowned scientists work collaboratively, both locally and internationally, to tackle some of the world’s most pressing health concerns. With strengths in infectious disease research and specialized programs in aerobiology, assay development, experimental pathology, imaging, and immunology, the GNL advances local discoveries on the diagnostic tests, treatments and vaccines for the infectious diseases impacting global health like tuberculosis, severe acute respiratory syndrome (SARS) virus, West Nile virus, Ebola, Marburg, Plague, encephalitis, hepatitis, and influenza, among others. The science and study of these agents remains paramount to public health, and, as a country, we must find a way to equip scientists and researchers in studying these agents without broadening accessibility to potential bioterrorism or misuse of these agents. Global health is principal to national security. The majority of these agents themselves are not weapons of mass destruction. Rather, they occur routinely in nature. Hence, striking a balance between our ability to maintain groundbreaking research and rapidly responding when outbreaks occur, often in concert with our international partners, is vital.

It is my belief that too many lists of regulated biological agents and toxins, with varying lead agencies of jurisdiction, will result in confusion along with ineffective implementation. It is of the utmost importance that the current relevant regulations be harmonized with the prospective Tier I regulations outlined in H.R. 5498. This, along with a well defined enforcement authority, is the key to the overall goal of safety and security.

Additionally, H.R. 5498 removes the creation of a “registry agents” category. I applaud this measure as I believe it provides the proper legislative focus and decreases the potential administrative burden placed on the scientific community. I also applaud this legislation’s call for national and international training programs to enhance biosafety practices and biosecurity measures at laboratories conducting research with select agents.

Finally, H.R. 5498 creates a High Containment Biological Laboratory Security Grant program. This is a welcome addition to any legislation regarding the security of U.S. high containment laboratories. The GNL alone spends approximately \$2 million per year on security personnel. The vast majority of academic centers and non-profit organizations that engage in research with infectious diseases will only be able to shoulder the additional security costs mandated if it is supplemented with a sustained investment by the federal government.

Because of these provisions, and because this legislation, as a whole, is vitally important to our nation’s security, I support passage of H.R. 5498.

