

114TH CONGRESS
1ST SESSION

H. R. 3875

To amend the Homeland Security Act of 2002 to establish within the Department of Homeland Security a Chemical, Biological, Radiological, Nuclear, and Explosives Office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 2, 2015

Mr. McCAUL (for himself, Ms. MCSALLY, Mr. RATCLIFFE, and Ms. JACKSON LEE) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To amend the Homeland Security Act of 2002 to establish within the Department of Homeland Security a Chemical, Biological, Radiological, Nuclear, and Explosives Office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Home-
5 land Security CBRNE Defense Act of 2015”.

1 **SEC. 2. CBRNE OFFICE.**

2 (a) IN GENERAL.—The Homeland Security Act of
3 2002 is amended by adding at the end the following new
4 title:

5 **“TITLE XXII—CHEMICAL, BIO-**
6 **LOGICAL, RADIOLOGICAL, NU-**
7 **CLEAR, AND EXPLOSIVES OF-**
8 **FICE**

9 **“SEC. 2201. CBRNE OFFICE.**

10 “(a) ESTABLISHMENT.—There is established in the
11 Department a Chemical, Biological, Radiological, Nuclear,
12 and Explosives Office (referred to in this title as the
13 ‘CBRNE Office’).

14 “(b) MISSION OF OFFICE.—The mission of the
15 CBRNE Office is to coordinate, strengthen, and provide
16 chemical, biological, radiological, nuclear, and explosives
17 (CBRNE) capabilities in support of homeland security.

18 “(c) ASSISTANT SECRETARY.—The Office shall be
19 headed by an Assistant Secretary for the Chemical, Bio-
20 logical, Radiological, Nuclear, and Explosives Office (re-
21 ferred to in this title as the ‘Assistant Secretary’), who
22 shall be appointed by the President by and with the advice
23 and consent of the Senate.

24 “(d) RESPONSIBILITIES.—The Assistant Secretary
25 shall—

1 “(1) develop, coordinate, and maintain overall
2 CBRNE strategy and policy for the Department;

3 “(2) develop, coordinate, and maintain for the
4 Department periodic CBRNE risk assessments;

5 “(3) serve as the primary Department rep-
6 resentative for coordinating CBRNE activities with
7 other Federal departments and agencies;

8 “(4) provide oversight for the Department’s
9 preparedness for CBRNE threats;

10 “(5) provide support for operations during
11 CBRNE threats or incidents; and

12 “(6) carry out such other responsibilities as the
13 Secretary determines appropriate, consistent with
14 this title.

15 “(e) OTHER OFFICERS.—The Chief Medical Officer
16 and the Director for Domestic Nuclear Detection shall re-
17 port directly to the Assistant Secretary. The Secretary
18 shall appoint appropriate officers to be responsible for co-
19 ordinating departmental policy and strategy relating to
20 chemical, biological, and explosives threats.

21 **“SEC. 2202. COMPOSITION OF THE CBRNE OFFICE.**

22 “The Secretary shall transfer to the CBRNE Office,
23 the functions, personnel, budget authority, and assets of
24 the following:

1 “(1) The Office of Health Affairs as in exist-
2 ence on the day before the date of the enactment of
3 this title, including the Chief Medical Officer author-
4 ized under section 516, and the National Biosurveil-
5 lance Integration Center authorized under section
6 316.

7 “(2) The Domestic Nuclear Detection Office
8 authorized under title XIX.

9 “(3) CBRNE threat awareness and risk assess-
10 ment activities of the Science and Technology Direc-
11 torate.

12 “(4) The CBRNE functions of the Office of
13 Policy and the Office of Operations Coordination.

14 “(5) The Office for Bombing Prevention of the
15 National Protection and Programs Directorate as in
16 existence on the day before the date of the enact-
17 ment of this title.

18 **“SEC. 2203. HIRING AUTHORITY.**

19 “In hiring personnel for the CBRNE Office, the Sec-
20 retary shall have the hiring and management authorities
21 provided in section 1101 of the Strom Thurmond National
22 Defense Authorization Act for Fiscal Year 1999 (5 U.S.C.
23 3104 note; Public Law 105–261), except that the term
24 of appointments for employees under subsection (c)(1) of

1 such section may not exceed five years before granting any
2 extension under subsection (c)(2) of such section.

3 **“SEC. 2204. GRANTS, COOPERATIVE AGREEMENTS, AND**
4 **OTHER TRANSACTIONS AND CONTRACTS.**

5 “The Assistant Secretary, in carrying out the respon-
6 sibilities under this title, may distribute funds through
7 grants, cooperative agreements, and other transactions
8 and contracts.

9 **“SEC. 2205. TERRORISM RISK ASSESSMENTS.**

10 “(a) TERRORISM RISK ASSESSMENTS.—

11 “(1) IN GENERAL.—The Assistant Secretary
12 shall, in coordination with relevant Department com-
13 ponents and other appropriate Federal departments
14 and agencies, develop, coordinate, and update peri-
15 odically terrorism risk assessments of chemical, bio-
16 logical, radiological, and nuclear threats.

17 “(2) COMPARISON.—The Assistant Secretary
18 shall develop, coordinate, and update periodically an
19 integrated terrorism risk assessment that assesses
20 all of the threats referred to in paragraph (1) and,
21 as appropriate, explosives threats, and compares
22 each such threat against one another according to
23 their relative risk.

24 “(3) INCLUSION IN ASSESSMENT.—Each ter-
25 rorism risk assessment under this subsection shall

1 include a description of the methodology used for
2 each such assessment.

3 “(4) UPDATES.—Each terrorism risk assess-
4 ment under this subsection shall be updated not less
5 often than once every two years.

6 “(5) PROVISION TO CONGRESS.—The Assistant
7 Secretary shall provide a copy of each risk assess-
8 ment under this subsection to the Committee on
9 Homeland Security of the House of Representatives
10 and the Committee on Homeland Security and Gov-
11 ernmental Affairs of the Senate not later than 30
12 days after completion of each such assessment.

13 “(b) METHODOLOGY.—In developing the terrorism
14 risk assessments under subsection (a), the Assistant Sec-
15 retary, in consultation with appropriate Federal depart-
16 ments and agencies, shall—

17 “(1) assess the proposed methodology to be
18 used for such assessments; and

19 “(2) consider the evolving threat to the United
20 States as indicated by the intelligence community
21 (as such term is defined in section 3(4) of the Na-
22 tional Security Act of 1947 (50 U.S.C. 3003(4))).

23 “(c) USAGE.—The terrorism risk assessments re-
24 quired under subsection (a) shall be used to inform and

1 guide allocation of resources for chemical, biological, radi-
2 ological, and nuclear threat activities of the Department.

3 “(d) INPUT AND SHARING.—The Assistant Secretary
4 shall, for each terrorism risk assessment under subsection
5 (a)—

6 “(1) seek input from national stakeholders and
7 other Federal, State, local, tribal, and territorial of-
8 ficials involved in efforts to counter chemical, bio-
9 logical, radiological, and nuclear threats;

10 “(2) ensure that written procedures are in place
11 to guide the development of such assessments, in-
12 cluding for input, review, and implementation pur-
13 poses, among relevant Federal partners;

14 “(3) share such assessments with Federal,
15 State, local, tribal, and territorial officials with ap-
16 propriate security clearances and a need for the in-
17 formation in the classified versions of such assess-
18 ments; and

19 “(4) to the maximum extent practicable, make
20 available an unclassified version of such assessments
21 for Federal, State, local, tribal, and territorial offi-
22 cials involved in prevention and preparedness for
23 chemical, biological, radiological, and nuclear events.

1 **“SEC. 2206. CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NU-**
2 **CLEAR, AND EXPLOSIVES INTELLIGENCE AND**
3 **INFORMATION SHARING.**

4 “(a) IN GENERAL.—The Under Secretary of Intel-
5 ligence and Analysis of the Department shall—

6 “(1) support homeland security-focused intel-
7 ligence analysis of terrorist actors, their claims, and
8 their plans to conduct attacks involving chemical, bi-
9 ological, radiological, or nuclear materials or explo-
10 sives against the United States;

11 “(2) support homeland security-focused intel-
12 ligence analysis of global infectious diseases, public
13 health, food, agricultural, and veterinary issues;

14 “(3) support homeland security-focused risk
15 analysis and risk assessments of the homeland secu-
16 rity hazards described in paragraphs (1) and (2) by
17 providing relevant quantitative and nonquantitative
18 threat information;

19 “(4) leverage existing and emerging homeland
20 security intelligence capabilities and structures to
21 enhance prevention, protection, response, and recov-
22 ery efforts with respect to a chemical, biological, ra-
23 diological, nuclear, or explosives attack;

24 “(5) share appropriate information regarding
25 such threats to appropriate State, local, tribal, and

1 territorial authorities, as well as other national bio-
2 security and biodefense stakeholders; and

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

5 “(b) COORDINATION.—Where appropriate, the Under
6 Secretary of Intelligence and Analysis shall coordinate
7 with the heads of other relevant Department components,
8 including the Assistant Secretary, members of the intel-
9 ligence community, including the National Counter Pro-
10 liferation Center and the National Counterterrorism Cen-
11 ter, and other Federal, State, local, tribal, and territorial
12 authorities, including officials from high-threat areas, to
13 enable such entities to provide recommendations on opti-
14 mal information sharing mechanisms, including expedi-
15 tious sharing of classified information, and on how such
16 entities can provide information to the Department.

17 “(c) REPORT.—

18 “(1) IN GENERAL.—Not later than one year
19 after the date of the enactment of this section and
20 annually thereafter, the Secretary shall submit to
21 the Committee on Homeland Security of the House
22 of Representatives and the Committee on Homeland
23 Security and Governmental Affairs of the Senate a
24 report on—

“(A) the intelligence and information sharing activities under subsections (a) and (b) and of all relevant entities within the Department to prevent, protect against, prepare for, respond to, mitigate, and recover from terrorist attacks and other high consequence events utilizing chemical, biological, radiological, or nuclear agents or explosives that pose a high risk to homeland security; and

“(B) the Department’s activities in accordance with relevant intelligence strategies.

“(2) ASSESSMENT OF IMPLEMENTATION.—

Each report required under paragraph (1) shall also include—

“(A) a description of methods established to assess progress of the Office of Intelligence and Analysis in implementing this section; and

“(B) such assessment of such progress.

“(d) DEFINITIONS.—In this section:

“(1) INTELLIGENCE COMMUNITY.—The term ‘intelligence community’ has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

“(2) NATIONAL BIOSECURITY AND BIODEFENSE STAKEHOLDERS.—The term ‘national biosecurity

1 and biodefense stakeholders’ means officials from
2 Federal, State, local, tribal, and territorial authori-
3 ties and individuals from the private sector who are
4 involved in efforts to prevent, protect against, pre-
5 pare for, respond to, mitigate, and recover from a
6 biological attack or other phenomena that may have
7 serious health consequences for the United States,
8 including infectious disease outbreaks.”.

9 (b) EFFICIENCIES REVIEW.—Not later than one year
10 after the date of the enactment of this Act, the Secretary
11 of Homeland Security, acting through the Assistant Sec-
12 retary for the Chemical, Biological, Radiological, Nuclear,
13 and Explosives Office of the Department of Homeland Se-
14 curity (established pursuant to section 2201 of the Home-
15 land Security Act of 2002, as added by subsection (a) of
16 this section), shall submit to the Committee on Homeland
17 Security of the House of Representatives and the Com-
18 mittee on Homeland Security and Governmental Affairs
19 of the Senate a report that—

20 (1) reviews the functions and responsibilities of
21 the Chemical, Biological, Radiological, Nuclear, and
22 Explosives Defense Office of the Department (estab-
23 lished pursuant to section 2201 of the Homeland Se-
24 curity Act of 2002, as added by subsection (a) of

1 this section) to identify and eliminate areas of un-
2 necessary duplication;

3 (2) provides a detailed accounting of the man-
4 agement and administrative expenditures and activi-
5 ties of the Office and identifies any potential cost
6 savings and efficiencies for such expenditures and
7 activities of each sub-office; and

8 (3) makes recommendations for adjustments in
9 the management and administration of the Office to
10 improve operational impact and enhance efficiencies.

11 (c) CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NU-
12 CLEAR AND EXPLOSIVES RESEARCH AND DEVELOP-
13 MENT.—

14 (1) IN GENERAL.—The Secretary of Homeland
15 Security shall assess the organizational structure of
16 the management and execution of the Department of
17 Homeland Security’s chemical, biological, radio-
18 logical, nuclear, and explosives research and develop-
19 ment activities, and shall develop and submit to the
20 Committee on Homeland Security and the Com-
21 mittee on Appropriations of the House of Represent-
22 atives and the Committee on Homeland Security and
23 Governmental Affairs and the Committee on Appro-
24 priations of the Senate at the time the President
25 submits the budget for fiscal year 2020 under sec-

1 tion 1105 of title 31, United States Code, a pro-
2 posed organizational structure for the management
3 and execution of such chemical, biological, radio-
4 logical, nuclear, and explosives research and develop-
5 ment activities.

6 (2) ORGANIZATIONAL JUSTIFICATION.—The
7 Secretary of Homeland Security shall include in the
8 assessment required under paragraph (1) a thorough
9 justification and rationalization for the proposed or-
10 organizational structure for management and execu-
11 tion of chemical, biological, radiological, nuclear, and
12 explosives research and development activities, in-
13 cluding the following:

14 (A) A discussion of the methodology for
15 determining such proposed organizational struc-
16 ture.

17 (B) A comprehensive inventory of chem-
18 ical, biological, radiological, nuclear, and explo-
19 sives research and development activities of the
20 Department of Homeland Security and where
21 each such activity will be located within or out-
22 side such proposed organizational structure.

23 (C) Information relating to how such pro-
24 posed organizational structure will facilitate and

1 promote coordination and requirements genera-
2 tion with customers.

3 (D) Information relating to how such pro-
4 posed organizational structure will support the
5 development of chemical, biological, radiological,
6 nuclear, and explosives research and develop-
7 ment priorities across the Department.

8 (E) If the chemical, biological, radiological,
9 nuclear, and explosives research and develop-
10 ment activities of the Department are not co-lo-
11 cated in such proposed organizational structure,
12 a justification for such separation.

13 (F) The strategy for coordination between
14 the Under Secretary for Science and Tech-
15 nology and the Assistant Secretary for the
16 Chemical, Biological, Radiological, Nuclear, and
17 Explosives Office on chemical, biological, radio-
18 logical, nuclear, and explosives research and de-
19 velopment activities.

20 (G) Recommendations for necessary statu-
21 tory changes.

22 (3) LIMITATION ON ACTION.—The Secretary of
23 Homeland Security may not take any action to reor-
24 ganize the structure referred to in paragraph (1) un-
25 less the Secretary receives prior authorization from

1 the Committee on Homeland Security of the House
2 of Representatives and the Committee on Homeland
3 Security and Governmental Affairs of the Senate
4 permitting any such action.

5 (d) CONCURRENT GOVERNMENT ACCOUNTABILITY
6 OFFICE REVIEW OF CHEMICAL, BIOLOGICAL, RADIO-
7 LOGICAL, NUCLEAR, AND EXPLOSIVES RESEARCH AND
8 DEVELOPMENT ACTIVITIES.—

9 (1) IN GENERAL.—The Comptroller General of
10 the United States shall conduct a review of the De-
11 partment of Homeland Security’s management and
12 execution of chemical, biological, radiological, nu-
13 clear, and explosives research and development ac-
14 tivities.

15 (2) SCOPE.—The review required under para-
16 graph (1) shall include the following:

17 (A) An assessment of the management and
18 execution of chemical, biological, radiological,
19 nuclear, and explosives research and develop-
20 ment activities of the Department of Homeland
21 Security, including identification of any overlap
22 or duplication of effort.

23 (B) Recommendations to streamline and
24 improve the Department’s management and
25 execution of chemical, biological, radiological,

1 nuclear, and explosives research and develop-
2 ment activities.

3 (3) REPORT.—Not later than one year after the
4 date of the enactment of this Act, the Comptroller
5 General shall submit to the Committee on Homeland
6 Security of the House of Representatives and the
7 Committee on Homeland Security and Governmental
8 Affairs of the Senate a report on the review required
9 under this subsection.

10 (e) TECHNICAL AND CONFORMING AMENDMENTS.—
11 The Homeland Security Act of 2002 is amended—

12 (1) in paragraph (2) of section 103(a) (6
13 U.S.C. 113(a)), by striking “Assistant Secretary for
14 Health Affairs, the Assistant Secretary for Legisla-
15 tive Affairs, or the Assistant Secretary for Public
16 Affairs,” and inserting “Assistant Secretary for Leg-
17 islative Affairs or the Assistant Secretary for Public
18 Affairs,”;

19 (2) in section 302 (6 U.S.C. 182)—

20 (A) by redesignating paragraphs (13) and
21 (14) as paragraphs (14) and (15), respectively;
22 and

23 (B) by inserting after paragraph (12) the
24 following new paragraph:

1 “(13) collaborating with the Assistant Secretary
2 for the Chemical, Biological, Radiological, Nuclear,
3 and Explosives Office on all activities related to
4 chemical, biological, and explosives research and de-
5 velopment activities;”;

6 (3) in subsection (b) of section 307 (6 U.S.C.
7 187), by adding at the end the following new para-
8 graph:

9 “(8) CBRNE RESEARCH AND DEVELOP-
10 MENT.—The Director shall coordinate with the As-
11 sistant Secretary for the Chemical, Biological, Radi-
12 ological, Nuclear, and Explosives Office on all activi-
13 ties related to chemical, biological, and explosives re-
14 search and development activities.”;

15 (4) in subsection (c) of section 516 (6 U.S.C.
16 321e)—

17 (A) in the matter preceding paragraph (1),
18 by inserting “, including the health impacts of
19 chemical, biological, radiological, and nuclear
20 agents and explosives” after “disasters”;

21 (B) by amending paragraph (2) to read as
22 follows:

23 “(2) coordinating the Department’s policy,
24 strategy, and preparedness for pandemics and
25 emerging infectious diseases;” and

1 (C) in paragraph (6) of section 516(c) (6
2 U.S.C. 321e(c)), by striking “Under Secretary
3 for Science and Technology” and inserting “As-
4 sistant Secretary for the Chemical, Biological,
5 Radiological, Nuclear, and Explosives Office”;
6 (5) by repealing section 1903 (6 U.S.C. 593);

7 and

8 (6) in section 1907 (6 U.S.C. 596a)—

9 (A) by striking “Annual” each place it ap-
10 pears and inserting “Biennial”;

11 (B) by striking “each year” each place it
12 appears and inserting “every two years”;

13 (C) by striking “previous year” each place
14 it appears and inserting “previous two years”;

15 and

16 (D) in subsection (b)—

17 (i) in paragraph (1), by inserting
18 “odd-numbered” after “each”; and

19 (ii) in paragraph (2), by striking “an-
20 nual” and inserting “biennial”.

21 **SEC. 3. SAVINGS PROVISION.**

22 Nothing in this Act or the amendments made by this
23 Act shall change the authority of the Administrator of the
24 Federal Emergency Management Agency to lead the emer-
25 gency management system of the United States.

1 **SEC. 4. CLERICAL AMENDMENTS.**

2 The table of contents in section 1(b) of the Homeland
 3 Security Act of 2002 is amended by adding at the end
 4 the following:

“TITLE XXII—CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR,
 AND EXPLOSIVES OFFICE

“Sec. 2201. CBRNE Office.

“Sec. 2202. Composition of the CBRNE Office.

“Sec. 2203. Hiring authority.

“Sec. 2204. Grants, cooperative agreements, and other transactions and con-
 tracts.

“Sec. 2205. Terrorism risk assessments.

“Sec. 2206. Chemical, biological, radiological, nuclear, and explosives intel-
 ligence and information sharing.”.

