

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.

S. 4465

To establish a Countering Weapons of Mass Destruction Office and an Office of Health Security in the Department of Homeland Security, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. PETERS (for himself and Mr.
PORTMAN)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE, TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Offices of Countering Weapons of Mass Destruction and
6 Health Security Act of 2022”.

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

Sec. 1. Short title, table of contents.

**TITLE I—COUNTERING WEAPONS OF MASS DESTRUCTION
OFFICE**

Sec. 101. Countering Weapons of Mass Destruction Office.

Sec. 102. Rule of construction.

TITLE II—OFFICE OF HEALTH SECURITY

Sec. 201. Office of Health Security.

Sec. 202. Medical countermeasures program.

Sec. 203. Confidentiality of medical quality assurance records.

Sec. 204. Portability of licensure.

Sec. 205. Technical and conforming amendments.

1 **TITLE I—COUNTERING WEAP-**
2 **ONS OF MASS DESTRUCTION**
3 **OFFICE**

4 **SEC. 101. COUNTERING WEAPONS OF MASS DESTRUCTION**
5 **OFFICE.**

6 (a) HOMELAND SECURITY ACT OF 2002.—Title XIX
7 of the Homeland Security Act of 2002 (6 U.S.C. 590 et
8 seq.) is amended—

9 (1) in section 1901 (6 U.S.C. 591)—

10 (A) in subsection (c), by amending para-
11 graphs (1) and (2) to read as follows:

12 “(1) matters and strategies pertaining to—

13 “(A) weapons of mass destruction; and

14 “(B) chemical, biological, radiological, nu-
15 clear, and other related emerging threats; and

16 “(2) coordinating the efforts of the Department
17 to counter—

18 “(A) weapons of mass destruction; and

19 “(B) chemical, biological, radiological, nu-
20 clear, and other related emerging threats.”; and

21 (B) by striking subsection (e);

1 (2) by amending section 1921 (6 U.S.C. 591g)
2 to read as follows:

3 **“SEC. 1921. MISSION OF THE OFFICE.**

4 “The Office shall be responsible for—

5 “(1) coordinating the efforts of the Department
6 to counter—

7 “(A) weapons of mass destruction; and

8 “(B) chemical, biological, radiological, nu-
9 clear, and other related emerging threats; and

10 “(2) enhancing the ability of Federal, State,
11 local, Tribal, and territorial partners to prevent, de-
12 tect, protect against, and mitigate the impacts of at-
13 tacks using—

14 “(A) weapons of mass destruction against
15 the United States; and

16 “(B) chemical, biological, radiological, nu-
17 clear, and other related emerging threats
18 against the United States.”;

19 (3) in section 1922 (6 U.S.C. 591h)—

20 (A) by striking subsection (b); and

21 (B) by redesignating subsection (c) as sub-
22 section (b);

23 (4) in section 1923 (6 U.S.C. 592)—

24 (A) by redesignating subsections (a) and

25 (b) as subsections (b) and (d), respectively;

1 (B) by inserting before subsection (b) the
2 following:

3 “(a) OFFICE RESPONSIBILITIES.—

4 “(1) IN GENERAL.—For the purposes of coordi-
5 nating the efforts of the Department to counter
6 weapons of mass destruction and chemical, biologi-
7 cal, radiological, nuclear, and other related emerging
8 threats, the Office shall—

9 “(A) provide expertise and guidance to De-
10 partment leadership and components on chem-
11 ical, biological, radiological, nuclear, and other
12 related emerging threats, subject to the re-
13 search, development, testing, and evaluation co-
14 ordination requirement described in subpara-
15 graph (G);

16 “(B) in coordination with the Office for
17 Strategy, Policy, and Plans, lead development
18 of policies and strategies to counter weapons of
19 mass destruction and chemical, biological, radi-
20 ological, nuclear, and other related emerging
21 threats on behalf of the Department;

22 “(C) identify, assess, and prioritize capa-
23 bility gaps relating to the strategic and mission
24 objectives of the Department for weapons of
25 mass destruction and chemical, biological, radi-

1 ological, nuclear, and other related emerging
2 threats;

3 “(D) in coordination with the Office of In-
4 telligence and Analysis, support components of
5 the Department, and Federal, State, local,
6 Tribal, and territorial partners, provide intel-
7 ligence and information analysis and reports on
8 weapons of mass destruction and chemical, bio-
9 logical, radiological, nuclear, and other related
10 emerging threats;

11 “(E) in consultation with the Science and
12 Technology Directorate, assess risk to the
13 United States from weapons of mass destruc-
14 tion and chemical, biological, radiological, nu-
15 clear, and other related emerging threats;

16 “(F) lead development and prioritization of
17 Department requirements to counter weapons
18 of mass destruction and chemical, biological, ra-
19 diological, nuclear, and other related emerging
20 threats, subject to the research, development,
21 testing, and evaluation coordination require-
22 ment described in subparagraph (G), which re-
23 quirements shall be—

24 “(i) developed in coordination with
25 end users; and

1 “(ii) reviewed by the Joint Require-
2 ments Council, as directed by the Sec-
3 retary;

4 “(G) in coordination with the Science and
5 Technology Directorate, direct, fund, and co-
6 ordinate capability development activities to
7 counter weapons of mass destruction and all
8 chemical, biological, radiological, nuclear, and
9 other related emerging threats research, devel-
10 opment, test, and evaluation matters, including
11 research, development, testing, and evaluation
12 expertise, threat characterization, technology
13 maturation, prototyping, and technology transi-
14 tion;

15 “(H) acquire, procure, and deploy counter
16 weapons of mass destruction capabilities, and
17 serve as the lead advisor of the Department on
18 component acquisition, procurement, and de-
19 ployment of counter-weapons of mass destruc-
20 tion capabilities;

21 “(I) in coordination with the Office of
22 Health Security, support components of the De-
23 partment, and Federal, State, local, Tribal, and
24 territorial partners on chemical, biological, radi-

1 ological, nuclear, and other related emerging
2 threats health matters;

3 “(J) provide expertise on weapons of mass
4 destruction and chemical, biological, radio-
5 logical, nuclear, and other related emerging
6 threats to Department and Federal partners to
7 support engagements and efforts with inter-
8 national partners subject to the research, devel-
9 opment, testing, and evaluation coordination re-
10 quirement under subparagraph (G); and

11 “(K) carry out any other duties assigned
12 to the Office by the Secretary.

13 “(2) DETECTION AND REPORTING.—For pur-
14 poses of the detection and reporting responsibilities
15 of the Office for weapons of mass destruction and
16 chemical, biological, radiological, nuclear, and other
17 related emerging threats, the Office shall—

18 “(A) in coordination with end users, in-
19 cluding State, local, Tribal, and territorial part-
20 ners, as appropriate—

21 “(i) carry out a program to test and
22 evaluate technology, in consultation with
23 the Science and Technology Directorate, to
24 detect and report on weapons of mass de-
25 struction and chemical, biological, radio-

1 logical, nuclear, and other related emerging
2 threats weapons or unauthorized material,
3 in coordination with other Federal agen-
4 cies, as appropriate, and establish perform-
5 ance metrics to evaluate the effectiveness
6 of individual detectors and detection sys-
7 tems in detecting those weapons or mate-
8 rial—

9 “(I) under realistic operational
10 and environmental conditions; and

11 “(II) against realistic adversary
12 tactics and countermeasures;

13 “(B) in coordination with end users, con-
14 duct, support, coordinate, and encourage a
15 transformational program of research and de-
16 velopment to generate and improve technologies
17 to detect, protect against, and report on the il-
18 licit entry, transport, assembly, or potential use
19 within the United States of weapons of mass
20 destruction and chemical, biological, radio-
21 logical, nuclear, and other related emerging
22 threats weapons or unauthorized material, and
23 coordinate with the Under Secretary for Science
24 and Technology on research and development
25 efforts relevant to the mission of the Office and

1 the Under Secretary for Science and Tech-
2 nology;

3 “(C) before carrying out operational test-
4 ing under subparagraph (A), develop a testing
5 and evaluation plan that articulates the require-
6 ments for the user and describes how these ca-
7 pability needs will be tested in developmental
8 test and evaluation and operational test and
9 evaluation;

10 “(D) as appropriate, develop, acquire, and
11 deploy equipment to detect and report on weap-
12 ons of mass destruction and chemical, biologi-
13 cal, radiological, nuclear, and other related
14 emerging threats weapons or unauthorized ma-
15 terial in support of Federal, State, local, Tribal,
16 and territorial governments;

17 “(E) support and enhance the effective
18 sharing and use of appropriate information on
19 weapons of mass destruction and chemical, bio-
20 logical, radiological, nuclear, and other related
21 emerging threats and related emerging issues
22 generated by elements of the intelligence com-
23 munity (as defined in section 3 of the National
24 Security Act of 1947 (50 U.S.C. 3003)), law
25 enforcement agencies, other Federal agencies,

1 State, local, Tribal, and territorial governments,
2 and foreign governments, as well as provide ap-
3 propriate information to those entities;

4 “(F) consult, as appropriate, with the Fed-
5 eral Emergency Management Agency and other
6 departmental components, on weapons of mass
7 destruction and chemical, biological, radio-
8 logical, nuclear, and other related emerging
9 threats and efforts to mitigate, prepare, and re-
10 spond to all threats in support of the State,
11 local, and Tribal communities; and

12 “(G) perform other duties as assigned by
13 the Secretary.”;

14 (C) in subsection (b), as so redesignated—

15 (i) in the subsection heading, by strik-
16 ing “MISSION” and inserting “RADIO-
17 LOGICAL AND NUCLEAR RESPONSIBIL-
18 ITIES”;

19 (ii) in paragraph (1)—

20 (I) by inserting “deploy,” after
21 “acquire,”; and

22 (II) by striking “deployment”
23 and inserting “operations”;

24 (iii) by striking paragraphs (6)
25 through (10);

1 (iv) redesignating paragraphs (11)
2 and (12) as paragraphs (6) and (7), re-
3 spectively;

4 (v) in paragraph (6)(B), as so redesi-
5 gated, by striking “national strategic five-
6 year plan referred to in paragraph (10)”
7 and inserting “United States national tech-
8 nical nuclear forensics strategic planning”;

9 (vi) in paragraph (7)(C)(v), as so re-
10 designated—

11 (I) in the matter preceding sub-
12 clause (I), by inserting “except as oth-
13 erwise provided,” before “require”;
14 and

15 (II) in subclause (II)—

16 (aa) in the matter preceding
17 item (aa), by striking “death or
18 disability” and inserting “death,
19 disability, or a finding of good
20 cause as determined by the As-
21 sistant Secretary (including ex-
22 treme hardship, extreme need, or
23 the needs of the Office) and for
24 which the Assistant Secretary

1 may grant a waiver of the repay-
2 ment obligation”; and

3 (bb) in item (bb), by adding
4 “and” at the end;

5 (vii) by striking paragraph (13); and

6 (viii) by redesignating paragraph (14)

7 as paragraph (8); and

8 (D) by inserting after subsection (b), as so
9 redesignated, the following:

10 “(c) CHEMICAL AND BIOLOGICAL RESPONSIBIL-
11 ITIES.—The Office—

12 “(1) shall be responsible for coordinating with
13 other Federal efforts to enhance the ability of Fed-
14 eral, State, local, and Tribal governments to prevent,
15 detect, protect against, and mitigate the impacts of
16 chemical and biological threats against the United
17 States; and

18 “(2) shall—

19 “(A) serve as a primary entity of the Fed-
20 eral Government to further develop, acquire, de-
21 ploy, and support the operations of a national
22 biosurveillance system in support of Federal,
23 State, local, Tribal, and territorial governments,
24 and improve that system over time;

1 “(B) enhance the chemical and biological
2 detection efforts of Federal, State, local, Tribal,
3 and territorial governments and provide guid-
4 ance, tools, and training to help ensure a man-
5 aged, coordinated response; and

6 “(C) collaborate with the Biomedical Ad-
7 vanced Research and Development Authority,
8 the Office of Health Security, the Defense Ad-
9 vanced Research Projects Agency, and the Na-
10 tional Aeronautics and Space Administration,
11 and other relevant Federal stakeholders, and
12 receive input from industry, academia, and the
13 national laboratories on chemical and biological
14 surveillance efforts.”;

15 (5) in section 1924 (6 U.S.C. 593), by striking
16 “section 11011 of the Strom Thurmond National
17 Defense Authorization Act for Fiscal Year 1999 (5
18 U.S.C. 3104 note).” and inserting “section 4092 of
19 title 10, United States Code, except that the author-
20 ity shall be limited to facilitate the recruitment of
21 experts in the chemical, biological, radiological, or
22 nuclear specialties.”;

23 (6) in section 1927(a)(1)(C) (6 U.S.C.
24 596a(a)(1)(C))—

1 (A) in clause (i), by striking “required
2 under section 1036 of the National Defense Au-
3 thorization Act for Fiscal Year 2010”;

4 (B) in clause (ii), by striking “and” at the
5 end;

6 (C) in clause (iii), by striking the period at
7 the end and inserting “; and”; and

8 (D) by adding at the end the following:

9 “(iv) includes any other information
10 regarding national technical nuclear
11 forensics activities carried out under sec-
12 tion 1923.”;

13 (7) in section 1928 (6 U.S.C. 596b)—

14 (A) in subsection (c)(1), by striking “from
15 among high-risk urban areas under section
16 2003” and inserting “based on the capability
17 and capacity of the jurisdiction, as well as the
18 relative threat, vulnerability, and consequences
19 from terrorist attacks and other high-con-
20 sequence events utilizing nuclear or other radio-
21 logical materials”; and

22 (B) by striking subsection (d) and insert-
23 ing the following:

24 “(d) REPORT.—Not later than 2 years after the date
25 of enactment of the Offices of Countering Weapons of

1 Mass Destruction and Health Security Act of 2022, the
2 Secretary shall submit to the appropriate congressional
3 committees an update on the STC program.”; and

4 (8) by adding at the end the following:

5 **“SEC. 1929. ACCOUNTABILITY.**

6 “(a) DEPARTMENTWIDE STRATEGY.—

7 “(1) IN GENERAL.—Not later than 180 days
8 after the date of enactment of Offices of Countering
9 Weapons of Mass Destruction and Health Security
10 Act of 2022, and every 4 years thereafter, the Sec-
11 retary shall create a Departmentwide strategy and
12 implementation plan to counter weapons of mass de-
13 struction and chemical, biological, radiological, nu-
14 clear, and other related emerging threats, which
15 should—

16 “(A) have clearly identified authorities,
17 specified roles, objectives, benchmarks, account-
18 ability, and timelines;

19 “(B) incorporate the perspectives of non-
20 Federal and private sector partners; and

21 “(C) articulate how the Department will
22 contribute to relevant national-level strategies
23 and work with other Federal agencies.

24 “(2) CONSIDERATION.—The Secretary shall ap-
25 propriately consider weapons of mass destruction

1 and chemical, biological, radiological, nuclear, and
2 other related emerging threats when creating the
3 strategy and implementation plan required under
4 paragraph (1).

5 “(3) REPORT.—The Office shall submit to the
6 appropriate congressional committees a report on
7 the updated Departmentwide strategy and imple-
8 mentation plan required under paragraph (1).

9 “(b) DEPARTMENTWIDE BIODEFENSE REVIEW AND
10 STRATEGY.—

11 “(1) IN GENERAL.—Not later than 180 days
12 after the date of enactment of the Offices of Coun-
13 tering Weapons of Mass Destruction and Health Se-
14 curity Act of 2022, the Secretary, in consultation
15 with appropriate stakeholders representing Federal,
16 State, Tribal, territorial, academic, private sector,
17 and nongovernmental entities, shall conduct a De-
18 partmentwide review of biodefense activities and
19 strategies.

20 “(2) REVIEW.—The review required under
21 paragraph (1) shall—

22 “(A) identify with specificity the biodefense
23 lines of effort of the Department, including re-
24 lating to biodefense roles, responsibilities, and

1 capabilities of components and offices of the
2 Department;

3 “(B) assess how such components and of-
4 fices coordinate internally and with public and
5 private partners in the biodefense enterprise;

6 “(C) identify any policy, resource, capa-
7 bility, or other gaps in the Department’s ability
8 to assess, prevent, protect against, and respond
9 to biological threats; and

10 “(D) identify any organizational changes
11 or reforms necessary for the Department to ef-
12 fectively execute its biodefense mission and role,
13 including with respect to public and private
14 partners in the biodefense enterprise.

15 “(3) STRATEGY.—Not later than 1 year after
16 completion of the review required under paragraph
17 (1), the Secretary shall issue a biodefense strategy
18 for the Department that—

19 “(A) is informed by such review and is
20 aligned with section 1086 of the National De-
21 fense Authorization Act for Fiscal Year 2017 (6
22 U.S.C. 104; relating to the development of a
23 national biodefense strategy and associated im-
24 plementation plan, including a review and as-
25 sessment of biodefense policies, practices, pro-

1 grams, and initiatives) or any successor strat-
2 egy; and

3 “(B) shall—

4 “(i) describe the biodefense mission
5 and role of the Department, as well as how
6 such relates to the biodefense lines of ef-
7 fort of the Department;

8 “(ii) clarify, as necessary, biodefense
9 roles, responsibilities, and capabilities of
10 the components and offices of the Depart-
11 ment involved in the biodefense lines of ef-
12 fort of the Department;

13 “(iii) establish how biodefense lines of
14 effort of the Department are to be coordi-
15 nated within the Department;

16 “(iv) establish how the Department
17 engages with public and private partners in
18 the biodefense enterprise, including other
19 Federal agencies, national laboratories and
20 sites, and State, local, Tribal, and terri-
21 torial entities, with specificity regarding
22 the frequency and nature of such engage-
23 ment by Department components and of-
24 fices with State, local, Tribal and terri-
25 torial entities; and

1 “(v) include information relating to—

2 “(I) milestones and performance
3 metrics that are specific to the bio-
4 defense mission and role of the De-
5 partment described in clause (i); and

6 “(II) implementation of any oper-
7 ational changes necessary to carry out
8 clauses (iii) and (iv).

9 “(4) PERIODIC UPDATE.—Beginning not later
10 than 5 years after the issuance of the strategy and
11 implementation plans required under paragraph (3),
12 and not less often than once every 5 years there-
13 after, the Secretary shall review and update, as nec-
14 essary, such strategy and plans.

15 “(5) CONGRESSIONAL OVERSIGHT.—Not later
16 than 30 days after the issuance of the biodefense
17 strategy and implementation plans for the Depart-
18 ment of Homeland Security required under para-
19 graph (3), the Secretary shall brief the Committee
20 on Homeland Security and Governmental Affairs of
21 the Senate and the Committee on Homeland Secu-
22 rity of the House of Representatives regarding such
23 strategy and plans.

24 “(c) EMPLOYEE MORALE.—Not later than 180 days
25 after the date of enactment of the Offices of Countering

1 Weapons of Mass Destruction and Health Security Act of
2 2022, the Office shall submit to and brief the appropriate
3 congressional committees on a strategy and plan to con-
4 tinuously improve morale within the Office.

5 “(d) COMPTROLLER GENERAL.—Not later than 1
6 year after the date of enactment of the Offices of Coun-
7 tering Weapons of Mass Destruction and Health Security
8 Act of 2022, the Comptroller General of the United States
9 shall conduct a review of and brief the appropriate con-
10 gressional committees on—

11 “(1) the efforts of the Office to prioritize the
12 programs and activities that carry out the mission of
13 the Office, including research and development;

14 “(2) the consistency and effectiveness of stake-
15 holder coordination across the mission of the De-
16 partment, including operational and support compo-
17 nents of the Department and State and local enti-
18 ties; and

19 “(3) the efforts of the Office to manage and co-
20 ordinate the lifecycle of research and development
21 within the Office and with other components of the
22 Department, including the Science and Technology
23 Directorate.

24 “(e) NATIONAL ACADEMIES OF SCIENCES, ENGI-
25 NEERING, AND MEDICINE.—

1 “(1) STUDY.—The Secretary shall enter into an
2 agreement with the National Academies of Sciences,
3 Engineering, and Medicine to conduct a consensus
4 study and report to the Secretary and the appro-
5 priate congressional committees on—

6 “(A) the role of the Department in pre-
7 paring, detecting, and responding to biological
8 and health security threats to the homeland;

9 “(B) recommendations to improve depart-
10 mental biosurveillance efforts against biological
11 threats, including any relevant biological detec-
12 tion methods and technologies; and

13 “(C) the feasibility of different techno-
14 logical advances for biodetection compared to
15 the cost, risk reduction, and timeliness of those
16 advances.

17 “(2) BRIEFING.—Not later than 1 year after
18 the date on which the Secretary receives the report
19 required under paragraph (1), the Secretary shall
20 brief the appropriate congressional committees on—

21 “(A) the implementation of the rec-
22 ommendations included in the report; and

23 “(B) the status of biological detection at
24 the Department, and, if applicable, timelines for

1 the transition from Biowatch to updated tech-
2 nology.

3 “(f) ADVISORY COUNCIL.—

4 “(1) ESTABLISHMENT.—Not later than 180
5 days after the date of enactment of the Offices of
6 Countering Weapons of Mass Destruction and
7 Health Security Act of 2022, the Secretary shall es-
8 tablish an advisory body to advise on the ongoing co-
9 ordination of the efforts of the Department to
10 counter weapons of mass destruction, to be known
11 as the Advisory Council for Countering Weapons of
12 Mass Destruction (in this subsection referred to as
13 the ‘Advisory Council’).

14 “(2) MEMBERSHIP.—The members of the Advi-
15 sory Council shall—

16 “(A) be appointed by the Assistant Sec-
17 retary; and

18 “(B) to the extent practicable, represent a
19 geographic (including urban and rural) and
20 substantive cross section of officials, from
21 State, local, and Tribal governments, academia,
22 the private sector, national laboratories, and
23 nongovernmental organizations, including, as
24 appropriate—

1 “(i) members selected from the emer-
2 gency management field and emergency re-
3 sponse providers;

4 “(ii) State, local, and Tribal govern-
5 ment officials;

6 “(iii) experts in the public and private
7 sectors with expertise in chemical, biologi-
8 cal, radiological, and nuclear agents and
9 weapons;

10 “(iv) representatives from the national
11 laboratories; and

12 “(v) such other individuals as the As-
13 sistant Secretary determines to be appro-
14 priate.

15 “(3) RESPONSIBILITIES.— The Advisory Coun-
16 cil shall—

17 “(A) advise the Assistant Secretary on all
18 aspects of countering weapons of mass destruc-
19 tion;

20 “(B) incorporate State, local, and Tribal
21 government, national laboratories, and private
22 sector input in the development of the strategy
23 and implementation plan of the Department for
24 countering weapons of mass destruction; and

1 “(C) establish performance criteria for a
2 national biological detection system and review
3 the testing protocol for biological detection pro-
4 totypes.

5 “(4) CONSULTATION.—To ensure input from
6 and coordination with State, local, and Tribal gov-
7 ernments, the Assistant Secretary shall regularly
8 consult and work with the Advisory Council on the
9 administration of Federal assistance provided by the
10 Department, including with respect to the develop-
11 ment of requirements for countering weapons of
12 mass destruction programs, as appropriate.

13 “(5) VOLUNTARY SERVICE.—The members of
14 the Advisory Council shall serve on the Advisory
15 Council on a voluntary basis.

16 “(6) FACA.—The Federal Advisory Committee
17 Act (5 U.S.C. App.) shall not apply to the Advisory
18 Council.”.

19 (b) COUNTERING WEAPONS OF MASS DESTRUCTION
20 ACT OF 2018.—Section 2 of the Countering Weapons of
21 Mass Destruction Act of 2018 (Public Law 115–387; 132
22 Stat. 5162) is amended—

23 (1) in subsection (b)(2) (6 U.S.C. 591 note), by
24 striking “1927” and inserting “1926”; and

25 (2) in subsection (g) (6 U.S.C. 591 note)—

1 (A) in the matter preceding paragraph (1),
2 by striking “one year after the date of the en-
3 actment of this Act, and annually thereafter,”
4 and inserting “June 30 of each year,”; and

5 (B) in paragraph (2), by striking “Secu-
6 rity, including research and development activi-
7 ties” and inserting “Security”.

8 (c) SECURITY AND ACCOUNTABILITY FOR EVERY
9 PORT ACT OF 2006.—The Security and Accountability for
10 Every Port Act of 2006 (6 U.S.C. 901 et seq.) is amend-
11 ed—

12 (1) in section 1(b) (Public Law 109–347; 120
13 Stat 1884), by striking the item relating to section
14 502; and

15 (2) by striking section 502 (6 U.S.C. 592a).

16 **SEC. 102. RULE OF CONSTRUCTION.**

17 Nothing in this title or the amendments made by this
18 title shall be construed to affect or diminish the authori-
19 ties or responsibilities of the Under Secretary for Science
20 and Technology.

21 **TITLE II—OFFICE OF HEALTH**
22 **SECURITY**

23 **SEC. 201. OFFICE OF HEALTH SECURITY.**

24 (a) ESTABLISHMENT.—The Homeland Security Act
25 of 2002 (6 U.S.C. 101 et seq.) is amended—

1 (1) in section 103 (6 U.S.C. 113)—

2 (A) in subsection (a)(2)—

3 (i) by striking “the Assistant Sec-
4 retary for Health Affairs,”; and

5 (ii) by striking “Affairs, or” and in-
6 serting “Affairs or”; and

7 (B) in subsection (d), by adding at the end
8 the following:

9 “(6) A Chief Medical Officer.”;

10 (2) by adding at the end the following:

11 **“TITLE XXIII—OFFICE OF**
12 **HEALTH SECURITY”;**

13 (3) by redesignating section 1931 (6 U.S.C.
14 597) as section 2301 and transferring such section
15 to appear after the heading for title XXIII, as added
16 by paragraph (2); and

17 (4) in section 2301, as so redesignated—

18 (A) in the section heading, by striking
19 **“CHIEF MEDICAL OFFICER”** and inserting
20 **“OFFICE OF HEALTH SECURITY”;**

21 (B) by striking subsections (a) and (b) and
22 inserting the following:

23 “(a) IN GENERAL.—There is established in the De-
24 partment an Office of Health Security.

1 “(b) HEAD OF OFFICE OF HEALTH SECURITY.—The
2 Office of Health Security shall be headed by a chief med-
3 ical officer, who shall—

4 “(1) be the Assistant Secretary for Health Se-
5 curity and the Chief Medical Officer of the Depart-
6 ment;

7 “(2) be a licensed physician possessing a dem-
8 onstrated ability in and knowledge of medicine and
9 public health;

10 “(3) be appointed by the President; and

11 “(4) report directly to the Secretary.”;

12 (C) in subsection (c)—

13 (i) in the matter preceding paragraph
14 (1), by striking “medical issues related to
15 natural disasters, acts of terrorism, and
16 other man-made disasters” and inserting
17 “oversight of all medical, public health,
18 and workforce health and safety matters of
19 the Department”;

20 (ii) in paragraph (1), by striking “,
21 the Administrator of the Federal Emer-
22 gency Management Agency, the Assistant
23 Secretary, and other Department officials”
24 and inserting “and all other Department
25 officials”;

1 (iii) in paragraph (4), by striking
2 “and” at the end;

3 (iv) by redesignating paragraph (5) as
4 paragraph (12); and

5 (v) by inserting after paragraph (4)
6 the following:

7 “(5) overseeing all medical and public health
8 activities of the Department, including the delivery,
9 advisement, and oversight of direct patient care and
10 the organization, management, and staffing of com-
11 ponent operations that deliver direct patient care;

12 “(6) advising the head of each component of
13 the Department that delivers direct patient care re-
14 garding the recruitment and appointment of a com-
15 ponent chief medical officer and deputy chief med-
16 ical officer or the employee who functions in the ca-
17 pacity of chief medical officer and deputy chief med-
18 ical officer;

19 “(7) advising the Secretary and the head of
20 each component of the Department that delivers di-
21 rect patient care regarding knowledge and skill
22 standards for medical personnel and the assessment
23 of that knowledge and skill;

24 “(8) advising the Secretary and the head of
25 each component of the Department that delivers pa-

1 tient care regarding the collection, storage, and over-
2 sight of medical records;

3 “(9) with respect to any psychological health
4 counseling or assistance program of the Department,
5 including such a program of a law enforcement,
6 operational, or support component of the Depart-
7 ment, advising the head of each such component
8 with such a program regarding—

9 “(A) ensuring such program includes safe-
10 guards against adverse action, including auto-
11 matic referrals for a fitness for duty examina-
12 tion, by such component with respect to any
13 employee solely because such employee self-
14 identifies a need for psychological health coun-
15 seling or assistance or receives such counseling
16 or assistance;

17 “(B) increasing the availability and num-
18 ber of local psychological health professionals
19 with experience providing psychological support
20 services to personnel;

21 “(C) establishing a behavioral health cur-
22 riculum for employees at the beginning of their
23 careers to provide resources early regarding the
24 importance of psychological health;

1 “(D) establishing periodic management
2 training on crisis intervention and such compo-
3 nent’s psychological health counseling or assist-
4 ance program;

5 “(E) improving any associated existing em-
6 ployee peer support programs, including by
7 making additional training and resources avail-
8 able for peer support personnel in the work-
9 place across such component;

10 “(F) developing and implementing a vol-
11 untary alcohol treatment program that includes
12 a safe harbor for employees who seek treat-
13 ment;

14 “(G) including, when appropriate, collabo-
15 rating and partnering with key employee stake-
16 holders and, for those components with employ-
17 ees with an exclusive representative, the exclu-
18 sive representative with respect to such a pro-
19 gram;

20 “(10) in consultation with the Chief Informa-
21 tion Officer of the Department—

22 “(A) identifying methods and technologies
23 for managing, updating, and overseeing patient
24 records; and

1 “(B) setting standards for technology used
2 by the components of the Department regarding
3 the collection, storage, and oversight of medical
4 records;

5 “(11) advising the Secretary and the head of
6 each component of the Department that delivers di-
7 rect patient care regarding contracts for the delivery
8 of direct patient care, other medical services, and
9 medical supplies;

10 “(12) coordinating with the Countering Weap-
11 ons of Mass Destruction Office and other compo-
12 nents of the Department as directed by the Sec-
13 retary to enhance the ability of Federal, State, local,
14 Tribal, and territorial governments to prevent, de-
15 tect, protect against, and mitigate the health effects
16 of chemical, biological, radiological, and nuclear
17 issues; and”;

18 (D) by adding at the end the following:

19 “(d) ASSISTANCE AND AGREEMENTS.—The Sec-
20 retary, acting through the Chief Medical Officer, in sup-
21 port of the medical and public health activities of the De-
22 partment, may—

23 “(1) provide technical assistance, training, and
24 information and distribute funds through grants and
25 cooperative agreements to State, local, Tribal, and

1 territorial governments and nongovernmental organi-
2 zations;

3 “(2) enter into other transactions;

4 “(3) enter into agreements with other Federal
5 agencies; and

6 “(4) accept services from personnel of compo-
7 nents of the Department and other Federal agencies
8 on a reimbursable or nonreimbursable basis.

9 “(e) OFFICE OF HEALTH SECURITY PRIVACY OFFI-
10 CER.—There shall be a Privacy Officer in the Office of
11 Health Security with primary responsibility for privacy
12 policy and compliance within the Office, who shall—

13 “(1) report directly to the Chief Medical Offi-
14 cer; and

15 “(2) ensure privacy protections are integrated
16 into all Office of Health Security activities, subject
17 to the review and approval of the Privacy Officer of
18 the Department to the extent consistent with the au-
19 thority of the Privacy Officer of the Department
20 under section 222.

21 “(f) ACCOUNTABILITY.—

22 “(1) STRATEGY AND IMPLEMENTATION
23 PLAN.—Not later than 180 days after the date of
24 enactment of this section, and every 4 years there-
25 after, the Secretary shall create a Departmentwide

1 strategy and implementation plan to address health
2 threats.

3 “(2) BRIEFING.—Not later than 90 days after
4 the date of enactment of this section, the Secretary
5 shall brief the appropriate congressional committees
6 on the organizational transformations of the Office
7 of Health Security, including how best practices
8 were used in the creation of the Office of Health Se-
9 curity.”;

10 (5) by redesignating section 710 (6 U.S.C. 350)
11 as section 2302 and transferring such section to ap-
12 pear after section 2301, as so redesignated;

13 (6) in section 2302, as so redesignated—

14 (A) in the section heading, by striking
15 “**MEDICAL SUPPORT**” and inserting “**SAFE-**
16 **TY**”;

17 (B) in subsection (a), by striking “Under
18 Secretary for Management” each place that
19 term appears and inserting “Chief Medical Offi-
20 cer”;

21 (C) in subsection (b)—

22 (i) in the matter preceding paragraph
23 (1), by striking “Under Secretary for Man-
24 agement, in coordination with the Chief

1 Medical Officer,” and inserting “Chief
2 Medical Officer”; and

3 (ii) in paragraph (3), by striking “as
4 deemed appropriate by the Under Sec-
5 retary,”;

6 (7) by redesignating section 528 (6 U.S.C.
7 321q) as section 2303 and transferring such section
8 to appear after section 2302, as so redesignated; and
9 (8) in section 2303(a), as so redesignated, by
10 striking “Assistant Secretary for the Countering
11 Weapons of Mass Destruction Office” and inserting
12 “Chief Medical Officer”.

13 (b) TRANSITION AND TRANSFERS.—

14 (1) TRANSITION.—The individual appointed
15 pursuant to section 1931 of the Homeland Security
16 Act of 2002 (6 U.S.C. 597) of the Department of
17 Homeland Security, as in effect on the day before
18 the date of enactment of this Act, and serving as the
19 Chief Medical Officer of the Department of Home-
20 land Security on the day before the date of enact-
21 ment of this Act, shall continue to serve as the Chief
22 Medical Officer of the Department on and after the
23 date of enactment of this Act without the need for
24 reappointment.

1 (2) RULE OF CONSTRUCTION.—The rule of con-
2 struction described in section 2(hh) of the Presi-
3 dential Appointment Efficiency and Streamlining
4 Act of 2011 (5 U.S.C. 3132 note) shall not apply to
5 the Chief Medical Officer of the Department of
6 Homeland Security, including the incumbent who
7 holds the position on the day before the date of en-
8 actment of this Act, and such officer shall be paid
9 pursuant to section 3132(a)(2) or 5315 of title 5,
10 United States Code.

11 (3) TRANSFER.—The Secretary of Homeland
12 Security shall transfer to the Chief Medical Officer
13 of the Department of Homeland Security—

14 (A) all functions, personnel, budget author-
15 ity, and assets of the Under Secretary for Man-
16 agement relating to workforce health and safe-
17 ty, as in existence on the day before the date
18 of enactment of this Act;

19 (B) all functions, personnel, budget au-
20 thority, and assets of the Assistant Secretary
21 for the Countering Weapons of Mass Destruc-
22 tion Office relating to the Chief Medical Officer,
23 including the Medical Operations Directorate of
24 the Countering Weapons of Mass Destruction

1 Office, as in existence on the day before the
2 date of enactment of this Act; and

3 (C) all functions, personnel, budget author-
4 ity, and assets of the Assistant Secretary for
5 the Countering Weapons of Mass Destruction
6 Office associated with the efforts pertaining to
7 the program coordination activities relating to
8 defending the food, agriculture, and veterinary
9 defenses of the Office, as in existence on the
10 day before the date of enactment of this Act.

11 **SEC. 202. MEDICAL COUNTERMEASURES PROGRAM.**

12 The Homeland Security Act of 2002 (6 U.S.C. 101
13 et seq.) is amended by redesignating section 1932 (6
14 U.S.C. 597a) as section 2304 and transferring such sec-
15 tion to appear after section 2303, as so redesignated by
16 section 201 of this Act.

17 **SEC. 203. CONFIDENTIALITY OF MEDICAL QUALITY ASSUR-**
18 **ANCE RECORDS.**

19 Title XXIII of the Homeland Security Act of 2002,
20 as added by this Act, is amended by adding at the end
21 the following:

22 **“SEC. 2305. CONFIDENTIALITY OF MEDICAL QUALITY AS-**
23 **SURANCE RECORDS.**

24 “(a) DEFINITIONS.—In this section:

1 “(1) HEALTH CARE PROVIDER.—The term
2 ‘health care provider’ means an individual who—

3 “(A) is—

4 “(i) an employee of the Department;

5 “(ii) a detailee to the Department
6 from another Federal agency;

7 “(iii) a personal services contractor of
8 the Department; or

9 “(iv) hired under a contract for serv-
10 ices;

11 “(B) performs health care services as part
12 of duties of the individual in that capacity; and

13 “(C) has a current, valid, and unrestricted
14 license or certification—

15 “(i) that is issued by a State, the Dis-
16 trict of Columbia, or a commonwealth, ter-
17 ritory, or possession of the United States;
18 and

19 “(ii) that is for the practice of medi-
20 cine, osteopathic medicine, dentistry, nurs-
21 ing, emergency medical services, or another
22 health profession.

23 “(2) MEDICAL QUALITY ASSURANCE PRO-
24 GRAM.—The term ‘medical quality assurance pro-
25 gram’ means any activity carried out by the Depart-

1 ment to assess the quality of medical care, including
2 activities conducted by individuals, committees, or
3 other review bodies responsible for quality assurance,
4 credentials, infection control, incident reporting, the
5 delivery, advisement, and oversight of direct patient
6 care and assessment (including treatment proce-
7 dures, blood, drugs, and therapeutics), medical
8 records, health resources management review, and
9 identification and prevention of medical, mental
10 health, or dental incidents and risks.

11 “(3) MEDICAL QUALITY ASSURANCE RECORD
12 OF THE DEPARTMENT.—The term ‘medical quality
13 assurance record of the Department’ means all in-
14 formation, including the proceedings, records (in-
15 cluding patient records that the Department creates
16 and maintains as part of a system of records), min-
17 utes, and reports that—

18 “(A) emanate from quality assurance pro-
19 gram activities described in paragraph (2); and

20 “(B) are produced or compiled by the De-
21 partment as part of a medical quality assurance
22 program.

23 “(b) CONFIDENTIALITY OF RECORDS.—A medical
24 quality assurance record of the Department that is created
25 as part of a medical quality assurance program—

1 “(1) is confidential and privileged; and

2 “(2) except as provided in subsection (d), may
3 not be disclosed to any person or entity.

4 “(c) PROHIBITION ON DISCLOSURE AND TESTI-
5 MONY.—Except as otherwise provided in this section—

6 “(1) no part of any medical quality assurance
7 record of the Department may be subject to dis-
8 covery or admitted into evidence in any judicial or
9 administrative proceeding; and

10 “(2) an individual who reviews or creates a
11 medical quality assurance record of the Department
12 or who participates in any proceeding that reviews
13 or creates a medical quality assurance record of the
14 Department may not be permitted or required to
15 testify in any judicial or administrative proceeding
16 with respect to the record or with respect to any
17 finding, recommendation, evaluation, opinion, or ac-
18 tion taken by that individual in connection with the
19 record.

20 “(d) AUTHORIZED DISCLOSURE AND TESTIMONY.—

21 “(1) IN GENERAL.—Subject to paragraph (2), a
22 medical quality assurance record of the Department
23 may be disclosed, and a person described in sub-
24 section (c)(2) may give testimony in connection with
25 the record, only as follows:

1 “(A) To a Federal agency or private orga-
2 nization, if the medical quality assurance record
3 of the Department or testimony is needed by
4 the Federal agency or private organization to—

5 “(i) perform licensing or accreditation
6 functions related to Department health
7 care facilities, a facility affiliated with the
8 Department, or any other location author-
9 ized by the Secretary for the performance
10 of health care services; or

11 “(ii) perform monitoring, required by
12 law, of Department health care facilities, a
13 facility affiliated with the Department, or
14 any other location authorized by the Sec-
15 retary for the performance of health care
16 services.

17 “(B) To an administrative or judicial pro-
18 ceeding concerning an adverse action related to
19 the credentialing of or health care provided by
20 a present or former health care provider by the
21 Department.

22 “(C) To a governmental board or agency
23 or to a professional health care society or orga-
24 nization, if the medical quality assurance record
25 of the Department or testimony is needed by

1 the board, agency, society, or organization to
2 perform licensing, credentialing, or the moni-
3 toring of professional standards with respect to
4 any health care provider who is or was a health
5 care provider for the Department.

6 “(D) To a hospital, medical center, or
7 other institution that provides health care serv-
8 ices, if the medical quality assurance record of
9 the Department or testimony is needed by the
10 institution to assess the professional qualifica-
11 tions of any health care provider who is or was
12 a health care provider for the Department and
13 who has applied for or been granted authority
14 or employment to provide health care services
15 in or on behalf of the institution.

16 “(E) To an employee, a detailee, or a con-
17 tractor of the Department who has a need for
18 the medical quality assurance record of the De-
19 partment or testimony to perform official duties
20 or duties within the scope of their contract.

21 “(F) To a criminal or civil law enforce-
22 ment agency or instrumentality charged under
23 applicable law with the protection of the public
24 health or safety, if a qualified representative of
25 the agency or instrumentality makes a written

1 request that the medical quality assurance
2 record of the Department or testimony be pro-
3 vided for a purpose authorized by law.

4 “(G) In an administrative or judicial pro-
5 ceeding commenced by a criminal or civil law
6 enforcement agency or instrumentality de-
7 scribed in subparagraph (F), but only with re-
8 spect to the subject of the proceeding.

9 “(2) PERSONALLY IDENTIFIABLE INFORMA-
10 TION.—

11 “(A) IN GENERAL.—With the exception of
12 the subject of a quality assurance action, per-
13 sonally identifiable information of any person
14 receiving health care services from the Depart-
15 ment or of any other person associated with the
16 Department for purposes of a medical quality
17 assurance program that is disclosed in a med-
18 ical quality assurance record of the Department
19 shall be deleted from that record before any dis-
20 closure of the record is made outside the De-
21 partment.

22 “(B) APPLICATION.—The requirement
23 under subparagraph (A) shall not apply to the
24 release of information that is permissible under
25 section 552a of title 5, United States Code

1 (commonly known as the ‘Privacy Act of
2 1974’).

3 “(e) DISCLOSURE FOR CERTAIN PURPOSES.—Noth-
4 ing in this section shall be construed—

5 “(1) to authorize or require the withholding
6 from any person or entity aggregate statistical infor-
7 mation regarding the results of medical quality as-
8 surance programs; or

9 “(2) to authorize the withholding of any med-
10 ical quality assurance record of the Department
11 from a committee of either House of Congress, any
12 joint committee of Congress, or the Comptroller
13 General of the United States if the record pertains
14 to any matter within their respective jurisdictions.

15 “(f) PROHIBITION ON DISCLOSURE OF INFORMA-
16 TION, RECORD, OR TESTIMONY.—A person or entity hav-
17 ing possession of or access to a medical quality assurance
18 record of the Department or testimony described in this
19 section may not disclose the contents of the record or testi-
20 mony in any manner or for any purpose except as provided
21 in this section.

22 “(g) EXEMPTION FROM FREEDOM OF INFORMATION
23 ACT.—A medical quality assurance record of the Depart-
24 ment shall be exempt from disclosure under section

1 552(b)(3) of title 5, United States Code (commonly known
2 as the ‘Freedom of Information Act’).

3 “(h) LIMITATION ON CIVIL LIABILITY.—A person
4 who participates in the review or creation of, or provides
5 information to a person or body that reviews or creates,
6 a medical quality assurance record of the Department
7 shall not be civilly liable for that participation or for pro-
8 viding that information if the participation or provision
9 of information was provided in good faith based on pre-
10 vailing professional standards at the time the medical
11 quality assurance program activity took place.

12 “(i) APPLICATION TO INFORMATION IN CERTAIN
13 OTHER RECORDS.—Nothing in this section shall be con-
14 strued as limiting access to the information in a record
15 created and maintained outside a medical quality assur-
16 ance program, including the medical record of a patient,
17 on the grounds that the information was presented during
18 meetings of a review body that are part of a medical qual-
19 ity assurance program.

20 “(j) PENALTY.—Any person who willfully discloses a
21 medical quality assurance record of the Department other
22 than as provided in this section, knowing that the record
23 is a medical quality assurance record of the Department
24 shall be fined not more than \$3,000 in the case of a first

1 offense and not more than \$20,000 in the case of a subse-
2 quent offense.

3 “(k) RELATIONSHIP TO COAST GUARD.—The re-
4 quirements of this section shall not apply to any medical
5 quality assurance record of the Department that is created
6 by or for the Coast Guard as part of a medical quality
7 assurance program.”.

8 **SEC. 204. PORTABILITY OF LICENSURE.**

9 (a) TRANSFER.—Section 16005 of the CARES Act
10 (6 U.S.C. 320 note) is redesignated as section 2306 of
11 the Homeland Security Act of 2002 and transferred so
12 as to appear after section 2305, as added by section 203
13 of this Act.

14 (b) REPEAL.—Section 2306 of the Homeland Secu-
15 rity Act of 2002, as so redesignated by subsection (a), is
16 amended by striking subsection (c).

17 **SEC. 205. TECHNICAL AND CONFORMING AMENDMENTS.**

18 The Homeland Security Act of 2002 (6 U.S.C. 101
19 et seq.) is amended—

20 (1) in the table of contents in section 1(b)
21 (Public Law 107–296; 116 Stat. 2135)—

22 (A) by striking the items relating to sec-
23 tions 528 and 529 and inserting the following:

“Sec. 528. Transfer of equipment during a public health emergency.”;

1 (B) by striking the items relating to sec-
2 tions 710, 711, 712, and 713 and inserting the
3 following:

“Sec. 710. Employee engagement.

“Sec. 711. Annual employee award program.

“Sec. 712. Acquisition professional career program.”;

4 (C) by inserting after the item relating to
5 section 1928 the following:

“Sec. 1929. Accountability.”;

6 (D) by striking the items relating to sub-
7 title C of title XIX and sections 1931 and
8 1932; and

9 (E) by adding at the end the following:

“TITLE XXIII—OFFICE OF HEALTH SECURITY

“Sec. 2301. Office of Health Security.

“Sec. 2302. Workforce health and safety.

“Sec. 2303. Coordination of Department of Homeland Security efforts related
to food, agriculture, and veterinary defense against terrorism.

“Sec. 2304. Medical countermeasures program.

“Sec. 2305. Confidentiality of medical quality assurance records.

“Sec. 2306. Portability of licensure.”;

10 (2) by redesignating section 529 (6 U.S.C.
11 321r) as section 528;

12 (3) in section 704(e)(4) (6 U.S.C. 344(e)(4)),
13 by striking “section 711(a)” and inserting “section
14 710(a)”;

15 (4) by redesignating sections 711, 712, and 713
16 as sections 710, 711, and 712, respectively;

17 (5) in section 1923(b)(3) (6 U.S.C.
18 592(b)(3))—

1 (A) in the paragraph heading, by striking
2 “HAWAIIAN NATIVE-SERVING” and inserting
3 “NATIVE HAWAIIAN-SERVING”; and

4 (B) by striking “Hawaiian native-serving”
5 and inserting “Native Hawaiian-serving”;

6 (6) by striking the subtitle heading for subtitle
7 C of title XIX;

8 (7) by striking section 1932 (6 U.S.C. 597a);
9 and

10 (8) in section 2306, as so redesignated by sec-
11 tion 204 of this Act—

12 (A) by inserting “**PORTABILITY OF LI-**
13 **CENSURE.**” after “2306.”; and

14 (B) in subsection (a), by striking “(a) Not-
15 withstanding” and inserting the following:

16 “(a) IN GENERAL.—Notwithstanding”.