AMENDMENT IN THE NATURE OF A SUBSTITUTE 
TO H.R. 8610 
OFFERED BY MRS. DEMINGS OF FLORIDA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) Short Title.—This Act may be cited as the “Health Security and Countering Weapons of Mass Destruction Act”.

3 (b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—OFFICE OF HEALTH SECURITY


TITLE II—COUNTERING WEAPONS OF MASS DESTRUCTION OFFICE

Sec. 201. Technical corrections; Countering Weapons of Mass Destruction Advisory Committee; departmental biodefense strategy.


Sec. 203. Sunset repealed.

Sec. 204. Comptroller General review.

7 TITLE I—OFFICE OF HEALTH SECURITY

8 SEC. 101. OFFICE OF HEALTH SECURITY.

9 (a) Establishment.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—
(1) in section 103 (6 U.S.C. 113)—

(A) in subsection (a)(2), by striking “Assistant Secretary for Health Affairs, the Assistant Secretary for Legislative Affairs,” and inserting “Assistant Secretary for Legislative Affairs”; and

(B) in subsection (d), by adding at the end the following new paragraph:

“(6) A Chief Medical Officer.”;

(2) by adding at the end the following new title:

“TITLE XXIII—OFFICE OF HEALTH SECURITY”;

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

(4) in section 2301, as so redesignated and transferred—

(A) by amending the section heading to read as follows: “OFFICE OF HEALTH SECURITY”;

(B) by amending subsection (a) to read as follows:

“(a) IN GENERAL.—There is in the Department an Office of Health Security.”;
(C) by amending subsection (b) to read as follows:

“(b) HEAD OF OFFICE OF HEALTH SECURITY.—

“(1) IN GENERAL.—The Office of Health Security shall be headed by a Chief Medical Officer (in this title referred to as the ‘Chief Medical Officer’), who shall be at the level of Assistant Secretary within the Department.

“(2) QUALIFICATIONS; DUTIES.—The Chief Medical Officer shall—

“(A) be appointed by the President pursuant to section 103(d);

“(B) be a licensed physician possessing a demonstrated ability in and knowledge of medicine and public health; and

“(C) report directly to the Secretary.”;

(D) in subsection (c)—

(i) in the matter preceding paragraph (1), by striking “medical issues related to natural disasters, acts of terrorism, and other man-made disasters, including—” and inserting “medical, public health, and workforce health and safety matters, including issues related to—”;}
(ii) in paragraph (1), by striking “the Secretary, the Administrator of the Federal Emergency Management Agency, the Assistant Secretary, and other Department officials” and inserting “the Secretary and all other Department officials”;

(iii) in paragraph (4), by striking “and” after the semicolon;

(iv) by redesignating paragraph (5) as paragraph (10); and

(v) by inserting after paragraph (4) the following new paragraphs:

“(5) delivering, advising, and supporting—

“(A) direct patient care; and

“(B) the organization, management, and staffing of component operations that deliver direct patient care;

“(6) advising the Secretary and the head of each component of the Department that delivers direct patient care regarding—

“(A) knowledge and skill standards for medical personnel and the assessment of such knowledge and skill;

“(B) the collection, storage, and oversight of medical records; and
“(C) contracts for the delivery of direct patient care, other medical services, and medical supplies;

“(7) advising the head of each component of the Department that delivers direct patient care regarding the recruitment and appointment of a component chief medical officer, or, as the case may be, the employee who functions in the capacity of a component chief medical officer;

“(8) with respect to any psychological health counseling or assistance program of the Department, including such a program of a law enforcement, operational, or support component of the Department, advising the head of each such component with such a program regarding—

“(A) ensuring such program includes safeguards against adverse action, including automatic referrals for a fitness for duty examination, by such component with respect to any employee solely because such employee self-identifies a need for psychological health counseling or assistance or receives such counseling or assistance;

“(B) increasing the availability and number of local psychological health professionals
with experience providing psychological support services to personnel;

“(C) establishing a behavioral health curriculum for employees at the beginning of their careers to provide resources early regarding the importance of psychological health;

“(D) establishing periodic management training on crisis intervention and such component’s psychological health counseling or assistance program;

“(E) improving any associated existing employee peer support programs, including by making additional training and resources available for peer support personnel in the workplace across such component;

“(F) developing and implementing a voluntary alcohol treatment program that includes a safe harbor for employees who seek treatment;

“(G) prioritizing, as appropriate, expertise in the provision of psychological health counseling and assistance for certain populations of the workforce, such as employees serving in positions within law enforcement, to help improve
outcomes for such employees receiving such
counseling or assistance; and
“(H) including collaborating and
partnering with key employee stakeholders and,
for those components with employees with an
exclusive representative, the exclusive represent-
ative with respect to such a program;
“(9) in consultation with the Chief Information
Officer of the Department—
“(A) identifying methods and technologies
for managing, updating, and overseeing patient
records; and
“(B) setting standards for technology used
by components of the Department regarding the
collection, storage, and oversight of medical
records; and”; and
(E) by adding at the end the following new
subsections:
“(d) ASSISTANCE AND AGREEMENTS.—In further-
ance of this section, the Chief Medical Officer, at the di-
rection of the Secretary, may—
“(1) provide technical assistance, training, in-
formation, and distribute funds through grants and
cooperative agreements to State, local, Tribal, and
territorial governments, and nongovernmental organizations;

“(2) enter into agreements with appropriate Federal departments and other executive agencies; and

“(3) accept services from personnel of components of the Department and appropriate Federal departments and other executive agencies on a reimbursable or nonreimbursable basis.

“(e) Office of Health Security Privacy Officer.—

“(1) IN GENERAL.—There shall be a Privacy Officer of the Office of Health Security, designated by the Chief Medical Officer in consultation with the Privacy Officer of the Department, with primary responsibility for privacy policy and compliance within the Office and with respect to the carrying out of responsibilities described in subsection (c).

“(2) DUTIES.—The Privacy Officer of the Office of Health Security shall—

“(A) report directly to the Chief Medical Officer;

“(B) coordinate with and, as requested, support the activities of the Privacy Officer appointed under section 222; and
“(C) ensure privacy protections are integrated into all activities of the Office of Health Security, subject to the review and approval of the Privacy Officer of the Department.

“(f) ANNUAL REPORT.—Not later than one year after the date of the enactment of this subsection and annually thereafter, the Chief Medical Officer shall submit to Congress a report on the activities of the Office of Health Security for the immediately preceding year.”;

(5) by redesignating section 710 (6 U.S.C. 350) as section 2302 and transferring such section to appear after section 2301;

(6) in section 2302, as so redesignated and transferred—

(A) in subsection (a), by striking “Under Secretary of Management” each place such term appears and inserting “Chief Medical Officer”; and

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking “Under Secretary for Management, in coordination with the Chief Medical Officer,” and inserting “Chief Medical Officer”; and
(ii) in paragraph (3), by striking “as deemed appropriate by the Under Secretary,”;

(7) by redesignating section 528 (6 U.S.C. 321q) as section 2303 and transferring such section to appear after section 2302; and

(8) in subsection (a) of section 2303, as so redesigned and transferred, by striking “Assistant Secretary for the Countering Weapons of Mass Destruction Office” and inserting “Chief Medical Officer”.

(b) MEDICAL COUNTERMEASURES PROGRAM.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by redesignating section 1932 (6 U.S.C. 597a) as section 2304 and transferring such section, as so redesignated, to appear after section 2303 of title XXIII.

(c) TRANSITION AND TRANSFERS.—

(1) IN GENERAL.—The individual appointed pursuant to section 1931(a) of the Homeland Security Act of 2002 (6 U.S.C. 597) (as such section appeared on the day before the date of the enactment of this Act) of the Department of Homeland Security and serving as the Chief Medical Officer of the Department of Homeland Security on the day before such date of enactment, shall continue to serve as
the Chief Medical Officer of the Department after such date without the need for reappointment.

(2) Saving Clause.—The rule of construction set forth in section 2(hh) of the Presidential Appointment Efficiency and Streamlining Act of 2011 (Public Law 112–166, 5 U.S.C. 3132 note) shall not apply to the Chief Medical Officer of the Department of Homeland Security (including the incumbent who holds the position on the day before the date of the enactment of this Act), and such officer shall be a Senior Executive Service position (as that term is defined in section 3132(a) of title 5, United States Code) and receive the rate of basic pay for level IV of the Executive Schedule (in accordance with section 5315 of such title).

(3) Transfer.—The Secretary of Homeland Security shall transfer to the Chief Medical Officer all functions, personnel, budget authority, and assets of—

(A) the Under Secretary for Management, relating to workforce health and medical support;

(B) the Assistant Secretary for the Countering Weapons of Mass Destruction Office, relating to the Chief Medical Officer (including
the Medical Operations Directorate of the Countering Weapons of Mass Destruction Office; and

(C) the Assistant Secretary for the Countering Weapons of Mass Destruction Office, with respect to food, agriculture, and veterinary defense programs of such Office, as in existence on the day before the date of the enactment of this Act.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

The Homeland Security Act of 2002 is amended—

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

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

(3) by redesignating sections 711 (6 U.S.C. 351), 712 (6 U.S.C. 352), and 713 (6 U.S.C. 353) as sections 710, 711, and 712, respectively; and

(4) in title XIX, by striking the enumerator and heading of subtitle C.

(e) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended—
(1) by striking the item relating to section 528
(as in existence on the day before the date of the en-
actment of this Act);

(2) by redesignating the item relating to section
529 as the item relating to section 528;

(3) by striking the item relating to section 710
(as in existence on the day before the date of the en-
actment of this Act);

(4) by redesignating the items relating to sec-
tions 711, 712, and 713 as the items relating to sec-
tions 710, 711, and 712, respectively;

(5) by inserting after the item relating to sec-
tion 1900 the following new item:

"Sec. 1900A. Rule of construction."

(6) by inserting after the item relating to sec-
tion 1928 the following new item:

"Sec. 1929. Countering Weapons of Mass Destruction Advisory Committee."

(7) by striking the items relating to subtitle C
of title XIX (as in existence on the day before the
date of the enactment of this Act); and

(8) by adding at the end the following new
items:

"TITLE XXIII—OFFICE OF HEALTH SECURITY

"Sec. 2302. Workforce health and medical support.
"Sec. 2303. Coordination of Department of Homeland Security efforts related to food, agriculture, and veterinary defense against terrorism.
"Sec. 2304. Medical countermeasures."
TITLE II—COUNTERING WEAPONS OF MASS DESTRUCTION OFFICE

SEC. 201. TECHNICAL CORRECTIONS; COUNTERING WEAPONS OF MASS DESTRUCTION ADVISORY COMMITTEE; DEPARTMENTAL BIODEFENSE STRATEGY.

Title XIX of the Homeland Security Act of 2002 (6 U.S.C. 591 et seq.) is amended—

(1) in the matter preceding subtitle A, by inserting after section 1900 the following new section:

"SEC. 1900A. RULE OF CONSTRUCTION."

"Nothing in this title may be construed as affecting in any manner or respect the operation of the Chemical Facility Anti-Terrorism Standards Program of the Cybersecurity and Infrastructure Security Agency or title XXI."

(2) in subtitle A, in section 1901(c) (6 U.S.C. 591(c))—

(A) in the matter preceding paragraph (1), by striking "serve as the Secretary's principal advisor on"; and

(B) by striking paragraphs (1) and (2) and inserting the following new paragraphs:
“(1) serve as the Secretary’s principal advisor on matters and strategies relating to—

“(A) countering weapons of mass destruction; and

“(B) non-medical aspects of chemical, biological, radiological, and nuclear threats, and non-conventional emerging terrorism threats;

“(2) coordinate the efforts of the Department to counter—

“(A) weapons of mass destruction;

“(B) non-medical aspects of chemical, biological, radiological, and nuclear threats; and

“(C) other related emerging terrorism threats; and

“(3) enhance the ability of Federal, State, local, Tribal, and territorial partners to prevent, detect, protect against, and mitigate the impacts of terrorist attacks in the United States involving—

“(A) weapons of mass destruction; or

“(B) non-medical aspects of chemical, biological, radiological, and nuclear threats, and non-conventional emerging terrorism threats.”; and

(3) in subtitle B—
(A) in section 1921 (6 U.S.C. 591g), by striking “The Office shall be responsible” and all that follows through “interests of the United States.” and inserting the following: “The Office shall be responsible for—

“(1) coordinating the Department’s efforts and with other Federal Departments and agencies to counter weapons of mass destruction and non-medical aspects of chemical, biological, radiological, and nuclear threats, and non-conventional emerging terrorism threats; and

“(2) enhancing the ability of Federal, State, local, Tribal, and territorial partners to prevent, detect, protect against, and mitigate the impacts of—

“(A) weapons of mass destruction; and

“(B) non-medical aspects of chemical, biological, radiological, and nuclear threats, and non-conventional emerging terrorism threats.”;

(B) in section 1923(a) (6 U.S.C. 592(a))—

(i) by redesignating paragraphs (13) and (14) as paragraphs (19) and (20), respectively; and

(ii) by inserting after paragraph (12) the following new paragraphs:
“(13) serve as the primary entity within the Department responsible for developing, acquiring, deploying, supporting, and operating a national bio-surveillance system in support of Federal, State, local, Tribal, and territorial governments;

“(14) support the enhancement of chemical and biological detection efforts of Federal, State, local, Tribal, and territorial governments, and provide guidance, tools, and training to help ensure a managed, coordinated response among such entities;

“(15) collaborate with relevant Federal stakeholders, and receive input from industry, academia, and the national laboratories regarding chemical and biological surveillance efforts;

“(16) carry out a program to test and evaluate, in consultation with the Science and Technology Directorate and, as appropriate, State, local, Tribal, and territorial partners, and in coordination with other relevant Federal agencies, technology to detect and report on chemical, biological, radiological, and nuclear weapons or unauthorized material for use by the Department and such partners, and establish performance metrics to evaluate the effectiveness of individual detectors and detection systems in detecting such weapons or material—
“(A) under realistic operational and environmental conditions; and

“(B) against realistic adversary tactics and countermeasures;

“(17) conduct, support, coordinate, and encourage, in consultation with State, local, Tribal, and territorial partners, and in coordination with the Science and Technology Directorate, transformational research and development efforts to generate new technologies to detect, protect against, and report on the illicit entry across the United States borders, or the transport, assembly, or use within the United States of chemical, biological, radiological, and nuclear weapons or unauthorized material;

“(18) support and enhance the effective sharing and use of appropriate information regarding chemical, biological, radiological, and nuclear threats and non-conventional emerging terrorism threats generated by elements of the intelligence community (as such term is defined in section 3 of the National Security Act of 1947 (50 U.S.C. 3003)), law enforcement agencies, other Federal agencies, State, local, Tribal, and territorial governments, and foreign gov-
ernments, as well as provide appropriate information
to such entities;”;

(C) in section 1924 (6 U.S.C. 593)—

(i) in the first sentence, by striking
“section 1101 of the Strom Thurmond Na-
tional Defense Authorization Act for Fiscal
Year 1999 (5 U.S.C. 3104 note)” and in-
serting “section 4092 of title 10, United
States Code, except that such authorities
shall be limited to facilitate the recruit-
ment of experts in the chemical, biological,
radiological, or nuclear specialties”; and

(ii) by striking the second sentence;

(D) in section 1928 (6 U.S.C. 596b)—

(i) in subsection (c)(1), by striking
“from among high-risk urban areas under
section 2003” and inserting “based on the
capability and capacity of the jurisdiction,
as well as the relative threat, vulnerability,
and consequences from terrorist attacks
and other high-consequence events utilizing
nuclear or other radiological materials”; and

(ii) by amending subsection (d) to
read as follows:
“(d) REPORT.—Not later than two years after the date of enactment of the Health Security and Countering Weapons of Mass Destruction, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the STC program.”; and

(E) by adding at the end the following new section:

“SEC. 1929. COUNTERING WEAPONS OF MASS DESTRUCTION ADVISORY COMMITTEE.

“(a) ESTABLISHMENT.—There is established in the Office a Countering Weapons of Mass Destruction Advisory Committee (in this section referred to as the ‘Advisory Committee’). The Advisory Committee shall make recommendations with respect to the activities of the Office.

“(b) MEMBERSHIP.—The Assistant Secretary shall appoint not more than 18 individuals to serve as members of the Advisory Committee. Such individuals shall represent, to the extent practicable, a geographic (including urban and rural) and substantive cross section of officials from State, local, and Tribal governments, academia, the private sector, and nongovernmental organizations. The Assistant Secretary shall seek to ensure one-third of the
members are selected from the emergency management field and emergency response providers and State, local, and Tribal government officials. The Assistant Secretary shall seek to ensure the remaining members are—

“(1) individuals from the public or private sectors with expertise in chemical, biological, radiological, or nuclear agents and weapons;

“(2) representatives from the national laboratories; and

“(3) such other individuals as the Assistant Secretary determines appropriate.

“(c) RESPONSIBILITIES.—The Advisory Committee shall—

“(1) advise the Assistant Secretary on all aspects of countering weapons of mass destruction;

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

“(3) establish performance criteria for a national biological detection system and review any associated testing protocols for biological detection prototypes.
“(d) CONSULTATION.—The Assistant Secretary shall regularly consult and work with the Advisory Committee regarding the Office’s activities, including with respect to activities associated with the administration of Federal assistance provided by the Department, and the development of requirements for countering weapons of mass destruction programs.

“(e) VOLUNTARY SERVICE AND TERMS.—The members of the Advisory Committee shall serve on the Advisory Committee on a voluntary basis. Members may serve for up to three consecutive years, but a member appointed to fill a vacancy occurring before the expiration of the term for which such member’s predecessor was appointed may be appointed for the remainder of such term.

“(f) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.”.

SEC. 202. BIODEFENSE REVIEW AND STRATEGY.

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by inserting after section 515 (6 U.S.C. 321d) the following new section:
SEC. 516. DEPARTMENT-WIDE BIODEFENSE REVIEW AND STRATEGY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with appropriate stakeholders representing Federal, State, Tribal, territorial, academic, private sector, and nongovernmental entities, shall conduct a Department-wide review of biodefense activities and strategies.

(b) REVIEW.—The review required under subsection (a) shall—

“(1) identify with specificity the biodefense lines of effort of the Department, including relating to biodefense roles, responsibilities, and capabilities of components and offices of the Department;

“(2) assess how such components and offices coordinate internally and with public and private partners in the biodefense enterprise;

“(3) identify any policy, resource, capability, or other gaps in the Department’s ability to assess, prevent, protect against, and respond to biological threats; and

“(4) identify any organizational changes or reforms necessary for the Department to effectively execute its biodefense mission and role, including with respect to public and private partners in the biodefense enterprise.
“(c) STRATEGY.—Not later than one year after completion of the review required under subsection (a), the Secretary shall issue a biodefense strategy for the Department that is informed by such review and is aligned with section 1086 of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 104; relating to the development of a national biodefense strategy and associated implementation plan, including a review and assessment of biodefense policies, practices, programs, and initiatives) or successor strategy. Such strategy shall—

“(1) describe the Department’s biodefense mission and role, as well as how such relates to the biodefense lines of effort of the Department;

“(2) clarify, as necessary, biodefense roles, responsibilities, and capabilities of the Department’s components and offices involved in the biodefense lines of effort of the Department;

“(3) establish how biodefense lines of effort of the Department are to be coordinated within the Department;

“(4) establish how the Department engages with public and private partners in the biodefense enterprise, including other Federal agencies, national laboratories and sites, and State, local, Tribal, and territorial entities, with specificity regarding the
frequency and nature of such engagement by Department components and offices with State, local, Tribal and territorial entities; and

“(5) include information relating to—

“(A) milestones and performance metrics that are specific to the Department’s biodefense mission and role described in paragraph (1); and

“(B) implementation of any operational changes necessary to carry out paragraphs (3) and (4).

“(d) PERIODIC UPDATE.—Beginning not later than five years after the issuance of the strategy and implementation plans required under subsection (c) and not less often than once every five years thereafter, the Secretary shall review and update, as necessary, such strategy and plans.”.

(b) CONGRESSIONAL OVERSIGHT.—Not later than 30 days after the issuance of the biodefense strategy and implementation plans for the Department of Homeland Security required under section 516(c) of the Homeland Security Act of 2002, as added by subsection (a), the Secretary of Homeland Security shall brief the Committee on Homeland Security of the House of Representatives and
the Committee on Homeland Security and Governmental Affairs of the Senate regarding such strategy and plans.

(c) **CLERICAL AMENDMENT.**—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 515 the following new item:

“Sec. 516. Department-wide biodefense review and strategy.”.

**SEC. 203. SUNSET REPEALED.**


**SEC. 204. COMPTROLLER GENERAL REVIEW.**

Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate regarding the implementation of section 516 of the Homeland Security Act of 2002, as added by section 202, including information relating to the following:

1. The Office’s efforts to prioritize its programs and activities to conduct the Office’s mission to safeguard against chemical, biological, radiological, and nuclear threats.

2. The consistency and effectiveness of the Office’s efforts at coordinating with State, local, Trib-
al, and territorial entities and international partners
across its mission areas.

(3) The Office’s efforts to manage the lifecycle
of research and development within the Office and
with other operational and support components of
the Department of Homeland Security, including the
Science and Technology Directorate.

(4) Any actions by the Office to measure
progress in addressing employee engagement and
improving employee morale across the Office.

(5) The extent and effectiveness of the Office’s
coordination with other operational and support
components, including the Science and Technology
Directorate, of the Department regarding research
and development projects.

(6) The Office’s efforts to prioritize its research
and development funding, including to address
emerging chemical, biological, radiological, and nu-
clear threats.