

Calendar No. 41

115TH CONGRESS }
1st Session }

SENATE

{ REPORT
115-32

DHS STOP ASSET AND VEHICLE
EXCESS ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 366

TO AMEND THE HOMELAND SECURITY ACT OF 2002 TO DIRECT
THE UNDER SECRETARY FOR MANAGEMENT OF THE
DEPARTMENT OF HOMELAND SECURITY TO MAKE CERTAIN
IMPROVEMENTS IN MANAGING THE DEPARTMENT'S VEHICLE
FLEET, AND FOR OTHER PURPOSES



APRIL 24, 2017.—Ordered to be printed

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DHS STOP ASSET AND VEHICLE EXCESS ACT

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

R E P O R T

[To accompany H.R. 366]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 366) to amend the Homeland Security Act of 2002 to direct the Under Secretary for Management of the Department of Homeland Security to make certain improvements in managing the Department's vehicle fleet, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	4
IV. Section-by-Section Analysis	4
V. Evaluation of Regulatory Impact	5
VI. Congressional Budget Office Cost Estimate	6
VII. Changes in Existing Law Made by the Act, as Reported	7

I. PURPOSE AND SUMMARY

H.R. 366, the DHS Stop Asset and Vehicle Excess Act (DHS SAVE Act), requires that the Department of Homeland Security (DHS or the Department) implement uniform standards for more efficient management of vehicle fleets throughout the Department. It also makes the Under Secretary for Management (USM) responsible for oversight of components' and offices' vehicle fleets. The Act requires the USM, among other things, to develop and distribute

a standardized vehicle allocation methodology and fleet management plan for components to use to improve efficiency with the goal of yielding cost-savings and minimizing the potential for waste, fraud, and abuse.

II. BACKGROUND AND THE NEED FOR LEGISLATION

This Committee has a history of working on bipartisan legislation targeting areas of waste, fraud, and abuse within the Federal Government. The DHS SAVE Act seeks to address several longstanding problems with the management of DHS’s vehicle fleet, among the largest civilian fleets within the Federal Government.¹ The impetus for this legislation was a series of DHS Office of Inspector General (OIG) audits that detailed mismanagement and waste within DHS’s “Home-to-Work” (HtW) program and the Federal Protective Service (FPS) vehicle fleet.²

In December 2013, the OIG examined DHS’s HtW program, which provides transportation assistance, including motor vehicles, for certain employees to travel from their home to their place of work.³ According to the OIG, the Department spent \$534 million on its 56,000 vehicle fleet.⁴ Many of these vehicles are used by employees for the HtW program.⁵ The OIG reported that more than 17,400 employees, or 7 percent of the workforce, are authorized to use HtW transportation.⁶ For two of DHS’s components, U.S. Immigration and Customs Enforcement and United States Secret Service, at least 40 percent of the employees were authorized for HtW.⁷

The OIG found that DHS did not provide adequate oversight of HtW transportation activities used by its components, including ensuring that the components were in compliance with *DHS Manual 112-05-001 Home-to-Work Transportation*.⁸ This led to inconsistent compliance across components.⁹ The OIG warned that the failure of DHS and the components to adequately track, monitor, and report home-to-work transportation-related activities “may hinder detection of waste and abuse.”¹⁰

In April 2014, in response to questions asked by then-Senator Tom Coburn, then-Ranking Member of this Committee, the Department acknowledged that its “lack of success in fully complying with [Home-to-Work] transportation requirements” was caused by the

¹DHS Office of Inspector General, OIG-16-02, *The FPS Vehicle Fleet Is Not Managed Effectively 1* (Oct. 2015).

²See DHS Office of Inspector General, OIG-16-02, *The FPS Vehicle Fleet Is Not Managed Effectively* (Oct. 2015); DHS Office of Inspector General, OIG-14-126, *DHS Does Not Adequately Manage or Have Enforcement Authority Over Its Components’ Vehicle Fleet Operations* (Aug. 2014); DHS Office of Inspector General, OIG-14-21, *DHS Home-to-Work Transportation* (Dec. 2013).

³DHS Office of Inspector General, OIG-14-21, *DHS Home-to-Work Transportation 1* (Dec. 2013).

⁴*Id.* at 2.

⁵*Id.*

⁶*Id.*

⁷*Id.*

⁸*Id.* at 1.

⁹*Id.* at 4 (“Although all Components with HtW transportation users are required to report information on the program annually to the Office of the Chief Administrative Officer, only two Components have met this requirement. Consequently, the Department does not have accurate information on participant eligibility, vehicle mileage, including mileage associated with commuting and operations, as well as fuel costs.”).

¹⁰*Id.*

“complexity and inadequate direction of existing policy.”¹¹ A report issued by Senator Coburn early the next year noted that there may be a lack of accountability at the Department, stating, “Although Secretary Johnson wisely issued a directive in August 2014 to curtail participation in the [Home-to-Work] program, it is unclear whether managers within DHS that were responsible for the mismanagement of the Home-to-Work program were held accountable for the apparent waste, fraud, and abuse.”¹²

In August 2014, the OIG issued a report titled *DHS Does Not Adequately Manage or Have Enforcement Authority Over Its Components’ Vehicle Fleet Operations*.¹³ The report detailed an inconsistent approach to vehicle fleet management, with components managing their own vehicle fleets and overseeing and approving the acquisition of their own vehicles.¹⁴ According to the OIG, DHS “has a decentralized structure” and “relies heavily on its 11 components to manage and report on motor vehicle fleet composition.”¹⁵ This decentralized environment has left DHS with the inability to ensure that components’ vehicle fleets are of optimal size, cost efficient, and in compliance with departmental requirements.¹⁶ For example, the OIG reported that, in fiscal year 2012, the cost of operating underused vehicles was between \$35 million and \$49 million.¹⁷

In October 2015, the OIG conducted an audit of the FPS vehicle fleet. This report found mismanagement of the FPS fleet that may have cost \$2.5 million in fiscal year 2014 alone.¹⁸ The audit also highlighted the Department’s surplus of vehicles when it found that FPS had more vehicles than was justified by its needs.¹⁹ For example, in fiscal year 2014, FPS had 101 more law enforcement vehicles than full-time law enforcement positions.²⁰ Each spare vehicle cost an average of \$9,500 per year, leaving an annual average cost of \$959,500 just in extra and unused law enforcement vehicles.²¹

This bill aims to curtail the waste and mismanagement found by the OIG in FPS’s vehicle fleet by applying standardized responsibilities across the Department regarding vehicle fleet management and use of vehicles from home to work. In addition to creating new responsibilities for the Under Secretary of Management, this bill also serves to codify existing policies at DHS that components should be following, but are not according to the OIG’s findings.

¹¹ Letter from Chris Cumiskey, Acting Under Secretary for Management, DHS, to Sen. Tom Coburn (Apr. 8, 2014) (on file with Comm.).

¹² Minority Staff of S. Committee on Homeland Sec. & Governmental Affairs, 113th Cong., *A Review of the Department of Homeland Security Missions and Performance: A Report by Senator Tom Coburn, Ranking Member* (Jan. 2015), available at <https://www.hsgac.senate.gov/media/minority-media/final-coburn-oversight-report-finds-major-problems-in-dhs>.

¹³ DHS Office of Inspector General, OIG–14–126, *DHS Does Not Adequately Manage or Have Enforcement Authority Over Its Components’ Vehicle Fleet Operations 1* (Aug. 2014).

¹⁴ *Id.*

¹⁵ *Id.* at 2.

¹⁶ *Id.* at 1.

¹⁷ *Id.*

¹⁸ DHS Office of Inspector General, OIG–16–02, *The FPS Vehicle Fleet Is Not Managed Effectively 3* (Oct. 2015).

¹⁹ *Id.*

²⁰ *Id.* at 3–4.

²¹ *Id.*

III. LEGISLATIVE HISTORY

Rep. Scott Perry (R-PA-4) introduced H.R. 366, the DHS Stop Asset and Vehicle Excess Act, on January 6, 2017, with House Homeland Security Committee Chairman Michael McCaul (R-TX-10) and Rep. Bonnie Watson Coleman (D-NJ-12). H.R. 366 was passed by the House of Representatives on January 31, 2017, by voice vote. The Act was received in the Senate and referred to the Senate Committee on Homeland Security and Governmental Affairs on February 1, 2017.

The Committee considered H.R. 366 at a business meeting on March 15, 2017. During the business meeting, Chairman Ron Johnson offered an amendment to streamline the reporting requirements in the Act by removing the U.S. Government Accountability Office report and limiting the number of OIG reports.

The Johnson amendment and the bill, as amended by the Johnson amendment, were ordered reported favorably en bloc by voice vote. Senators present for the vote were Johnson, Portman, Lankford, Daines, McCaskill, Carper, Tester, Heitkamp, Peters, Hassan, and Harris. Consistent with Committee Rule 11, the Committee reports the bill with a technical amendment by mutual agreement of the Chairman and Ranking Member.

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

Section 1. Short title

This section specifies that the Act may be cited as the “DHS Stop Asset and Vehicle Excess Act” or the “DHS SAVE Act.”

Sec. 2. DHS Vehicle Fleets

Section 2 of the Act amends the Homeland Security Act of 2002 by adding a new subsection to section 701 regarding DHS Vehicle Fleets.

New subparagraph (C)(1) of Section 701 elevates the responsibilities of vehicle fleet oversight and management throughout the Department to the USM. This subsection requires the USM to: 1) ensure that components’ management of fleet vehicles and HtW policy are in compliance with all applicable laws, regulations, guidance, and policy; 2) aid components in their determination of optimal fleet size by creating a standardized vehicle allocation methodology and fleet management plan that is to be distributed to all components; 3) make sure that components are providing adequate documentation of fleet management decisions; and 4) provide greater oversight of components by approving fleet management decisions relating to fleet management plans, vehicle leases, and vehicle acquisitions.

New subparagraph (C)(2) of Section 701 details the responsibilities of component heads as it relates to the management of vehicle fleets and the use of vehicles from HtW. Component heads must: 1) ensure that their respective fleet management plans and use of vehicles from HtW are in compliance with all applicable laws, regulations, guidance, and policy; 2) maintain accurate and reliable fleet management data; 3) utilize that data in conjunction with the standardized vehicle allocation methodology issued by the USM to create a vehicle allocation tool that is to be used to determine a fleet size and management plan; and 4) develop annual requests for

vehicle fleet management funding that are based on the vehicle allocation methodology and fleet management plan. Component heads may not lease, acquire, or replace vehicles without prior approval from the USM, except in cases of exigent circumstances.

New subparagraph (C)(3) of Section 701 requires the USM to provide quarterly monitoring of component vehicle fleets, with the goal of achieving the capability to receive automated information pertaining to component vehicle fleets. Such monitoring is meant to inform the USM as to whether components' vehicle fleets are cost effective and of optimal size. The USM will use this information for the creation of the annual review of component fleet analyses, as detailed in subparagraph (4).

New subparagraph (C)(4) of Section 701 requires that component heads develop and submit a vehicle allocation tool that the USM will use to determine the efficiency of components' fleets and resources needed for each fiscal year, beginning with fiscal year 2018. Information to be analyzed in vehicle allocation tool includes vehicle utilization data, such as miles driven, and the role played in mission support. This information is also to be used by component heads in the development of fleet management plans.

New subparagraph (C)(5) of Section 701 requires the USM to assist the component heads in the creation of their respective fleet management plans by providing guidance on, among other things, leasing or acquiring additional vehicles and disposing of excess vehicles.

New subparagraph (C)(6) of Section 701 provides that components' requests for funding for vehicle fleets will be subject to the annual budget process.

New subparagraph (C)(7) of Section 701 ensures that Department officials are held accountable for failure to comply with the provisions of this Act by including penalties, such as loss of performance compensation and car services.

New subparagraph (C)(8) of Section 701 provides that, in an effort to reduce the Department's number of excess vehicles, the USM is authorized to determine the feasibility of permitting components to share vehicles through the use of a vehicle motor pool. The results of this determination should be included in the Department's next annual performance report.

New subparagraph (C)(9) of Section 701 defines the terms "component head," "excess vehicle," "optimal fleet size," and "vehicle fleet."

Sec. 3. Inspector General review

This section requires the Inspector General of the Department to conduct a review of the implementation of, among other things, the vehicle allocation tool, and an analysis of cost avoidance, savings realized, and component operations as a result of the vehicle allocation tool and fleet management plans.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this Act and determined that the Act will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's state-

ment that the Act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

APRIL 5, 2017.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 366, the DHS Stop Asset and Vehicle Excess Act.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 366—DHS Stop Asset and Vehicle Excess Act

H.R. 366 would direct the Under Secretary of Management for the Department of Homeland Security (DHS) to oversee and manage vehicle fleets throughout the department. Currently, agencies within DHS (such as Customs and Border Protection) largely manage their own fleets. The act would require the Under Secretary to monitor compliance with federal laws and regulations related to the use of government vehicles, develop a methodology to determine optimal fleet size, and approve vehicle leases and acquisitions. H.R. 366 also would require DHS agencies to report data on vehicle use quarterly and submit fleet management plans, including cost-benefit analyses, annually to the Under Secretary.

Based on an analysis of information from DHS, CBO estimates that implementing H.R. 366 would cost about \$2 million in fiscal year 2018 and about \$1 million annually thereafter, assuming appropriation of the necessary amounts. Most of those funds would cover costs for hiring additional staff for the Under Secretary and for upgrading computer systems. H.R. 366 could lead to more efficient use of DHS vehicles, but we have no basis for estimating the magnitude or timing of any savings that may result.

Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 366 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 366 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

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

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

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

SEC. 341. UNDER SECRETARY FOR MANAGEMENT

(a) * * *

(1) * * *

* * * * *

(5) Facilities, property, equipment, *vehicle fleets* (under subsection (c)), and other material resources.

* * * * *

(b) * * *

(c) **VEHICLE FLEETS.**—

(1) **IN GENERAL.**—*In carrying out responsibilities regarding vehicle fleets pursuant to subsection (a)(5), the Under Secretary for Management shall be responsible for overseeing and managing vehicle fleets throughout the Department. The Under Secretary shall also be responsible for the following:*

(A) *Ensuring that components are in compliance with Federal law, Federal regulations, executive branch guidance, and Department policy (including associated guidance) relating to fleet management and use of vehicles from home to work.*

(B) *Developing and distributing a standardized vehicle allocation methodology and fleet management plan for components to use to determine optimal fleet size in accordance with paragraph (4).*

(C) *Ensuring that components formally document fleet management decisions.*

(D) *Approving component fleet management plans, vehicle leases, and vehicle acquisitions.*

(2) **COMPONENT RESPONSIBILITIES.**—(A) **IN GENERAL.**—*Component heads—*(i) *shall—*

(I) *comply with Federal law, Federal regulations, executive branch guidance, and Department policy (including associated guidance) relating to fleet management and use of vehicles from home to work;*

(II) *ensure that data related to fleet management is accurate and reliable;*

(III) *use such data to develop a vehicle allocation tool derived by using the standardized vehicle allocation methodology provided by the Under Secretary for Management to determine the optimal fleet size for the next fiscal year and a fleet management plan; and*

(IV) use vehicle allocation methodologies and fleet management plans to develop annual requests for funding to support vehicle fleets pursuant to paragraph (6); and

(ii) may not, except as provided in subparagraph (B), lease or acquire new vehicles or replace existing vehicles without prior approval from the Under Secretary for Management pursuant to paragraph (5)(B).

(B) EXCEPTION REGARDING CERTAIN LEASING AND ACQUISITIONS.—If exigent circumstances warrant such, a component head may lease or acquire a new vehicle or replace an existing vehicle without prior approval from the Under Secretary for Management. If under such exigent circumstances a component head so leases, acquires, or replaces a vehicle, such component head shall provide to the Under Secretary an explanation of such circumstances.

(3) ONGOING OVERSIGHT.—

(A) QUARTERLY MONITORING.—In accordance with paragraph (4), the Under Secretary for Management shall collect, on a quarterly basis, information regarding component vehicle fleets, including information on fleet size, composition, cost, and vehicle utilization.

(B) AUTOMATED INFORMATION.—The Under Secretary for Management shall seek to achieve a capability to collect, on a quarterly basis, automated information regarding component vehicle fleets, including the number of trips, miles driven, hours and days used, and the associated costs of such mileage for leased vehicles.

(C) MONITORING.—The Under Secretary for Management shall track and monitor component information provided pursuant to subparagraph (A) and, as appropriate, subparagraph (B), to ensure that component vehicle fleets are the optimal fleet size and cost effective. The Under Secretary shall use such information to inform the annual component fleet analyses referred to in paragraph (4).

(4) ANNUAL REVIEW OF COMPONENT FLEET ANALYSES.—

(A) IN GENERAL.—To determine the optimal fleet size and associated resources needed for each fiscal year beginning with fiscal year 2018, component heads shall annually submit to the Under Secretary for Management a vehicle allocation tool and fleet management plan using information described in paragraph (3)(A). Such tools and plans may be submitted in classified form if a component head determines that such is necessary to protect operations or mission requirements.

(B) VEHICLE ALLOCATION TOOL.—Component heads shall develop a vehicle allocation tool in accordance with subclause (III) of paragraph (2)(A)(i) that includes an analysis of the following:

(i) Vehicle utilization data, including the number of trips, miles driven, hours and days used, and the associated costs of such mileage for leased vehicles, in accordance with such paragraph.

(ii) The role of vehicle fleets in supporting mission requirements for each component.

(iii) Any other information determined relevant by such component heads.

(C) *FLEET MANAGEMENT PLANS.*—Component heads shall use information described in subparagraph (B) to develop a fleet management plan for each such component. Such fleet management plans shall include the following:

(i) A plan for how each such component may achieve optimal fleet size determined by the vehicle allocation tool required under such subparagraph, including the elimination of excess vehicles in accordance with paragraph (5), if applicable.

(ii) A cost benefit analysis supporting such plan.

(iii) A schedule each such component will follow to obtain optimal fleet size.

(iv) Any other information determined relevant by component heads.

(D) *REVIEW.*—The Under Secretary for Management shall review and make a determination on the results of each component's vehicle allocation tool and fleet management plan under this paragraph to ensure each such component's vehicle fleets are the optimal fleet size and that components are in compliance with applicable Federal law, Federal regulations, executive branch guidance, and Department policy (including associated guidance) pursuant to paragraph (2) relating to fleet management and use of vehicles from home to work. The Under Secretary shall use such tools and plans when reviewing annual component requests for vehicle fleet funding in accordance with paragraph (6).

(5) *GUIDANCE TO DEVELOP FLEET MANAGEMENT PLANS.*—The Under Secretary for Management shall provide guidance, pursuant to paragraph (1)(B), on how component heads may achieve optimal fleet size in accordance with paragraph (4), including processes for the following:

(A) Leasing or acquiring additional vehicles or replacing existing vehicles, if determined necessary.

(B) Disposing of excess vehicles that the Under Secretary determines should not be reallocated under subparagraph (C).

(C) Reallocating excess vehicles to other components that may need temporary or long-term use of additional vehicles.

(6) *ANNUAL REVIEW OF VEHICLE FLEET FUNDING REQUESTS.*—As part of the annual budget process, the Under Secretary for Management shall review and make determinations regarding annual component requests for funding for vehicle fleets. If component heads have not taken steps in furtherance of achieving optimal fleet size in the prior fiscal year pursuant to paragraphs (4) and (5), the Under Secretary shall provide rescission recommendations to the Committee on Appropriations and the Committee on Homeland Security of the House of Representatives and the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate regarding such component vehicle fleets.

(7) *ACCOUNTABILITY FOR VEHICLE FLEET MANAGEMENT.*—

(A) *PROHIBITION ON CERTAIN NEW VEHICLE LEASES AND ACQUISITIONS.*—The Under Secretary for Management and component heads may not approve in any fiscal year beginning with fiscal year 2019 a vehicle lease, acquisition, or replacement request if such component heads did not comply in the prior fiscal year with paragraph (4).

(B) *PROHIBITION ON CERTAIN PERFORMANCE COMPENSATION.*—No Department official with vehicle fleet management responsibilities may receive annual performance compensation in pay in any fiscal year beginning with fiscal year 2019 if such official did not comply in the prior fiscal year with paragraph (4).

(C) *PROHIBITION ON CERTAIN CAR SERVICES.*—Notwithstanding any other provision of law, no senior executive service official of the Department whose office has a vehicle fleet may receive access to a car service in any fiscal year beginning with fiscal year 2019 if such official did not comply in the prior fiscal year with paragraph (4).

(8) *MOTOR POOL.*—

(A) *IN GENERAL.*—The Under Secretary for Management may determine the feasibility of operating a vehicle motor pool to permit components to share vehicles as necessary to support mission requirements to reduce the number of excess vehicles in the Department.

(B) *REQUIREMENTS.*—The determination of feasibility of operating a vehicle motor pool under subparagraph (A) shall—

(i) include—

(I) regions in the United States in which multiple components with vehicle fleets are located in proximity to one another, or a significant number of employees with authorization to use vehicles are located; and

(II) law enforcement vehicles;

(ii) cover the National Capital Region; and

(iii) take into account different mission requirements.

(C) *REPORT.*—The Secretary shall include in the Department's next annual performance report required under current law the results of the determination under this paragraph.

(9) *DEFINITIONS.*—In this subsection:

(A) *COMPONENT HEAD.*—The term ‘component head’ means the head of any component of the Department with a vehicle fleet.

(B) *EXCESS VEHICLE.*—The term ‘excess vehicle’ means any vehicle that is not essential to support mission requirements of a component.

(C) *OPTIMAL FLEET SIZE.*—The term ‘optimal fleet size’ means, with respect to a particular component, the appropriate number of vehicles to support mission requirements of such component.

(D) *VEHICLE FLEET.*—The term ‘vehicle fleet’ means all owned, commercially leased, or Government-leased vehicles of the Department or of a component of the Department, as

the case may be, including vehicles used for law enforcement and other purposes.

[(c)] (d) APPOINTMENT AND EVALUATION.—

* * * * *

[(d)] (e) SYSTEM FOR AWARD MANAGEMENT CONSULTATION.—

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