

Calendar No. 416

108TH CONGRESS }
1st Session }

SENATE

{ REPORT
108-217

HOMELAND SECURITY TECHNOLOGY
IMPROVEMENT ACT OF 2003

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1612

TO ESTABLISH A TECHNOLOGY, EQUIPMENT, AND INFORMATION
TRANSFER PROGRAM WITHIN THE DEPARTMENT OF HOMELAND
SECURITY



DECEMBER 9, 2003.—Ordered to be printed

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DECEMBER 9, 2003.—Ordered to be printed

Ms. COLLINS, from the Committee on Governmental Affairs,
submitted the following

R E P O R T

[To accompany S. 1612]

The Committee on Governmental Affairs, to whom was referred the bill (S. 1612) to establish a technology, equipment, and information transfer program within the Department of Homeland Security, having considered the same reports favorably thereon with an amendment and recommends that the bill do pass.

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1. PURPOSE AND SUMMARY

The Senate Governmental Affairs Committee (the Committee) approved S. 1612, the Homeland Security Technology Improvement Act, on October 22, 2003. This legislation would authorize \$50 million annually for ten years for the Department of Homeland Security (DHS) to provide advanced counterterrorism technology, equipment, and information to law enforcement agencies to help them deter, detect, and apprehend terrorists.

II. BACKGROUND

Since September 11, 2001, the federal government has worked to forge a new relationship with State and local governments. During the past two years, Congress has provided significant resources to States and localities to start equipping and training their police, fire, and emergency personnel with respect to terrorist attacks. Federal experts have trained more than 450,000 State and local first responders and conducted nearly 450 training exercises throughout the country. These efforts have better equipped our communities and first responders to respond to a terrorist attack. Even so, many needs have not been met, many localities state that they have not received funding, and many Mayors are concerned about the time it takes for funding to arrive through the States.

While these efforts have started to improve State and local response capabilities, more must be done to improve preparedness and coordinate efforts to prevent terrorist attacks. The Department of Homeland Security's Science and Technology Directorate provides a framework to research, develop, test, and evaluate new advanced counterterrorism technologies, equipment, and information. Many agencies, both within and outside the Department of Homeland Security, are also developing technologies that could be used to prevent future terrorist attacks. The challenge is to ensure that these advanced counterterrorism technologies developed by DHS and other federal agencies reach State and local law enforcement organizations.

S. 1612 would address this concern by establishing a specific program to identify and transfer advanced counterterrorism technology, equipment, and information to law enforcement agencies to help them deter, detect, and apprehend terrorists.

S. 1612 divides the responsibilities for this program between two agencies within the Department of Homeland Security. The Science and Technology Directorate would research, develop, test, and evaluate available counterterrorism technologies. In connection with these activities, the Undersecretary for Science and Technology would provide the Office for Domestic Preparedness with a comprehensive list of available technologies, equipment, and information that meet the Science and Technology Directorate's standards. ODP would then administer the technology transfer program with the help of the Technology Transfer Advisory Committee (Advisory Committee) established under this Act.

The Homeland Security Act authorized the Undersecretary of Science and Technology (S&T) to be the lead agency conducting basic and applied research, development, demonstration, testing, and evaluation activities within the Department. Section 313 of the Homeland Security Act (6 U.S.C. § 193) established a Technology Clearinghouse to Encourage and Support Innovative Solutions to Enhance Homeland Security, a centralized federal clearinghouse for information relating to technologies that further the mission of the Department. As part of these activities, the Clearinghouse provides information to Federal, State, and local governments and their first responders.

S. 1612 directs the Clearinghouse to be a partner in the multi-agency homeland security technology, equipment, and information transfer program established by this legislation. In connection with

the Clearinghouse and the S&T Directorate's ongoing research, development, testing, and evaluation activities, S. 1612 directs the Undersecretary of Science and Technology to work with the Advisory Committee established under this Act to develop a comprehensive list of available counterterrorism technologies that could be used to help law enforcement prevent a future terrorist attack.

The Committee expects that the Advisory Committee would assist the Undersecretary in developing this list by identifying the needs of the law enforcement community and helping to evaluate the operational utility of the technologies, equipment and information on the comprehensive list. This consultation would also help to ensure that the list contains items that have a practical and immediate usefulness to local and State law enforcement agencies.

After developing a comprehensive list of available counterterrorism technologies for State and local law enforcement, the Undersecretary shall provide this information to the Office for Domestic Preparedness, which would administer the technology transfer program by making technologies, equipment, and information and their associated training available to State and local law enforcement agencies through a competitive process. Transferring the technology, instead of providing a monetary grant, will ensure that the technology is not turned over to the law enforcement agencies until they are trained in the actual use of the equipment. Transferring these technologies, instead of providing a grant to each recipient, may also lead to significant cost savings through lower negotiated per item costs.

S. 1612 directs ODP to develop the final catalogue of available technologies based on the needs of the law enforcement community and the Science and Technology Directorate's comprehensive list of available counterterrorism technologies. Consulting with the Advisory Committee will help to ensure that the technologies, equipment and information on the list have a practical and immediate usefulness to local and State law enforcement agencies. Its input will also help to create a simplified and streamlined application process.

The Committee instructs the Director of ODP to consider emulating the outreach activities of the Counterdrug Technology Assessment Center's Technology Transfer Program. The Program is generally considered to be a success, at least in part as a result of significant input from the law enforcement community.¹

The Committee expects available technologies to include, but not be limited to, advanced surveillance, detection, and communication technologies. The Committee is aware of an acute need for interoperable communications equipment. At present, fire, police, EMS and other public safety personnel cannot effectively communicate due to a lack of interoperable communications systems, hampering their ability to counter acts of terrorism by protecting themselves and the public. Several advanced technology solutions exist that can provide short and long term communications interoperability to first responders using incompatible systems. However, most of the

¹The "CTAC technology transfer program has been enormously successful, demonstrating the impact that can be achieved with a relatively small level of funding by transferring mature, tested technology that has practical and immediate usefulness to local and State law enforcement agencies that would otherwise not have access to such tools." H. Rep. No. 107-575, at 56, 57 (2001).

44,000 first responder jurisdictions across the country are small, have different procurement processes, and lack the funding, engineers and technicians needed to properly evaluate, purchase, and deploy these systems. S. 1612 provides additional authority for the Director to acquire interoperable communications technologies in bulk and begin to help local jurisdictions overcome these barriers.

This program should also fill the technology gaps that lie between traditional homeland security assistance programs. For example, those law enforcement agencies protecting borders, cargo ports, and other freight transportation links would be able to secure advanced detection and monitoring equipment that may not be purchased using other Office for Domestic Preparedness funds.² It also builds on ODP's strengths as a grant administrator and moves toward a goal of creating a "one stop shop" for law enforcement agencies seeking homeland security assistance.

The Committee believes the Advisory Committee should include a number of geographically-dispersed, active-duty, police chiefs, sheriffs, other law enforcement officials to serve as regional law enforcement experts. These experts will review applications for the technology transfer program from agencies within their respective regions, assist in evaluating the program, and provide advice on the operational utility of the technologies offered.

The Committee directs that applicants for equipment and/or technology from the Technology Transfer Program state to the Department of Homeland Security all other applications they have made to other federal agencies to obtain such equipment and/or technology, and other federal agency programs they have knowledge of that could provide such equipment and/or technology or the funding to obtain it. The Director of ODP will also notify the State homeland security director of any award.

The National Sheriffs' Association, the International Association of Chiefs of Police, the Major Cities Police Chiefs Association, and the Fraternal Order of Police have identified the need for the Homeland Security Technology Transfer Program and endorsed this legislation.

III. LEGISLATIVE HISTORY

S. 1612 was introduced on September 11, 2003 by Senator Susan Collins and Senator Mark Pryor and was referred to the Committee on Governmental Affairs.

The Senate Governmental Affairs Committee met on October 22, 2003, and by voice vote agreed to a manager's amendment to S. 1612 offered by Chairman Collins and cosponsored by Ranking Member Joseph Lieberman, Senator Daniel Akaka, and Senator Mark Pryor. The manager's amendment maintains the goal of S. 1612—to provide advanced counterterrorism technology, equipment, and information to law enforcement agencies—but clarifies the involvement of both the Science and Technology Directorate and the Office for Domestic Preparedness in the development of the new Technology Transfer Program. The amendment would also give the Secretary the authority to expand the program to other

² ODP funds may only be used to purchase equipment from the Standardized Equipment List, which was developed by the Interagency Board for Equipment Standardization and Interoperability. The purchase of advanced sensor, surveillance, and detection technologies are often not allowable under this program See <http://www.ojp.usdoj.gov/docs/fy04hsgp.pdf>.

first responders. Following the adoption of this amendment, the Committee ordered the bill reported by voice vote. Senators present: Collins, Voinovich, Coleman, Fitzgerald, Akaka, Lautenberg and Pryor.

IV. SECTION-BY-SECTION

Section 1. Short Title

Section 1 sets the short title of S. 1612 as the “Homeland Security Technology Improvement Act of 2003.”

Section 2. Homeland Security Technology Transfer Program

Subsection (a) amends Section 313 of the Homeland Security Act by adding an additional responsibility to the mission of the Homeland Security Technology Clearinghouse. Under Subparagraph (1), the Undersecretary would establish a multi-agency homeland security technology, equipment, and information program to allow for the transfer of technology, equipment and information to State and local law enforcement agencies. Subparagraph (2) makes technical changes.

Subparagraph (3) details the Science and Technology Directorate’s role in this program, including research, development, testing, and evaluation activities in connection with the technology transfer program. The Science and Technology Directorate would compile a comprehensive list of available counterterrorism technologies based on the needs identified by State and local law enforcement agencies and the Advisory Committee. The Science and Technology Directorate would also research and develop new technologies, survey and review available technologies, and conduct tests, evaluations, and demonstrations of new and available technologies that significantly improve the capabilities of law enforcement agencies in countering terrorist threats. To ensure that the review is comprehensive in nature, the Undersecretary shall consult with the National Institute for Standards and Technology, the Advisory Committee established under this Act and others.

Once the Science and Technology Directorate has developed this comprehensive list through advice, consultation, and outreach with the law enforcement community and others, the Undersecretary would provide this information to ODP. ODP would then work with the Advisory Committee to administer the program.

Subsection (b) of this legislation amends Section 430 of the Homeland Security Act by adding a new Subparagraph (d) to specify the Office for Domestic Preparedness’ role in administering the technology transfer program. This subsection would authorize \$50 million annually for ten years for the Office for Domestic Preparedness to provide advanced counterterrorism technology, equipment, and information to law enforcement agencies to help them prevent, detect, and apprehend terrorists.

The new Subparagraph (d) of the Homeland Security Act would establish roles and responsibilities of the Office for Domestic Preparedness in the administration of the technology transfer program. Subparagraph (1) would direct the Director of ODP to administer this program, in coordination with the Science and Technology Directorate, to make counterterrorism technologies available directly to State and local law enforcement.

Subparagraph (A) would instruct the Director to make a list of technologies available based on the comprehensive list provided by the Undersecretary for Science and Technology and the needs identified by the Advisory Committee.

Subparagraph (C) and (D) helps to ensure that the technologies will be both available and transferred directly to State and local law enforcement agencies.

Subparagraph (2) would establish an advisory committee under the Office for Domestic Preparedness to advise both ODP and the Undersecretary of Science and Technology in development of the Technology Transfer Program.

Subparagraph (3) would provide the Secretary of Homeland Security the authority to expand this program to other first responders. Should the Secretary use this authority, the Committee expects to revisit the authorization level for this program.

Subparagraph (4) would require that no more than 10 percent of the budget shall be used for administrative expenses related to this program.

Subparagraph (5) authorizes \$50 million for each of the fiscal years from 2005 to 2014 for the transfer of these technologies. This funding shall only be made available for the transfer of these technologies outlined under subsection (b).

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. CBO states that there are no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and no costs on State, local, or tribal governments. The legislation contains no other regulatory impact.

VI. CBO COST ESTIMATE

S. 1612—Homeland Security Technology Improvement Act of 2003

S. 1612 would authorize the appropriation of \$50 million for each of fiscal years 2005 through 2014 for the Department of Homeland Security to provide technology, equipment, and information to state and local law enforcement agencies for counterterrorism activities. The estimated budgetary impact of S. 1612 is shown in the following table. Based on historical spending patterns for similar programs, CBO estimates that implementing S. 1612 would cost nearly \$140 million over the 2004–2008 period (and \$360 million after 2008), assuming appropriation of the specified amounts. Enacting S. 1612 would not affect direct spending or receipts.

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization level	0	50	50	50	50
Estimated outlays	0	11	30	48	50

S. 1612 contains no new intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. State, local, and tribal law enforcement agencies would benefit from the information, technology, and equipment to counter terrorist activi-

ties. This bill would allow for technology researched and tested by the Department of Homeland Security to be purchased and distributed to state and local law enforcement agencies. Any costs to those governments would be incurred voluntarily as a condition of participating in a federal program.

The CBO staff contacts for this estimate are Lanette J. Walker (for federal costs) and Melissa Merrill (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing laws made by S. 1612 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, an existing law in which no changes is proposed is shown in roman):

UNITED STATES CODE

TITLE 6—DOMESTIC SECURITY

CHAPTER 1. HOMELAND SECURITY ORGANIZATION

Subchapter III—Science and Technology in Support of Homeland Security

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

* * * * *

SEC. 313. TECHNOLOGY CLEARINGHOUSE TO ENCOURAGE AND SUPPORT INNOVATIVE SOLUTIONS TO ENHANCE HOMELAND SECURITY.

(a) * * *

(b) ELEMENTS OF PROGRAM.—The program described in subsection (a) shall include the following components:

(1) The establishment of a centralized Federal clearinghouse for information relating to technologies that would further the mission of the Department for dissemination, as appropriate, to Federal, State, and local government and private sector entities for additional review, purchase, or use.

(2) The issuance of announcements seeking unique and innovative technologies to advance the mission of the Department.

(3) The establishment of a technical assistance team to assist in screening, as appropriate, proposals submitted to the Secretary (except as provided in subsection (c)(2)) to assess the feasibility, scientific and technical merits, and estimated cost of such proposals, as appropriate.

(4) The provision of guidance, recommendations, and technical assistance, as appropriate, to assist Federal, State, and local government and private sector efforts to evaluate and im-

plement the use of technologies described in paragraph (1) or (2).

(5) The provision of information for persons seeking guidance on how to pursue proposals to develop or deploy technologies that would enhance homeland security, including information relating to Federal funding, regulation, or acquisition.

(6) *The establishment of a multi-agency homeland security technology, equipment, and information transfer program to allow for the transfer of technology, equipment, and information to State and local law enforcement agencies.*

(c) *TECHNOLOGY TRANSFER PROGRAM.—In developing the program described under subsection (b)(6), the Secretary, acting through the Under Secretary for Science and Technology shall—*

(1) *in close cooperation with the Office of Domestic Preparedness, conduct, on an ongoing basis—*

(A) *research and development of new technologies;*

(B) *surveys and reviews of available appropriate technologies; and*

(C) *tests, evaluations, and demonstrations of new and available technologies that significantly improve the capability of law enforcement agencies in countering terrorist threats;*

(2) *in support of the activities described in paragraph (1)—*

(A) *consult with State and local law enforcement agencies and others determined by the Secretary, including the advisory committee established under section 430(d);*

(B) *work with the National Institute for Standards and Technology and any other office or agency determined by the Secretary;*

(C) *at the discretion of the Secretary, enter into agreements and coordinate with other Federal agencies to maximize the effectiveness of the technologies, equipment, and information; and*

(3) *provide a comprehensive list of available technologies, equipment, and information to the Office for Domestic Preparedness which shall administer a technology transfer program described under section 430(d).*

[c] (d) *MISCELLANEOUS PROVISIONS.—*

(1) *IN GENERAL.—Nothing in this section shall be construed as authorizing the Secretary or the technical assistance team established under subsection (b)(3) to set standards for technology to be used by the Department, any other executive agency, any State or local government entity, or any private sector entity.*

(2) *CERTAIN PROPOSALS.—The technical assistance team established under subsection (b)(3) shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.*

(3) *COORDINATION.—In carrying out this section, the Secretary shall coordinate with the Technical Support Working Group (organized under the April 1982 National Security Decision Directive Numbered 30).*

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**TITLE IV—DIRECTOR OF BORDER AND
TRANSPORTATION SECURITY**

* * * * *

Subtitle C—Miscellaneous Provisions

* * * * *

SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) * * *

* * * * *

(d) *TECHNOLOGY, EQUIPMENT, AND INFORMATION TRANSFER PROGRAM.*—

(1) *ADMINISTRATION.*—*The Director of the Office for Domestic Preparedness, in coordination with the Under Secretary for Science and Technology, shall establish and administer a technology transfer program through which the Director shall—*

(A) *make the counterterrorism technology, equipment, and information available to State and local law enforcement agencies each year based on—*

(i) *the comprehensive list of available technologies, equipment, and information described under section 313(c); and*

(ii) *the needs identified by the advisory committee established under this subsection;*

(B) *consult with State and local law enforcement agencies and others, as determined by the Secretary;*

(C) *accept applications from the head of State and local law enforcement agencies that wish to acquire such technologies, equipment, and information to improve the homeland security capabilities of those agencies, and review these applications with the advisory committee established under this subsection; and*

(D) *transfer the approved technology, equipment, and information and provide the appropriate training to the State or local law enforcement agencies to implement such technology, equipment, and information.*

(2) *TECHNOLOGY TRANSFER ADVISORY COMMITTEE.*—*Under the authority of section 871, the Secretary, acting through the Director of the Office for Domestic Preparedness, shall establish an advisory committee, or designate an existing advisory committee comprised of retired and active duty State and local law enforcement officers, to advise the Director of the Office for Domestic Preparedness and the Under Secretary for Science and Technology regarding the homeland security technology transfer program established under this subsection.*

(3) *EXPANSION OF PROGRAM.*—*Upon the approval of the Secretary, the Director of the Office for Domestic Preparedness may expand the program established under this subsection to transfer technology, equipment, and information to first responders other than law enforcement agencies and revise the advisory committee accordingly.*

(4) *LIMITATION ON ADMINISTRATION EXPENDITURE.*—*Not more than 10 percent of the budget of the technology, equipment, and*

information transfer program established under this subsection may be used for administrative expenses.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$50,000,000 for each of the fiscal years 2005 through 2014 to carry out this subsection.

[d] *(e) FISCAL YEARS 2003 AND 2004.—*During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

