

RESEARCH SECURITY AND ACCOUNTABILITY IN DHS ACT

DECEMBER 16, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GREEN of Tennessee, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 9748]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 9748) to require the Under Secretary of the Science and Technology Directorate of the Department of Homeland Security to develop a Department-wide policy and process to safeguard research and development from unauthorized access to or disclosure of sensitive information in research and development acquisitions, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Committee Consideration	3
Committee Votes	3
Committee Oversight Findings	3
C.B.O. Estimate, New Budget Authority, Entitlement Authority, and Tax Expenditures	3
Federal Mandates Statement	8
Duplicative Federal Programs	8
Statement of General Performance Goals and Objectives	8
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	8
Advisory Committee Statement	8
Applicability to Legislative Branch	8
Section-by-Section Analysis of the Legislation	8

PURPOSE AND SUMMARY

H.R. 9748, the “Research Security and Accountability in DHS Act,” safeguards research and development (R&D) projects critical to the United States’ national security. By requiring the U.S. Department of Homeland Security’s (DHS) Science and Technology Directorate (S&T) to develop a process to protect sensitive information in R&D projects and requiring S&T to establish special clauses in its project acquisition contracts, H.R. 9748 strengthens research security and safeguards sensitive information from unauthorized access or disclosure, whether by contractors, employees, and bad actors. H.R. 9748 also requires the Government Accountability Office (GAO) to conduct a report on S&T’s compliance with existing federal guidelines and its intragovernmental coordination on research security.

Lastly, H.R. 9748 ensures accountability by requiring the Secretary of Homeland Security to provide a Congressional briefing to the House Committee on Homeland Security and the Senate Committee on Homeland Security and Governmental Affairs on how S&T has incorporated input from the Office of the Inspector General (OIG) to protect sensitive R&D from unauthorized access.

BACKGROUND AND NEED FOR LEGISLATION

Since many of S&T’s R&D projects are sensitive, addressing issues such as weapons of mass destruction, border security, airport security, and maritime safety, Homeland Security Acquisition Regulations (HSARs) require contracting officers to include special clauses in R&D contracts to safeguard the projects’ sensitive information. However, a 2022 report by the OIG found that S&T’s contracting officers failed to include special clauses in S&T’s R&D contracts, thereby putting its sensitive R&D projects at risk of unauthorized access and foreign malign influence, theft, and control. The OIG found that only 6 of the 12 “high-risk” R&D contracts reviewed in the report contained special clauses safeguarding sensitive information.¹ Therefore, H.R. 9748 seeks to rectify DHS’ R&D vulnerabilities by requiring S&T to develop a process to safeguard R&D projects across the Department and to establish relevant special clauses in project acquisition contracts. Ultimately, these provisions will improve research security within DHS.

Moreover, in recent years, the federal government has made federal research security a priority. FBI Director Christopher Wray has repeatedly warned that espionage by the People’s Republic of China (PRC) threatens the United States’ national security, academic integrity, and competitive advantage in innovation and technology.² In 2021, the Trump Administration issued National Security Presidential Memorandum-33 (NSPM-33) in response to heightened threats against federal R&D projects, directing the U.S. government to strengthen R&D protections from foreign interference and exploitation. In 2022, the Biden Administration released the National Science and Technology Council’s (NSTC) NSPM-33 implementation guidance for federal partners to uphold

¹ OIG-22-30_S&T Needs to Improve Its Management and Oversight of R&D Projects (dhs.gov) Pg 8.

² <https://www.nbcnews.com/politics/politics-news/fbi-director-wray-says-scale-chinese-spying-us-blew-away-rcna14369>.

high standards of research security, further requiring coordination with the NSTC, disclosures of potential conflicts of interest, and consequences for disclosure requirement violations. As such, H.R. 9748 requires GAO to submit a report to Congress on how DHS has complied with NSPM-33 and adopted the NSTC's implementation guidance to safeguard sensitive R&D projects from foreign interference and control.

Furthermore, H.R. 9748 requires the Secretary of Homeland Security to provide a Congressional briefing to the House Committee on Homeland Security and the Senate Committee on Homeland Security and Governmental Affairs on how the Department has implemented the OIG's input and to provide a risk assessment of how certain individuals could gain unauthorized access to sensitive information in DHS' R&D projects. This provision will ensure DHS's transparency and accountability in safeguarding the Department's sensitive R&D projects.

COMMITTEE CONSIDERATION

The Committee met on September 25, 2024, a quorum being present, to consider H.R. 9748 and ordered the measure to be favorably reported to the House by voice vote.

COMMITTEE VOTES

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

No recorded votes were requested during consideration of H.R. 9748.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee adopts as its own the estimate of any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures contained in the cost estimate prepared by the Director of the Congressional Budget Office.

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the House Committee on Homeland Security during the 118th Con-

gress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about the legislation's estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

ESTIMATED BUDGETARY EFFECTS AND MANDATE INFORMATION

Bill number	Title	Status	Last action	Budget function	Direct spending 2025-2034	Revenues 2025-2034	Spending subject to appropriations 2025-2029	Pay-As-You-Go procedures apply?	Budgetary effects after 2034	Mandates	Contact
H.R. 3169	Identifying Adversarial Threats at our Ports Act.	Ordered reported	09/25/24	050	0	0	Not estimated	No	No	Yes	Aldo Proserpi
	H.R. 3169 would require the Department of Homeland Security to determine whether cybersecurity vulnerabilities exist in the software or hardware of foreign cranes operating in U.S. ports and to remediate any such vulnerabilities. CBO estimates that enacting H.R. 3169 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Because the cost of the mandates would depend on regulations yet to be published, CBO cannot determine whether the cost of compliance would exceed the annual threshold for intergovernmental and private-sector mandates (\$100 million and \$200 million in 2024, respectively, adjusted annually for inflation).										
H.R. 4406	DHS Basic Training Accreditation Improvement Act of 2023.	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm
	H.R. 4406 would require the Department of Homeland Security (DHS) to report to the Congress annually on whether its basic training programs are accredited by an independent organization. The bill also would require DHS to carry out research and development to enhance the preparedness of state, local, tribal, and territorial law enforcement agencies to respond to terrorist threats. CBO estimates that enacting H.R. 4406 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.										
H.R. 5729	A bill to prohibit the use of Federal funds to establish a Homeland Intelligence Experts Group, and for other purposes.	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm
	H.R. 5729 would prohibit the use of federal funds to reestablish the Homeland Intelligence Experts Group or any successor program. That group, whose members come from private-sector entities, advised the Department of Homeland Security on intelligence and counterintelligence activities. The group was disbanded on May 2, 2024. CBO estimates that enacting H.R. 5729 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.										
H.R. 8119	PEARL Act	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm
	H.R. 8119 would require Customs and Border Protection to establish a pilot program to adopt dogs from local animal shelters and train them for its therapy dog program. Under the bill, the program would terminate three years after enactment. CBO estimates that enacting H.R. 8119 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.										
H.R. 9469	Pipeline Security Act	Ordered reported	09/25/24	400	0	0	Not estimated	No	No	Yes	Emma Uebelhor
	H.R. 9469 would codify the Transportation Security Administration's responsibility to protect pipelines from terrorists and cybersecurity threats. The bill would require that agency to report to the Congress on implementing the bill and would direct the Government Accountability Office to review the implementation within two years of enactment. CBO estimates that enacting H.R. 9469 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). Because the cost of the mandate would depend on regulations yet to be published, CBO cannot determine whether the cost would exceed the threshold established in UMRA for private-sector mandates (\$200 million in 2024, adjusted annually for inflation). The bill contains no intergovernmental mandates as defined in UMRA.										
H.R. 9668	SHIELD Against CCP Act	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm

ESTIMATED BUDGETARY EFFECTS AND MANDATE INFORMATION—Continued

Bill number	Title	Status	Last action	Budget function	Direct spending 2025–2034	Revenues 2025–2034	Spending subject to appropriations 2025–2029	Pay-As-You-Go procedures apply?	Budgetary effects after 2034	Mandates	Contact
H.R. 9689	DHS Cybersecurity Internship Program Act.	Ordered reported	09/25/24	050	0	0	Not estimated	No	No	No	Aldo Proserpi
H.R. 9689	H.R. 9689 would require the Department of Homeland Security (DHS) to establish an interagency working group to assess the department's efforts to combat terrorist, cybersecurity, border, port, and transportation security threats posed by the government of China. The bill would require DHS to report to the Congress annually on the working group's activities and require the Government Accountability Office to report to the Congress on the bill's implementation. H.R. 9668 also would require DHS to enhance its situational awareness concerning threats posed by the government of China. CBO estimates that enacting H.R. 9668 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered reported	09/25/24	050	0	0	Not estimated	No	No	No	Aldo Proserpi
H.R. 9731	Special Interest Alien Reporting Act	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm
H.R. 9731	H.R. 9731 would require the Department of Homeland Security to establish a cybersecurity internship program. CBO estimates that enacting H.R. 9689 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm
H.R. 9748	Research Security and Accountability in DHS Act.	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm
H.R. 9748	H.R. 9748 would require the Department of Homeland Security (DHS) to develop a policy to protect its research and development projects from unauthorized access or disclosure. The bill also would require the Government Accountability Office to report to the Congress within one year of enactment on DHS's compliance with governmentwide policies to protect research and development. CBO estimates that enacting H.R. 9748 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm
H.R. 9749	A bill to amend the Homeland Security Act of 2002 to abolish the reorganization authority of the Department of Homeland Security, and for other purposes.	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm
H.R. 9749	H.R. 9749 would prohibit the Department of Homeland Security (DHS) from establishing, consolidating, or discontinuing organizational units and reallocating functions within component units. Under current law, DHS is authorized to conduct those activities after providing notice to the Congress. CBO estimates that enacting H.R. 9749 would not affect direct spending or revenues. CBO has not estimated the bill's effects on spending subject to appropriation. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm
H.R. 9752	Tren de Aragua Southwest Border Security Threat Assessment Act.	Ordered reported	09/25/24	750	0	0	Not estimated	No	No	No	Jeremy Crimm

H.R. 9768	Joint Cyber Defense Collaborative Act.	Ordered reported	09/25/24	050	0	0	Not estimated	No	No	No	Aldo Proserpi
H.R. 9768	Strengthening Cyber Resilience Against State-Sponsored Threats Act.	Ordered reported	09/25/24	050	0	0	Not estimated	No	No	No	Aldo Proserpi
H.R. 9769	Cyber PIVOTT Act	Ordered reported	09/25/24	050	0	0	Not estimated	No	No	No	Aldo Proserpi
H.R. 9770	Cyber PIVOTT Act	Ordered reported	09/25/24	050	0	0	Not estimated	No	No	No	Aldo Proserpi

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 of 1995.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 9748 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of H.R. 9748 is to amend the Homeland Security Act of 2002 to require S&T to safeguard sensitive R&D projects and improve research security efforts within the Department.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that H.R. 9748 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

Section 1. Short title

This section states that the Act may be cited as the “Research Security and Accountability in DHS Act.”

Section 2. Safeguarding sensitive research in the Department of Homeland Security

This section amends Section 302 of the Homeland Security Act of 2002 and requires S&T to develop a process that safeguards sensitive information in R&D projects across all components of the Department and to establish special clauses in acquisition contracts that limit unauthorized access to, and disclosure of, sensitive information.

Section 2(b) requires GAO to submit a report to Congress on how the Department has complied with National Security Presidential Memorandum-33 (NSPM-33) and adopted the National Science and Technology Council’s (NSTC) 2022 implementation guidance to

safeguard sensitive R&D projects from foreign malign influence, ownership, and control.

Section 2(c) requires the Secretary of Homeland Security to provide a briefing to the House Committee on Homeland Security and the Senate Committee on Homeland Security & Governmental Affairs to address the 2022 OIG Report on S&T's mismanagement of R&D projects.

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 italics, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

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

* * * * *

SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the responsibility for—

- (1) advising the Secretary regarding research and development efforts and priorities in support of the Department's missions;
- (2) developing, in consultation with other appropriate executive agencies, a national policy and strategic plan for, identifying priorities, goals, objectives and policies for, and coordinating the Federal Government's civilian efforts to identify and develop countermeasures to chemical, biological, and other emerging terrorist threats, including the development of comprehensive, research-based definable goals for such efforts and development of annual measurable objectives and specific targets to accomplish and evaluate the goals for such efforts;
- (3) supporting the Under Secretary for Intelligence and Analysis and the Director of the Cybersecurity and Infrastructure Security Agency, by assessing and testing homeland security vulnerabilities and possible threats;
- (4) conducting basic and applied research, development, demonstration, testing, and evaluation activities that are relevant to any or all elements of the Department, through both intramural and extramural programs, except that such responsibility does not extend to human health-related research and development activities;
- (5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems for—

- (A) preventing the importation of chemical, biological, and related weapons and material; and
- (B) detecting, preventing, protecting against, and responding to terrorist attacks;
- (6) establishing a system for transferring homeland security developments or technologies to Federal, State, local government, and private sector entities;
- (7) entering into work agreements, joint sponsorships, contracts, or any other agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities;
- (8) collaborating with the Secretary of Agriculture and the Attorney General as provided in section 212 of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401), as amended by section 1709(b);
- (9) collaborating with the Secretary of Health and Human Services and the Attorney General in determining any new biological agents and toxins that shall be listed as “select agents” in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a);
- (10) supporting United States leadership in science and technology;
- (11) establishing and administering the primary research and development activities of the Department, including the long-term research and development needs and capabilities for all elements of the Department;
- (12) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department;
- (13) coordinating with other appropriate executive agencies in developing and carrying out the science and technology agenda of the Department to reduce duplication and identify unmet needs; **[and]**
- (14) developing and overseeing the administration of guidelines for merit review of research and development projects throughout the Department, and for the dissemination of research conducted or sponsored by the Department**[.]; and**
- (15) *developing, in coordination with appropriate agency officials, a Department-wide policy and process to safeguard research and development from unauthorized access to or disclosure of sensitive information in research and development acquisitions.*

* * * * *

