

FUSION CENTER ENHANCEMENT ACT OF 2015

NOVEMBER 2, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 3598]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3598) to amend the Homeland Security Act of 2002 to enhance the partnership between the Department of Homeland Security and the National Network of Fusion Centers, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fusion Center Enhancement Act of 2015”.

SEC. 2. DEPARTMENT OF HOMELAND SECURITY FUSION CENTER PARTNERSHIP INITIATIVE.

(a) IN GENERAL.—Section 210A of the Homeland Security Act of 2002 (6 U.S.C. 124h) is amended—

(1) by amending the section heading to read as follows:

“**SEC. 210A. DEPARTMENT OF HOMELAND SECURITY FUSION CENTER PARTNERSHIP INITIATIVE.**”;

(2) in subsection (a), by adding at the end the following new sentence: “Beginning on the date of the enactment of the Fusion Center Enhancement Act of 2015, such Initiative shall be known as the ‘Department of Homeland Security Fusion Center Partnership Initiative.’”;

(3) by amending subsection (b) to read as follows:

“(b) INTERAGENCY SUPPORT AND COORDINATION.—Through the Department of Homeland Security Fusion Center Partnership Initiative, in coordination with principal officials of fusion centers in the National Network of Fusion Centers and the officers designated as the Homeland Security Advisors of the States, the Secretary shall—

“(1) coordinate with the heads of other Federal departments and agencies to provide operational and intelligence advice and assistance to the National Network of Fusion Centers;

“(2) support the integration of fusion centers into the information sharing environment;

“(3) support the maturation and sustainment of the National Network of Fusion Centers;

“(4) reduce inefficiencies and maximize the effectiveness of Federal resource support to the National Network of Fusion Centers;

“(5) provide analytic and reporting advice and assistance to the National Network of Fusion Centers;

“(6) review information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, that is gathered by the National Network of Fusion Centers and incorporate such information, as appropriate, into the Department’s own such information;

“(7) provide for the effective dissemination of information within the scope of the information sharing environment to the National Network of Fusion Centers;

“(8) facilitate close communication and coordination between the National Network of Fusion Centers and the Department and other Federal departments and agencies;

“(9) provide the National Network of Fusion Centers with expertise on Department resources and operations;

“(10) coordinate the provision of training and technical assistance to the National Network of Fusion Centers and encourage such fusion centers to participate in terrorism threat-related exercises conducted by the Department;

“(11) ensure, to the greatest extent practicable, that support for the National Network of Fusion Centers is included as a national priority in applicable homeland security grant guidance;

“(12) ensure that each fusion center in the National Network of Fusion Centers has a privacy policy approved by the Chief Privacy Officer of the Department and a civil rights and civil liberties policy approved by the Officer for Civil Rights and Civil Liberties of the Department;

“(13) coordinate the nationwide suspicious activity report initiative to ensure information gathered by the National Network of Fusion Centers is incorporated as appropriate;

“(14) lead Department efforts to ensure fusion centers in the National Network of Fusion Centers are the primary focal points for the sharing of homeland security information, terrorism information, and weapons of mass destruction information with State and local entities to the greatest extent practicable;

“(15) develop and disseminate best practices on the appropriate levels for staffing at fusion centers in the National Network of Fusion Centers of qualified representatives from State, local, tribal, and territorial law enforcement, fire, emergency medical, and emergency management services, and public health disciplines, as well as the private sector; and

“(16) carry out such other duties as the Secretary determines appropriate.”;

(4) in subsection (c)—

(A) by striking so much as precedes paragraph (3)(B) and inserting the following:

“(c) RESOURCE ALLOCATION.—

“(1) INFORMATION SHARING AND PERSONNEL ASSIGNMENT.—

“(A) INFORMATION SHARING.—The Under Secretary for Intelligence and Analysis shall ensure that, as appropriate—

“(i) fusion centers in the National Network of Fusion Centers have access to homeland security information sharing systems; and

“(ii) Department personnel are deployed to support fusion centers in the National Network of Fusion Centers.

“(B) PERSONNEL ASSIGNMENT.—Department personnel referred to in subparagraph (A)(ii) may include the following:

“(i) Intelligence officers.

“(ii) Intelligence analysts.

“(iii) Other liaisons from components and offices of the Department, as appropriate.

“(C) MEMORANDA OF UNDERSTANDING.—The Under Secretary for Intelligence and Analysis shall negotiate memoranda of understanding between the Department and a State or local government, in coordination with the appropriate representatives from fusion centers in the National Network of Fusion Centers, regarding the exchange of information between the Department and such fusion centers. Such memoranda shall include the following:

“(i) The categories of information to be provided by each entity to the other entity that are parties to any such memoranda.

“(ii) The contemplated uses of the exchanged information that is the subject of any such memoranda.

“(iii) The procedures for developing joint products.

“(iv) The information sharing dispute resolution processes.

“(v) Any protections necessary to ensure the exchange of information accords with applicable law and policies.

“(2) SOURCES OF SUPPORT.—

“(A) IN GENERAL.—Information shared and personnel assigned pursuant to paragraph (1) may be shared or provided, as the case may be, by the following Department components and offices, in coordination with the respective component or office head and in consultation with the principal officials of fusion centers in the National Network of Fusion Centers:

“(i) The Office of Intelligence and Analysis.

“(ii) The Office of Infrastructure Protection.

“(iii) The Transportation Security Administration.

“(iv) U.S. Customs and Border Protection.

“(v) U.S. Immigration and Customs Enforcement.

“(vi) The Coast Guard.

“(vii) Other components or offices of the Department, as determined by the Secretary.

“(B) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Under Secretary for Intelligence and Analysis shall coordinate with appropriate officials throughout the Federal Government to ensure the deployment to fusion centers in the National Network of Fusion Centers of representatives with relevant expertise of other Federal departments and agencies.

“(3) RESOURCE ALLOCATION CRITERIA.—

“(A) IN GENERAL.—The Secretary shall make available criteria for sharing information and deploying personnel to support a fusion center in the National Network of Fusion Centers pursuant to paragraph (1).”; and

(B) in paragraph (4)(B), in the matter preceding clause (i), by inserting “in which such fusion center is located” after “region”;

(5) in subsection (d)—

(A) in paragraph (3), by striking “and” at the end;

(B) in paragraph (4)—

(i) by striking “government” and inserting “governments”; and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(5) utilize Department information, including information held by components and offices, to develop analysis focused on the mission of the Department under section 101(b).”; and

(6) in subsection (e)—

(A) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—To the greatest extent practicable, the Secretary shall make it a priority to allocate resources, including deployed personnel, under this section from U.S. Customs and Border Protection, U.S. Immigration and

Customs Enforcement, and the Coast Guard to support fusion centers in the National Network of Fusion Centers located in jurisdictions along land or maritime borders of the United States in order to enhance the integrity of and security at such borders by helping Federal, State, local, tribal, and territorial law enforcement authorities to identify, investigate, and otherwise interdict persons, weapons, and related contraband that pose a threat to homeland security.”; and

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking “participating State, local, and regional”;

(7) in subsection (j)—

(A) in paragraph (4), by striking “and” at the end;

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

“(5) the term ‘National Network of Fusion Centers’ means a decentralized arrangement of fusion centers intended to enhance individual State and urban area fusion centers’ ability to leverage the capabilities and expertise of all fusion centers for the purpose of enhancing analysis and homeland security information sharing nationally; and”;

(8) by striking subsection (k).

(b) ACCOUNTABILITY REPORT.—Not later than one year after the date of the enactment of this Act and annually thereafter through 2022, the Under Secretary for Intelligence and Analysis of the Department of Homeland Security 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 on the efforts of the Office of Intelligence and Analysis of the Department and other relevant components and offices of the Department to enhance support provided to fusion centers in the National Network of Fusion Centers, including meeting the requirements specified in section 210A of the Homeland Security Act of 2002 (6 U.S.C. 124h), as amended by subsection (a) of this section.

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by striking the item relating to section 210A and inserting the following new item:

“Sec. 210A. Department of Homeland Security Fusion Centers Initiative.”.

(d) REFERENCE.—Any reference in any law, rule, or regulation to the “Department of Homeland Security State, Local, and Regional Fusion Center Initiative” shall be deemed to be a reference to the “Department of Homeland Security Fusion Center Initiative”.

PURPOSE AND SUMMARY

The purpose of H.R. 3598 is to amend the Homeland Security Act to enhance the partnership between the Department of Homeland Security and the National Network of Fusion Centers, including Departmental support to fusion centers relating to information sharing and personnel.

BACKGROUND AND NEED FOR LEGISLATION

This legislation updates the existing language in Section 210A of the Homeland Security Act of 2002 to enhance State and local partners access to homeland security information and coordination with the Department of Homeland Security’s Components. The bill reflects the evolution of the National Network of Fusion Centers, as well as the Office of Intelligence and Analysis (I&A) relationship with fusion centers in the Network.

Section 210A was added to the Homeland Security Act through Section 511 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53). At the time of passage, the Conference Committee stated that language was “key to Federal information sharing efforts and must succeed in order for the Department to remain relevant in the blossoming State and local intelligence community.” The report added that “the Department’s Office of Intelligence and Analysis, which has a primary responsibility for sharing information with State, local, and regional offi-

cials, needs to play a stronger, more constructive role in assisting these centers . . .”¹

As the National Network of Fusion Centers continues to mature into a national asset, this legislation adds several new responsibilities for the Under Secretary of I&A at the Department to reflect the current role of fusion centers in detecting and preventing a terrorist attack or other emergency. Additionally, to hold the Department accountable, this legislation requires the Under Secretary of Intelligence and Analysis to submit an annual report, until 2022, to Congress on the efforts of the Office of Intelligence and Analysis and departmental components to support the National Network of Fusion Centers and specifically report on how they are meeting the requirements set forth in this bill.

The bill does not change the existing requirements for I&A personnel assigned to fusion centers to have appropriate analytical, privacy, and civil liberties training. Additionally, Section 210A as amended maintains existing language for the Secretary to prioritize resource allocation from border and maritime related components to fusion centers in border and maritime regions.

HEARINGS

The Committee did not hold any hearing specifically on H.R. 3598; however, the Committee did hold the following oversight hearing in the 114th Congress.

On February 26, 2015, the Subcommittee on Counterterrorism and Intelligence held a hearing entitled “Addressing Remaining Gap in Federal, State, and Local Information Sharing.” The Subcommittee received testimony from Mr. Mike Sena, President, National Fusion Center Association; Chief Richard Beary, President, International Association of Chiefs of Police; and Dr. Cedric Alexander, National President, National Organization of Black Law Enforcement Executives.

COMMITTEE CONSIDERATION

The Committee met on September 30, 2015, to consider H.R. 3598, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An amendment by MR. KEATING (#1); was AGREED TO by voice vote.

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 1417 offered by MS. SANCHEZ (#1E); was AGREED TO by voice vote.

Page 6, beginning line 16, insert a new subparagraph entitled “(C) Memoranda of understanding.”

¹ “Implementing Recommendations of the 9/11 Commission Act of 2007,” Conference Report to accompany H.R. 1, House of Representatives, Report 110-259, Page 308, July 25, 2007, (Accessed at: <http://www.gpo.gov/fdsys/pkg/CRPT-110hrpt259/pdf/CRPT-110hrpt259.pdf>)

COMMITTEE VOTES

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

No recorded votes were requested during consideration of H.R. 3598.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3598, the Fusion Center Enhancement Act of 2015, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 19, 2015.

Hon. MICHAEL MCCAUL,
*Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3598, the Fusion Center Enhancement Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 3598—Fusion Center Enhancement Act of 2015

H.R. 3598 would modify current laws relating to fusion centers, which are supported by the Department of Homeland Security (DHS); those centers facilitate information sharing among federal, state, and local authorities. Many of the bill's provisions would aim to improve communication between DHS and state and local entities. Because the department is currently carrying out activities similar to those required by the bill, CBO estimates that implementing H.R. 3598 would not have a significant effect on spending by DHS. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 3598 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

H.R. 3598 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3598 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The goal of H.R. 3598 is to enhance the partnership between the Department of Homeland Security and the National Network of Fusion Centers by adding additional responsibilities to the Under Secretary of Intelligence and Analysis at the Department.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 3598 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

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

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 3598 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 3598 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that bill may be cited as the “Fusion Center Enhancement Act of 2015”.

Sec. 2. Department of Homeland Security Fusion Center Partnership Initiative

Subsection (a) of this section amends Section 210A of the Homeland Security Act to strengthen the requirements for the Department of Homeland Security (DHS) to partner and support fusion centers, which are State and locally owned operations and intelligence centers. The bill amends the existing statute to recognize the existence of the National Network of Fusion Centers, which is the combined effort of the individual fusion centers across the country.

Additionally, this subsection makes the following changes:

This subsection amends subsection (b) of Section 210A to revise the responsibilities of the Department of Homeland Security related to support to, and coordination with, the National Network of Fusion Centers. The new responsibilities include “coordinating with the heads of other Federal departments” to provide operational and intelligence support, supporting “the maturation and sustainment” of fusion centers, reducing inefficiencies of Federal resources provided to fusion centers, ensuring that support to fusion centers is included as a priority in homeland security grant guidance, coordinating nationwide suspicious activity reports, ensuring that fusion centers are the focal points for sharing information, and disseminating best practices for appropriate State and local staffing at fusion centers.

This subsection amends subsection (c) to clarify that the Under Secretary of Intelligence and Analysis (I&A) within the Department shall provide fusion centers with access to homeland security information, as well as Departmental personnel as appropriate. This section also requires the Under Secretary to work with other agencies in the Federal government to provide appropriate personnel to fusion centers.

Language was added to this subsection during the Full Committee markup to require the Under Secretary of I&A to negotiate a memorandum of understanding between the Department and each fusion center in the National Network of Fusion Centers regarding the categories of information provided by each entity and how such information will be used. Additionally, the memorandum of understanding must address the process of developing joint products and resolve disputes in information sharing.

This subsection amends subsection (d), which relates to the responsibilities of Departmental personnel assigned to fusion centers, to add a requirement that such personnel ensure that they are in-

corporating relevant information from within the Department, including the components, in their analysis.

This subsection amends subsection (j) to add a definition for the “National Network of Fusion Centers.”

This bill removes subsection (k) from 210A, which contained the expired authorization of appropriations. This section is removed because the funding for Departmental support to fusion centers comes largely from the Office of Intelligence and Analysis, which is funded through the National Intelligence Program, a classified appropriation.

Subsection (b) of the bill requires the Under Secretary to report to Congress annually on how the Department is improving support to fusion centers and meeting the requirements in Section 210A of the Homeland Security Act. The reporting requirement sunsets after seven years.

Subsection (c) of the bill is a clerical amendment to the table of contents in the Homeland Security Act.

Subsection (d) clarifies that any reference in law to the “Department of Homeland Security State, Local, and Regional Fusion Center Initiative,” which is the current title of Section 210A of the Homeland Security Act, shall be considered a reference to the “Department of Homeland Security Fusion Center Initiative.”

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

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

* * * * *

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Information and Analysis and Infrastructure Protection; Access to
Information

* * * * *

【Sec. 210A. Department of Homeland Security State, Local, and Regional Information Fusion Center Initiative.】

Sec. 210A. Department of Homeland Security Fusion Centers Initiative.

* * * * *

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Information and Analysis and Infrastructure Protection; Access to In- formation

* * * * *

[SEC. 210A. DEPARTMENT OF HOMELAND SECURITY STATE, LOCAL,
AND REGIONAL FUSION CENTER INITIATIVE.]

SEC. 210A. DEPARTMENT OF HOMELAND SECURITY FUSION CENTER
PARTNERSHIP INITIATIVE.

(a) ESTABLISHMENT.—The Secretary, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Attorney General, the Privacy Officer of the Department, the Officer for Civil Rights and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note), shall establish a Department of Homeland Security State, Local, and Regional Fusion Center Initiative to establish partnerships with State, local, and regional fusion centers. *Beginning on the date of the enactment of the Fusion Center Enhancement Act of 2015, such Initiative shall be known as the “Department of Homeland Security Fusion Center Partnership Initiative”.*

[(b) DEPARTMENT SUPPORT AND COORDINATION.—Through the Department of Homeland Security State, Local, and Regional Fusion Center Initiative, and in coordination with the principal officials of participating State, local, or regional fusion centers and the officers designated as the Homeland Security Advisors of the States, the Secretary shall—

[(1) provide operational and intelligence advice and assistance to State, local, and regional fusion centers;

[(2) support efforts to include State, local, and regional fusion centers into efforts to establish an information sharing environment;

[(3) conduct tabletop and live training exercises to regularly assess the capability of individual and regional networks of State, local, and regional fusion centers to integrate the efforts of such networks with the efforts of the Department;

[(4) coordinate with other relevant Federal entities engaged in homeland security-related activities;

[(5) provide analytic and reporting advice and assistance to State, local, and regional fusion centers;

[(6) review information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, that is gathered by State, local, and regional fusion centers, and to incorporate such information, as appropriate, into the Department’s own such information;

[(7) provide management assistance to State, local, and regional fusion centers;

[(8) serve as a point of contact to ensure the dissemination of information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information;

[(9) facilitate close communication and coordination between State, local, and regional fusion centers and the Department;

[(10) provide State, local, and regional fusion centers with expertise on Department resources and operations;

[(11) provide training to State, local, and regional fusion centers and encourage such fusion centers to participate in terrorism threat-related exercises conducted by the Department; and

[(12) carry out such other duties as the Secretary determines are appropriate.]

(b) *INTERAGENCY SUPPORT AND COORDINATION.*—*Through the Department of Homeland Security Fusion Center Partnership Initiative, in coordination with principal officials of fusion centers in the National Network of Fusion Centers and the officers designated as the Homeland Security Advisors of the States, the Secretary shall—*

(1) coordinate with the heads of other Federal departments and agencies to provide operational and intelligence advice and assistance to the National Network of Fusion Centers;

(2) support the integration of fusion centers into the information sharing environment;

(3) support the maturation and sustainment of the National Network of Fusion Centers;

(4) reduce inefficiencies and maximize the effectiveness of Federal resource support to the National Network of Fusion Centers;

(5) provide analytic and reporting advice and assistance to the National Network of Fusion Centers;

(6) review information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, that is gathered by the National Network of Fusion Centers and incorporate such information, as appropriate, into the Department's own such information;

(7) provide for the effective dissemination of information within the scope of the information sharing environment to the National Network of Fusion Centers;

(8) facilitate close communication and coordination between the National Network of Fusion Centers and the Department and other Federal departments and agencies;

(9) provide the National Network of Fusion Centers with expertise on Department resources and operations;

(10) coordinate the provision of training and technical assistance to the National Network of Fusion Centers and encourage such fusion centers to participate in terrorism threat-related exercises conducted by the Department;

(11) ensure, to the greatest extent practicable, that support for the National Network of Fusion Centers is included as a national priority in applicable homeland security grant guidance;

(12) ensure that each fusion center in the National Network of Fusion Centers has a privacy policy approved by the Chief Privacy Officer of the Department and a civil rights and civil

liberties policy approved by the Officer for Civil Rights and Civil Liberties of the Department;

(13) coordinate the nationwide suspicious activity report initiative to ensure information gathered by the National Network of Fusion Centers is incorporated as appropriate;

(14) lead Department efforts to ensure fusion centers in the National Network of Fusion Centers are the primary focal points for the sharing of homeland security information, terrorism information, and weapons of mass destruction information with State and local entities to the greatest extent practicable;

(15) develop and disseminate best practices on the appropriate levels for staffing at fusion centers in the National Network of Fusion Centers of qualified representatives from State, local, tribal, and territorial law enforcement, fire, emergency medical, and emergency management services, and public health disciplines, as well as the private sector; and

(16) carry out such other duties as the Secretary determines appropriate.

[(c) PERSONNEL ASSIGNMENT.—]

[(1) IN GENERAL.—The Under Secretary for Intelligence and Analysis shall, to the maximum extent practicable, assign officers and intelligence analysts from components of the Department to participating State, local, and regional fusion centers.

[(2) PERSONNEL SOURCES.—Officers and intelligence analysts assigned to participating fusion centers under this subsection may be assigned from the following Department components, in coordination with the respective component head and in consultation with the principal officials of participating fusion centers:

[(A) Office of Intelligence and Analysis.

[(B) Office of Infrastructure Protection.

[(C) Transportation Security Administration.

[(D) United States Customs and Border Protection.

[(E) United States Immigration and Customs Enforcement.

[(F) United States Coast Guard.

[(G) Other components of the Department, as determined by the Secretary.

[(3) QUALIFYING CRITERIA.—

[(A) IN GENERAL.—The Secretary shall develop qualifying criteria for a fusion center to participate in the assigning of Department officers or intelligence analysts under this section.]

(c) RESOURCE ALLOCATION.—

(1) INFORMATION SHARING AND PERSONNEL ASSIGNMENT.—

(A) INFORMATION SHARING.—*The Under Secretary for Intelligence and Analysis shall ensure that, as appropriate—*

(i) fusion centers in the National Network of Fusion Centers have access to homeland security information sharing systems; and

(ii) Department personnel are deployed to support fusion centers in the National Network of Fusion Centers.

(B) PERSONNEL ASSIGNMENT.—*Department personnel referred to in subparagraph (A)(ii) may include the following:*

- (i) *Intelligence officers.*
- (ii) *Intelligence analysts.*
- (iii) *Other liaisons from components and offices of the Department, as appropriate.*

(C) *MEMORANDA OF UNDERSTANDING.*—*The Under Secretary for Intelligence and Analysis shall negotiate memoranda of understanding between the Department and a State or local government, in coordination with the appropriate representatives from fusion centers in the National Network of Fusion Centers, regarding the exchange of information between the Department and such fusion centers. Such memoranda shall include the following:*

- (i) *The categories of information to be provided by each entity to the other entity that are parties to any such memoranda.*
- (ii) *The contemplated uses of the exchanged information that is the subject of any such memoranda.*
- (iii) *The procedures for developing joint products.*
- (iv) *The information sharing dispute resolution processes.*
- (v) *Any protections necessary to ensure the exchange of information accords with applicable law and policies.*

(2) *SOURCES OF SUPPORT.*—

(A) *IN GENERAL.*—*Information shared and personnel assigned pursuant to paragraph (1) may be shared or provided, as the case may be, by the following Department components and offices, in coordination with the respective component or office head and in consultation with the principal officials of fusion centers in the National Network of Fusion Centers:*

- (i) *The Office of Intelligence and Analysis.*
- (ii) *The Office of Infrastructure Protection.*
- (iii) *The Transportation Security Administration.*
- (iv) *U.S. Customs and Border Protection.*
- (v) *U.S. Immigration and Customs Enforcement.*
- (vi) *The Coast Guard.*
- (vii) *Other components or offices of the Department, as determined by the Secretary.*

(B) *COORDINATION WITH OTHER FEDERAL AGENCIES.*—*The Under Secretary for Intelligence and Analysis shall coordinate with appropriate officials throughout the Federal Government to ensure the deployment to fusion centers in the National Network of Fusion Centers of representatives with relevant expertise of other Federal departments and agencies.*

(3) *RESOURCE ALLOCATION CRITERIA.*—

(A) *IN GENERAL.*—*The Secretary shall make available criteria for sharing information and deploying personnel to support a fusion center in the National Network of Fusion Centers pursuant to paragraph (1).*

(B) *CRITERIA.*—*Any criteria developed under subparagraph (A) may include—*

- (i) *whether the fusion center, through its mission and governance structure, focuses on a broad counter-*

terrorism approach, and whether that broad approach is pervasive through all levels of the organization;

(ii) whether the fusion center has sufficient numbers of adequately trained personnel to support a broad counterterrorism mission;

(iii) whether the fusion center has—

(I) access to relevant law enforcement, emergency response, private sector, open source, and national security data; and

(II) the ability to share and analytically utilize that data for lawful purposes;

(iv) whether the fusion center is adequately funded by the State, local, or regional government to support its counterterrorism mission; and

(v) the relevancy of the mission of the fusion center to the particular source component of Department officers or intelligence analysts.

(4) PREREQUISITE.—

(A) INTELLIGENCE ANALYSIS, PRIVACY, AND CIVIL LIBERTIES TRAINING.—Before being assigned to a fusion center under this section, an officer or intelligence analyst shall undergo—

(i) appropriate intelligence analysis or information sharing training using an intelligence-led policing curriculum that is consistent with—

(I) standard training and education programs offered to Department law enforcement and intelligence personnel; and

(II) the Criminal Intelligence Systems Operating Policies under part 23 of title 28, Code of Federal Regulations (or any corresponding similar rule or regulation);

(ii) appropriate privacy and civil liberties training that is developed, supported, or sponsored by the Privacy Officer appointed under section 222 and the Officer for Civil Rights and Civil Liberties of the Department, in consultation with the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note); and

(iii) such other training prescribed by the Under Secretary for Intelligence and Analysis.

(B) PRIOR WORK EXPERIENCE IN AREA.—In determining the eligibility of an officer or intelligence analyst to be assigned to a fusion center under this section, the Under Secretary for Intelligence and Analysis shall consider the familiarity of the officer or intelligence analyst with the State, locality, or region *in which such fusion center is located*, as determined by such factors as whether the officer or intelligence analyst—

(i) has been previously assigned in the geographic area; or

(ii) has previously worked with intelligence officials or law enforcement or other emergency response providers from that State, locality, or region.

(5) EXPEDITED SECURITY CLEARANCE PROCESSING.—The Under Secretary for Intelligence and Analysis—

(A) shall ensure that each officer or intelligence analyst assigned to a fusion center under this section has the appropriate security clearance to contribute effectively to the mission of the fusion center; and

(B) may request that security clearance processing be expedited for each such officer or intelligence analyst and may use available funds for such purpose.

(6) FURTHER QUALIFICATIONS.—Each officer or intelligence analyst assigned to a fusion center under this section shall satisfy any other qualifications the Under Secretary for Intelligence and Analysis may prescribe.

(d) RESPONSIBILITIES.—An officer or intelligence analyst assigned to a fusion center under this section shall—

(1) assist law enforcement agencies and other emergency response providers of State, local, and tribal governments and fusion center personnel in using information within the scope of the information sharing environment, including homeland security information, terrorism information, and weapons of mass destruction information, to develop a comprehensive and accurate threat picture;

(2) review homeland security-relevant information from law enforcement agencies and other emergency response providers of State, local, and tribal government;

(3) create intelligence and other information products derived from such information and other homeland security-relevant information provided by the Department; [and]

(4) assist in the dissemination of such products, as coordinated by the Under Secretary for Intelligence and Analysis, to law enforcement agencies and other emergency response providers of State, local, and tribal [government] *governments*, other fusion centers, and appropriate Federal agencies[.]; and

(5) *utilize Department information, including information held by components and offices, to develop analysis focused on the mission of the Department under section 101(b).*

(e) BORDER INTELLIGENCE PRIORITY.—

[(1) IN GENERAL.—The Secretary shall make it a priority to assign officers and intelligence analysts under this section from United States Customs and Border Protection, United States Immigration and Customs Enforcement, and the Coast Guard to participating State, local, and regional fusion centers located in jurisdictions along land or maritime borders of the United States in order to enhance the integrity of and security at such borders by helping Federal, State, local, and tribal law enforcement authorities to identify, investigate, and otherwise interdict persons, weapons, and related contraband that pose a threat to homeland security.]

(1) IN GENERAL.—To the greatest extent practicable, the Secretary shall make it a priority to allocate resources, including deployed personnel, under this section from U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and the Coast Guard to support fusion centers in the National Network of Fusion Centers located in jurisdictions along land or maritime borders of the United States in order to en-

hance the integrity of and security at such borders by helping Federal, State, local, tribal, and territorial law enforcement authorities to identify, investigate, and otherwise interdict persons, weapons, and related contraband that pose a threat to homeland security.

(2) **BORDER INTELLIGENCE PRODUCTS.**—When performing the responsibilities described in subsection (d), officers and intelligence analysts assigned to [participating State, local, and regional] fusion centers under this section shall have, as a primary responsibility, the creation of border intelligence products that—

(A) assist State, local, and tribal law enforcement agencies in deploying their resources most efficiently to help detect and interdict terrorists, weapons of mass destruction, and related contraband at land or maritime borders of the United States;

(B) promote more consistent and timely sharing of border security-relevant information among jurisdictions along land or maritime borders of the United States; and

(C) enhance the Department’s situational awareness of the threat of acts of terrorism at or involving the land or maritime borders of the United States.

(f) **DATABASE ACCESS.**—In order to fulfill the objectives described under subsection (d), each officer or intelligence analyst assigned to a fusion center under this section shall have appropriate access to all relevant Federal databases and information systems, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment for the implementation and management of that environment.

(g) **CONSUMER FEEDBACK.**—

(1) **IN GENERAL.**—The Secretary shall create a voluntary mechanism for any State, local, or tribal law enforcement officer or other emergency response provider who is a consumer of the intelligence or other information products referred to in subsection (d) to provide feedback to the Department on the quality and utility of such intelligence products.

(2) **REPORT.**—Not later than one year after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and annually thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that includes a description of the consumer feedback obtained under paragraph (1) and, if applicable, how the Department has adjusted its production of intelligence products in response to that consumer feedback.

(h) **RULE OF CONSTRUCTION.**—

(1) **IN GENERAL.**—The authorities granted under this section shall supplement the authorities granted under section 201(d) and nothing in this section shall be construed to abrogate the authorities granted under section 201(d).

(2) **PARTICIPATION.**—Nothing in this section shall be construed to require a State, local, or regional government or entity to accept the assignment of officers or intelligence analysts

of the Department into the fusion center of that State, locality, or region.

(i) **GUIDELINES.**—The Secretary, in consultation with the Attorney General, shall establish guidelines for fusion centers created and operated by State and local governments, to include standards that any such fusion center shall—

(1) collaboratively develop a mission statement, identify expectations and goals, measure performance, and determine effectiveness for that fusion center;

(2) create a representative governance structure that includes law enforcement officers and other emergency response providers and, as appropriate, the private sector;

(3) create a collaborative environment for the sharing of intelligence and information among Federal, State, local, and tribal government agencies (including law enforcement officers and other emergency response providers), the private sector, and the public, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment;

(4) leverage the databases, systems, and networks available from public and private sector entities, in accordance with all applicable laws, to maximize information sharing;

(5) develop, publish, and adhere to a privacy and civil liberties policy consistent with Federal, State, and local law;

(6) provide, in coordination with the Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department, appropriate privacy and civil liberties training for all State, local, tribal, and private sector representatives at the fusion center;

(7) ensure appropriate security measures are in place for the facility, data, and personnel;

(8) select and train personnel based on the needs, mission, goals, and functions of that fusion center;

(9) offer a variety of intelligence and information services and products to recipients of fusion center intelligence and information; and

(10) incorporate law enforcement officers, other emergency response providers, and, as appropriate, the private sector, into all relevant phases of the intelligence and fusion process, consistent with the mission statement developed under paragraph (1), either through full time representatives or liaison relationships with the fusion center to enable the receipt and sharing of information and intelligence.

(j) **DEFINITIONS.**—In this section—

(1) the term “fusion center” means a collaborative effort of 2 or more Federal, State, local, or tribal government agencies that combines resources, expertise, or information with the goal of maximizing the ability of such agencies to detect, prevent, investigate, apprehend, and respond to criminal or terrorist activity;

(2) the term “information sharing environment” means the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485);

(3) the term “intelligence analyst” means an individual who regularly advises, administers, supervises, or performs work in the collection, gathering, analysis, evaluation, reporting, production, or dissemination of information on political, economic, social, cultural, physical, geographical, scientific, or military conditions, trends, or forces in foreign or domestic areas that directly or indirectly affect national security;

(4) the term “intelligence-led policing” means the collection and analysis of information to produce an intelligence end product designed to inform law enforcement decision making at the tactical and strategic levels; **[and]**

(5) *the term “National Network of Fusion Centers” means a decentralized arrangement of fusion centers intended to enhance individual State and urban area fusion centers’ ability to leverage the capabilities and expertise of all fusion centers for the purpose of enhancing analysis and homeland security information sharing nationally; and*

[(5)] (6) the term “terrorism information” has the meaning given that term in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

[(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 for each of fiscal years 2008 through 2012, to carry out this section, except for subsection (i), including for hiring officers and intelligence analysts to replace officers and intelligence analysts who are assigned to fusion centers under this section.]

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COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, October 28, 2015.

Hon. MICHAEL MCCAUL,
Chairman, House Committee on Homeland Security,
Washington, DC.

DEAR CHAIRMAN MCCAUL: On September 30, 2015, your committee ordered H.R. 3503, the “Department of Homeland Security Support to Fusion Centers Act of 2015,” reported. Additionally, on that same day, your committee ordered H.R. 3598, the “Fusion Center Enhancement Act of 2015,” reported.

As you know, both H.R. 3503 and H.R. 3598 contain provisions within the jurisdiction of the Permanent Select Committee on Intelligence. On the basis of your consultations with the Committee and in order to expedite the House’s consideration of both bills, the Permanent Select Committee on Intelligence will not assert a jurisdictional claim over either bill by seeking a sequential referral. This courtesy is, however, conditioned on our mutual understanding and agreement that it will in no way diminish or alter the jurisdiction of the Permanent Select Committee with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bills or any similar legislation.

I would appreciate your response to this letter confirming this understanding and would request that you include a copy of this letter and your response in the committee reports for both bills and in the Congressional Record during their floor consideration. Thank you in advance for your cooperation.

Sincerely,

DEVIN NUNES,
Chairman.

Hon. DEVIN NUNES,
Chairman, Permanent Select Committee on Intelligence,
Washington, DC.

DEAR CHAIRMAN NUNES: Thank you for your letter regarding H.R. 3503, the “Department of Homeland Security Support to Fusion Centers Act of 2015,” and H.R. 3598, the “Fusion Center Enhancement Act of 2015.”

I appreciate your support in bringing both of these measures before the House of Representatives, and accordingly, understand that the Permanent Select Committee on Intelligence will not seek a sequential referral on either bill. I acknowledge that by foregoing a sequential referral on these two pieces of legislation, your Committee is not diminishing or altering its jurisdiction with respect to

any future jurisdictional claim over the subject matters contained in these bills or any similar legislation. Additionally, should a conference on either bill be necessary. I would support your request to have the Permanent Select Committee represented on the conference committee.

I will include copies of this exchange in the reports for H.R. 3503 and H.R. 3598 and in the Congressional Record during consideration of these bills on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. McCAUL,
Chairman,
Committee on Homeland Security.

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