To enhance the authority granted to the Department of Homeland Security and Department of Justice with respect to unmanned aircraft systems and unmanned aircraft, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. HOULAHAN introduced the following bill; which was referred to the Committee on

A BILL

To enhance the authority granted to the Department of Homeland Security and Department of Justice with respect to unmanned aircraft systems and unmanned aircraft, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2023”.

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SEC. 2. DEPARTMENT OF HOMELAND SECURITY AND DEPARTMENT OF JUSTICE UNMANNED AIRCRAFT SYSTEM DETECTION AND MITIGATION ENFORCEMENT AUTHORITY.

Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by striking section 210G (6 U.S.C. 124n) and inserting the following:

“SEC. 210G. PROTECTION OF CERTAIN FACILITIES AND ASSETS FROM UNMANNED AIRCRAFT.

“(a) DEFINITIONS.—In this section:

“(1) The term ‘air navigation facility’ has the meaning given the term in section 40102(a) of title 49, United States Code.

“(2) The term ‘airport’ has the meaning given the term in section 47102 of title 49, United States Code.

“(3) The term ‘appropriate committees of Congress’ means—

“(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary of the Senate; and

“(B) the Committee on Homeland Security, the Committee on Transportation and Infrastructure, the Committee on Oversight and
Accountability, the Committee on Energy and Commerce, and the Committee on the Judiciary of the House of Representatives.

“(4) The term ‘budget’, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31, United States Code.

“(5) The term ‘covered facility or asset’ means any facility or asset that—

“(A) is identified as high-risk and a potential target for unlawful unmanned aircraft or unmanned aircraft system activity by the Secretary or the Attorney General, or by the chief executive of the jurisdiction in which a State, local, Tribal, or territorial law enforcement agency designated pursuant to subsection (d)(2) operates after review and approval of the Secretary or the Attorney General, in coordination with the Secretary of Transportation with respect to potentially impacted airspace, through a risk-based assessment for purposes of this section (except that in the case of the missions described in clauses (i)(II) and (iii)(I) of subparagraph (C), such missions shall be presumed to be for the protection of a facility or asset
that is assessed to be high-risk and a potential
target for unlawful unmanned aircraft or un-
manned aircraft system activity);

“(B) is located in the United States; and
“(C) directly relates to 1 or more—

“(i) missions authorized to be per-
formed by the Department, consistent with
governing statutes, regulations, and orders
issued by the Secretary, pertaining to—

“(I) security or protection func-
tions of U.S. Customs and Border
Protection, including securing or pro-
tecting facilities, aircraft, and vessels,
whether moored or underway;

“(II) United States Secret Serv-
ice protection operations pursuant to
sections 3056(a) and 3056A(a) of title
18, United States Code, and the Pres-
idential Protection Assistance Act of
1976 (18 U.S.C. 3056 note);

“(III) protection of facilities pur-
suant to section 1315(a) of title 40,
United States Code;
“(IV) transportation security functions of the Transportation Security Administration; or

“(V) the security or protection functions for facilities, assets, and operations of Homeland Security Investigations;

“(ii) missions authorized to be performed by the Department of Justice, consistent with governing statutes, regulations, and orders issued by the Attorney General, pertaining to—

“(I) personal protection operations by—

“(aa) the Federal Bureau of Investigation as specified in section 533 of title 28, United States Code; or

“(bb) the United States Marshals Service as specified in section 566 of title 28, United States Code;

“(II) protection of penal, detention, and correctional facilities and operations conducted by the Federal
Bureau of Prisons and prisoner operations and transport conducted by the United States Marshals Service;

“(III) protection of the buildings and grounds leased, owned, or operated by or for the Department of Justice, and the provision of security for Federal courts, as specified in section 566 of title 28, United States Code;

or

“(IV) protection of an airport or air navigation facility;

“(iii) missions authorized to be performed by the Department or the Department of Justice, acting together or separately, consistent with governing statutes, regulations, and orders issued by the Secretary or the Attorney General, respectively, pertaining to—

“(I) protection of National Special Security Events and Special Event Assessment Rating events;

“(II) the provision of support to a State, local, Tribal, or territorial law enforcement agency, upon request of
the chief executive officer of the State
or territory, to ensure protection of
people and property at mass gath-
erings, that is limited to a specified
duration and location, within available
resources, and without delegating any
authority under this section to State,
local, Tribal, or territorial law en-
forcement;

“(III) protection of an active
Federal law enforcement investigation,
emergency response, or security func-
tion, that is limited to a specified du-
ration and location; or

“(IV) the provision of security or
protection support to critical infra-
structure owners or operators, for
static critical infrastructure facilities
and assets upon the request of the
owner or operator;

“(iv) missions authorized to be per-
formed by the United States Coast Guard,
including those described in clause (iii) as
directed by the Secretary, and as further
set forth in section 528 of title 14, United
States Code, and consistent with governing statutes, regulations, and orders issued by the Secretary of the Department in which the Coast Guard is operating; and

“(v) responsibilities of State, local, Tribal, and territorial law enforcement agencies designated pursuant to subsection (d)(2) pertaining to—

“(I) protection of National Special Security Events and Special Event Assessment Rating events or other mass gatherings in the jurisdiction of the State, local, Tribal, or territorial law enforcement agency;

“(II) protection of critical infrastructure assessed by the Secretary as high-risk for unmanned aircraft systems or unmanned aircraft attack or disruption, including airports in the jurisdiction of the State, local, Tribal, or territorial law enforcement agency;

“(III) protection of government buildings, assets, or facilities in the jurisdiction of the State, local, Tribal,
or territorial law enforcement agency;

or

“(IV) protection of disaster re-

response in the jurisdiction of the State,

local, Tribal, or territorial law en-

forcement agency.

“(6) The term ‘critical infrastructure’ has the

meaning given the term in section 1016(e) of the

Critical Infrastructure Protection Act of 2001 (42

U.S.C. 5195c(e)).

“(7) The terms ‘electronic communication’,

‘intercept’, ‘oral communication’, and ‘wire commu-

nication’ have the meanings given those terms in

section 2510 of title 18, United States Code.

“(8) The term ‘homeland security or justice

budget materials’, with respect to a fiscal year,

means the materials submitted to Congress by the

Secretary and the Attorney General in support of

the budget for that fiscal year.

“(9)(A) The term ‘personnel’ means—

“(i) an officer, employee, or contractor of

the Department or the Department of Justice,

who is authorized to perform duties that include

safety, security, or protection of people, facili-

ties, or assets; or
“(ii) an employee who—

“(I) is authorized to perform law enforcement and security functions on behalf of a State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2); and

“(II) is trained and certified to perform those duties, including training specific to countering unmanned aircraft threats and mitigating risks in the national airspace, including with respect to protecting privacy and civil liberties.

“(B) To qualify for use of the authorities described in subsection (b) or (c), respectively, a contractor conducting operations described in those subsections shall—

“(i) be directly contracted by the Department or the Department of Justice;

“(ii) operate at a government-owned or government-leased facility or asset;

“(iii) not conduct inherently governmental functions;

“(iv) be trained to safeguard privacy and civil liberties; and
“(v) be trained and certified by the Department or the Department of Justice to meet the established guidance and regulations of the Department or the Department of Justice, respectively.

“(C) For purposes of subsection (c)(1), the term ‘personnel’ includes any officer, employee, or contractor who is authorized to perform duties that include the safety, security, or protection of people, facilities, or assets, of—

“(i) a State, local, Tribal, or territorial law enforcement agency; and

“(ii) an owner or operator of an airport or critical infrastructure.

“(10) The term ‘risk-based assessment’ means an evaluation of threat information specific to a covered facility or asset and, with respect to potential impacts on the safety and efficiency of the national airspace system and the needs of law enforcement and national security at each covered facility or asset identified by the Secretary or the Attorney General, respectively, of each of the following factors:

“(A) Potential impacts to safety, efficiency, and use of the national airspace system, includ-
ing potential effects on manned aircraft and un-
manned aircraft systems or unmanned aircraft, 
aviation safety, airport operations, infrastruc-
ture, and air navigation services relating to the 
use of any system or technology for carrying 
out the actions described in subsection (e)(2).

“(B) Options for mitigating any identified 
impacts to the national airspace system relating 
to the use of any system or technology, includ-
ing minimizing, when possible, the use of any 
technology that disrupts the transmission of 
radio or electronic signals, for carrying out the 
actions described in subsection (e)(2).

“(C) Potential consequences of the impacts 
of any actions taken under subsection (e)(2) to 
the national airspace system and infrastructure 
if not mitigated.

“(D) The ability to provide reasonable ad-
advance notice to aircraft operators consistent 
with the safety of the national airspace system 
and the needs of law enforcement and national 
security.

“(E) The setting and character of any cov-
ered facility or asset, including—
“(i) whether the covered facility or asset is located in a populated area or near other structures;

“(ii) whether the covered facility or asset is open to the public;

“(iii) whether the covered facility or asset is used for nongovernmental functions; and

“(iv) any potential for interference with wireless communications or for injury or damage to persons or property.

“(F) The setting, character, duration, and national airspace system impacts of National Special Security Events and Special Event Assessment Rating events, to the extent not already discussed in the National Special Security Event and Special Event Assessment Rating nomination process.

“(G) Potential consequences to national security, public safety, or law enforcement if threats posed by unmanned aircraft systems or unmanned aircraft are not mitigated or defeated.
“(H) Civil rights and civil liberties guaranteed by the First and Fourth Amendments to the Constitution of the United States.

“(11) The terms ‘unmanned aircraft’ and ‘unmanned aircraft system’ have the meanings given those terms in section 44801 of title 49, United States Code.

“(b) Authority of the Department of Homeland Security and Department of Justice.—Notwithstanding section 46502 of title 49, United States Code, or sections 32, 1030, 1367, and chapters 119 and 206 of title 18, United States Code, the Secretary and the Attorney General may, for their respective Departments, take, and may authorize personnel with assigned duties that include the safety, security, or protection of people, facilities, or assets to take, actions described in subsection (e)(2) that are necessary to detect, identify, monitor, track, and mitigate a credible threat (as defined by the Secretary and the Attorney General, in consultation with the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

“(c) Additional Limited Authority for Detection, Identification, Monitoring, and Tracking.—
“(1) IN GENERAL.—Subject to paragraphs (2) and (3), and notwithstanding sections 1030 and 1367 and chapters 119 and 206 of title 18, United States Code, any State, local, Tribal, or territorial law enforcement agency, the Department of Justice, the Department, and any owner or operator of an airport or critical infrastructure may authorize personnel, with assigned duties that include the safety, security, or protection of people, facilities, or assets, to use equipment authorized under this subsection to take actions described in subsection (e)(1) that are necessary to detect, identify, monitor, or track an unmanned aircraft system or unmanned aircraft within the respective areas of responsibility or jurisdiction of the authorized personnel.

“(2) AUTHORIZED EQUIPMENT.—Equipment authorized for unmanned aircraft system detection, identification, monitoring, or tracking under this subsection shall be limited to systems or technologies—

“(A) tested and evaluated by the Department or the Department of Justice, including evaluation of any potential counterintelligence or cybersecurity risks;
“(B) that are annually reevaluated for any changes in risks, including counterintelligence and cybersecurity risks;

“(C) determined by the Federal Communications Commission and the National Telecommunications and Information Administration not to adversely impact the use of the communications spectrum;

“(D) determined by the Federal Aviation Administration not to adversely impact the use of the aviation spectrum or otherwise adversely impact the national airspace system; and

“(E) that are included on a list of authorized equipment maintained by the Department, in coordination with the Department of Justice, the Federal Aviation Administration, the Federal Communications Commission, and the National Telecommunications and Information Administration.

“(3) STATE, LOCAL, TRIBAL, AND TERRITORIAL COMPLIANCE.—Each State, local, Tribal, or territorial law enforcement agency or owner or operator of an airport or critical infrastructure acting pursuant to this subsection shall—
“(A) prior to any such action, issue a written policy certifying compliance with the privacy protections of subparagraphs (A) through (D) of subsection (j)(2);

“(B) certify compliance with such policy to the Secretary and the Attorney General annually, and immediately notify the Secretary and Attorney General of any noncompliance with such policy or the privacy protections of subparagraphs (A) through (D) of subsection (j)(2); and

“(C) comply with any additional guidance issued by the Secretary or the Attorney General relating to implementation of this subsection.

“(4) PROHIBITION.—Nothing in this subsection shall be construed to authorize the taking of any action described in subsection (e) other than the actions described in paragraph (1) of that subsection.

“(d) PILOT PROGRAM FOR STATE, LOCAL, TRIBAL, AND TERRITORIAL LAW ENFORCEMENT.—

“(1) IN GENERAL.—The Secretary and the Attorney General may carry out a pilot program to evaluate the potential benefits of State, local, Tribal, and territorial law enforcement agencies taking actions that are necessary to mitigate a credible threat
(as defined by the Secretary and the Attorney General, in consultation with the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

“(2) DESIGNATION.—

“(A) IN GENERAL.—The Secretary or the Attorney General, with the concurrence of the Secretary of Transportation (acting through the Administrator of the Federal Aviation Administration), may, under the pilot program established under paragraph (1), designate 1 or more State, local, Tribal, or territorial law enforcement agencies approved by the respective chief executive officer of the State, local, Tribal, or territorial law enforcement agency to engage in the activities authorized in paragraph (4) under the direct oversight of the Department or the Department of Justice, in carrying out the responsibilities authorized under subsection (a)(5)(C)(v).

“(B) DESIGNATION PROCESS.—

“(i) NUMBER OF AGENCIES AND DURATION.—On and after the date that is
180 days after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2023, the Secretary and the Attorney General, pursuant to subparagraph (A), may designate a combined total of not more than 12 State, local, Tribal, and territorial law enforcement agencies for participation in the pilot program, and may designate 12 additional State, local, Tribal, and territorial law enforcement agencies each year thereafter, provided that not more than 60 State, local, Tribal, and territorial law enforcement agencies in total may be designated during the 5-year period of the pilot program.

“(ii) Revocation.—The Secretary and the Attorney General, in consultation with the Secretary of Transportation (acting through the Administrator of the Federal Aviation Administration)—

“(I) may revoke a designation under subparagraph (A) if the Secretary, Attorney General, and Secretary of Transportation (acting
through the Administrator of the Federal Aviation Administration) concur in the revocation; and

“(II) shall revoke a designation under subparagraph (A) if the Secretary, the Attorney General, or the Secretary of Transportation (acting through the Administrator of the Federal Aviation Administration) withdraws concurrence.

“(3) TERMINATION OF PILOT PROGRAM.—

“(A) DESIGNATION.—The authority to designate an agency for inclusion in the pilot program established under this subsection shall terminate 5 years after the date that is 180 days after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2023.

“(B) AUTHORITY OF PILOT PROGRAM AGENCIES.—The authority of an agency designated under the pilot program established under this subsection to exercise any of the authorities granted under the pilot program shall terminate not later than 6 years after the date that is 180 days after the date of enactment of
the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2023, or upon revocation pursuant to paragraph (2)(B)(ii).

“(4) AUTHORIZATION.—Notwithstanding section 46502 of title 49, United States Code, or sections 32, 1030, 1367 and chapters 119 and 206 of title 18, United States Code, any State, local, Tribal, or territorial law enforcement agency designated pursuant to paragraph (2) may authorize personnel with assigned duties that include the safety, security, or protection of people, facilities, or assets to take such actions as are described in subsection (e)(2) that are necessary to detect, identify, monitor, track, or mitigate a credible threat (as defined by the Secretary and the Attorney General, in consultation with the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset in carrying out the responsibilities authorized under subsection (a)(5)(C)(v).

“(5) EXEMPTION.—
“(A) IN GENERAL.—Subject to subparagraph (B), the Chair of the Federal Communications Commission, in consultation with the Administrator of the National Telecommunications and Information Administration, shall implement a process for considering the exemption of 1 or more law enforcement agencies designated under paragraph (2), or any station operated by the agency, from any provision of title III of the Communications Act of 1934 (47 U.S.C. 151 et seq.) to the extent that the designated law enforcement agency takes such actions as are described in subsection (e)(2) and may establish conditions or requirements for such exemption.

“(B) REQUIREMENTS.—The Chair of the Federal Communications Commission, in consultation with the Administrator of the National Telecommunications and Information Administration, may grant an exemption under subparagraph (A) only if the Chair of the Federal Communications Commission in consultation with the Administrator of the National Telecommunications and Information Administration finds that the grant of an exemption—
“(i) is necessary to achieve the purposes of this subsection; and

“(ii) will serve the public interest.

“(C) REVOCATION.—Any exemption granted under subparagraph (A) shall terminate automatically if the designation granted to the law enforcement agency under paragraph (2)(A) is revoked by the Secretary or the Attorney General under paragraph (2)(B)(ii) or is terminated under paragraph (3)(B).

“(6) REPORTING.—Not later than 2 years after the date on which the first law enforcement agency is designated under paragraph (2), and annually thereafter for the duration of the pilot program, the Secretary and the Attorney General shall inform the appropriate committees of Congress in writing of the use by any State, local, Tribal, or territorial law enforcement agency of any authority granted pursuant to paragraph (4), including a description of any privacy or civil liberties complaints known to the Secretary or Attorney General in connection with the use of that authority by the designated agencies.

“(7) RESTRICTIONS.—Any entity acting pursuant to the authorities granted under this subsection—
“(A) may do so only using equipment authorized by the Department, in coordination with the Department of Justice, the Federal Communications Commission, the National Telecommunications and Information Administration, and the Department of Transportation (acting through the Federal Aviation Administration) according to the criteria described in subsection (e)(2);

“(B) shall, prior to any such action, issue a written policy certifying compliance with the privacy protections of subparagraphs (A) through (D) of subsection (j)(2);

“(C) shall ensure that all personnel undertaking any actions listed under this subsection are properly trained in accordance with the criteria that the Secretary and Attorney General shall collectively establish, in consultation with the Secretary of Transportation, the Administrator of the Federal Aviation Administration, the Chair of the Federal Communications Commission, the Assistant Secretary of Commerce for Communications and Information, and the Administrator of the National Telecommunications and Information Administration; and
“(D) shall comply with any additional
guidance relating to compliance with this sub-
section issued by the Secretary or Attorney
General.

“(e) ACTIONS DESCRIBED.—

“(1) IN GENERAL.—The actions authorized
under subsection (c) that may be taken by a State,
local, Tribal, or territorial law enforcement agency,
the Department, the Department of Justice, and any
owner or operator of an airport or critical infrastruc-
ture, are limited to actions during the operation of
an unmanned aircraft system, to detect, identify,
monitor, and track the unmanned aircraft system or
unmanned aircraft, without prior consent, including
by means of intercept or other access of a wire com-
munication, an oral communication, or an electronic
communication used to control the unmanned air-
craft system or unmanned aircraft.

“(2) CLARIFICATION.—The actions authorized
in subsections (b) and (d)(4) are the following:

“(A) During the operation of the un-
manned aircraft system or unmanned aircraft,
detect, identify, monitor, and track the un-
manned aircraft system or unmanned aircraft,
without prior consent, including by means of
intercept or other access of a wire communication, an oral communication, or an electronic communication used to control the unmanned aircraft system or unmanned aircraft.

“(B) Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect, physical, electronic, radio, and electromagnetic means.

“(C) Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent of the operator of the unmanned aircraft system or unmanned aircraft, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.

“(D) Seize or exercise control of the unmanned aircraft system or unmanned aircraft.

“(E) Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.
“(F) Use reasonable force, if necessary, to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.

“(f) **Research, Testing, Training, and Evaluation.**—

“(1) **Requirement.**—

“(A) **In General.**—Notwithstanding section 46502 of title 49, United States Code, or any provision of title 18, United States Code, the Secretary, the Attorney General, and the heads of the State, local, Tribal, or territorial law enforcement agencies designated pursuant to subsection (d)(2) shall conduct research, testing, and training on, and evaluation of, any equipment, including any electronic equipment, to determine the capability and utility of the equipment prior to the use of the equipment in carrying out any action described in subsection (e).

“(B) **Coordination.**—Personnel and contractors who do not have duties that include the safety, security, or protection of people, facilities, or assets may engage in research, testing, training, and evaluation activities pursuant to subparagraph (A).
“(2) TRAINING OF FEDERAL, STATE, LOCAL, TERRITORIAL, AND TRIBAL LAW ENFORCEMENT PERSONNEL.—The Attorney General, acting through the Director of the Federal Bureau of Investigation, may—

“(A) provide training relating to measures to mitigate a credible threat that an unmanned aircraft or unmanned aircraft system poses to the safety or security of a covered facility or asset to any personnel who are authorized to take such measures, including personnel authorized to take the actions described in subsection (e); and

“(B) establish or designate 1 or more facilities or training centers for the purpose described in subparagraph (A).

“(3) COORDINATION FOR RESEARCH, TESTING, TRAINING, AND EVALUATION.—

“(A) IN GENERAL.—The Secretary, the Attorney General, and the heads of the State, local, Tribal, or territorial law enforcement agencies designated pursuant to subsection (d)(2) shall coordinate procedures governing research, testing, training, and evaluation to carry out any provision under this subsection
with the Administrator of the Federal Aviation Administration before initiating such activity in order that the Administrator of the Federal Aviation Administration may ensure the activity does not adversely impact or interfere with safe airport operations, navigation, air traffic services, or the safe and efficient operation of the national airspace system.

“(B) ADDITIONAL REQUIREMENT.—Each head of a State, local, Tribal, or territorial law enforcement agency designated pursuant to subsection (d)(2) shall coordinate the procedures governing research, testing, training, and evaluation of the law enforcement agency through the Secretary and the Attorney General, in coordination with the Federal Aviation Administration.

“(g) FORFEITURE.—Any unmanned aircraft system or unmanned aircraft that is lawfully seized by the Secretary or the Attorney General pursuant to subsection (b) is subject to forfeiture to the United States pursuant to the provisions of chapter 46 of title 18, United States Code.
“(h) REGULATIONS AND GUIDANCE.—The Secretary, the Attorney General, and the Secretary of Transportation—

“(1) may prescribe regulations and shall issue guidance in the respective areas of each Secretary or the Attorney General to carry out this section; and

“(2) in developing regulations and guidance described in paragraph (1), shall consult the Chair of the Federal Communications Commission, the Administrator of the National Telecommunications and Information Administration, and the Administrator of the Federal Aviation Administration.

“(i) COORDINATION.—

“(1) IN GENERAL.—The Secretary and the Attorney General shall coordinate with the Administrator of the Federal Aviation Administration before carrying out any action authorized under this section in order that the Administrator may ensure the action does not adversely impact or interfere with—

“(A) safe airport operations;

“(B) navigation;

“(C) air traffic services; or

“(D) the safe and efficient operation of the national airspace system.
“(2) GUIDANCE.—Before issuing any guidance, or otherwise implementing this section, the Secretary or the Attorney General shall each coordinate with—

“(A) the Secretary of Transportation in order that the Secretary of Transportation may ensure the guidance or implementation does not adversely impact or interfere with any critical infrastructure relating to transportation; and

“(B) the Administrator of the Federal Aviation Administration in order that the Administrator may ensure the guidance or implementation does not adversely impact or interfere with—

“(i) safe airport operations;
“(ii) navigation;
“(iii) air traffic services; or
“(iv) the safe and efficient operation of the national airspace system.

“(3) COORDINATION WITH THE FAA.—The Secretary and the Attorney General shall coordinate the development of their respective guidance under subsection (h) with the Secretary of Transportation (acting through the Administrator of the Federal Aviation Administration).
“(4) Coordination with the Department of Transportation and National Telecommunications and Information Administration.—The Secretary and the Attorney General, and the heads of any State, local, Tribal, or territorial law enforcement agencies designated pursuant to subsection (d)(2), through the Secretary and the Attorney General, shall coordinate the development for their respective departments or agencies of the actions described in subsection (e) with the Secretary of Transportation (acting through the Administrator of the Federal Aviation Administration), the Assistant Secretary of Commerce for Communications and Information, and the Administrator of the National Telecommunications and Information Administration.

“(5) State, Local, Tribal, and Territorial Implementation.—Prior to taking any action authorized under subsection (d)(4), each head of a State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2) shall coordinate, through the Secretary and the Attorney General—

“(A) with the Secretary of Transportation in order that the Administrators of non-aviation

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modes of the Department of Transportation may evaluate whether the action may have adverse impacts on critical infrastructure relating to non-aviation transportation;

“(B) with the Administrator of the Federal Aviation Administration in order that the Administrator may ensure the action will not adversely impact or interfere with—

“(i) safe airport operations;

“(ii) navigation;

“(iii) air traffic services; or

“(iv) the safe and efficient operation of the national airspace system; and

“(C) to allow the Department and the Department of Justice to ensure that any action authorized by this section is consistent with Federal law enforcement or in the interest of national security.

“(j) Privacy Protection.—

“(1) In general.—Any regulation or guidance issued to carry out an action under subsection (e) by the Secretary or the Attorney General shall ensure for the Department or the Department of Justice, respectively, that—
“(A) the interception of, acquisition of, access to, maintenance of, or use of any communication to or from an unmanned aircraft system or unmanned aircraft under this section is conducted in a manner consistent with the First and Fourth Amendments to the Constitution of the United States and any applicable provision of Federal law;

“(B) any communication to or from an unmanned aircraft system or unmanned aircraft are intercepted or acquired only to the extent necessary to support an action described in subsection (e);

“(C) any record of a communication described in subparagraph (B) is maintained only for as long as necessary, and in no event for more than 180 days, unless the Secretary or the Attorney General, as applicable, determines that maintenance of the record is—

“(i) required under Federal law;

“(ii) necessary for the purpose of litigation; and

“(iii) necessary to investigate or prosecute a violation of law, including by—
“(I) directly supporting an ongoing security operation; or

“(II) protecting against dangerous or unauthorized activity by unmanned aircraft systems or unmanned aircraft; and

“(D) a communication described in subparagraph (B) is not disclosed to any person not employed or contracted by the Department or the Department of Justice unless the disclosure—

“(i) is necessary to investigate or prosecute a violation of law;

“(ii) will support—

“(I) the Department of Defense;

“(II) a Federal law enforcement, intelligence, or security agency;

“(III) a State, local, Tribal, or territorial law enforcement agency; or

“(IV) another relevant entity or person if the entity or person is engaged in a security or protection operation;

“(iii) is necessary to support a department or agency listed in clause (ii) in in-
vestigating or prosecuting a violation of law;

“(iv) will support the enforcement activities of a Federal regulatory agency relating to a criminal or civil investigation of, or any regulatory, statutory, or other enforcement action relating to, an action described in subsection (e);

“(v) is between the Department and the Department of Justice in the course of a security or protection operation of either department or a joint operation of those departments; or

“(vi) is otherwise required by law.

“(2) LOCAL PRIVACY PROTECTION.—In exercising any authority described in subsection (e) or (d), a State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2) or owner or operator of an airport or critical infrastructure shall ensure that—

“(A) the interception of, acquisition of, access to, maintenance of, or use of communications to or from an unmanned aircraft system or unmanned aircraft under this section is conducted in a manner consistent with—
“(i) the First and Fourth Amendments to the Constitution of the United States; and

“(ii) applicable provisions of Federal law, and where required, State, local, Tribal, and territorial law;

“(B) any communication to or from an unmanned aircraft system or unmanned aircraft is intercepted or acquired only to the extent necessary to support an action described in subsection (e);

“(C) any record of a communication described in subparagraph (B) is maintained only for as long as necessary, and in no event for more than 180 days, unless the Secretary, the Attorney General, or the head of a State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2) determines that maintenance of the record is—

“(i) required to be maintained under Federal, State, local, Tribal, or territorial law;

“(ii) necessary for the purpose of any litigation; or
“(iii) necessary to investigate or prosecute a violation of law, including by—

“(I) directly supporting an on-going security or protection operation; or

“(II) protecting against dangerous or unauthorized activity by an unmanned aircraft system or unmanned aircraft; and

“(D) the communication is not disclosed outside the agency or entity unless the disclosure—

“(i) is necessary to investigate or prosecute a violation of law;

“(ii) would support the Department of Defense, a Federal law enforcement, intelligence, or security agency, or a State, local, Tribal, or territorial law enforcement agency;

“(iii) would support the enforcement activities of a Federal regulatory agency in connection with a criminal or civil investigation of, or any regulatory, statutory, or other enforcement action relating to, an action described in subsection (e);
“(iv) is to the Department or the Department of Justice in the course of a security or protection operation of either the Department or the Department of Justice, or a joint operation of the Department and Department of Justice; or

“(v) is otherwise required by law.

“(k) BUDGET.—

“(1) IN GENERAL.—The Secretary and the Attorney General shall submit to Congress, as a part of the homeland security or justice budget materials for each fiscal year after fiscal year 2024, a consolidated funding display that identifies the funding source for the actions described in subsection (e) within the Department and the Department of Justice.

“(2) CLASSIFICATION.—Each funding display submitted under paragraph (1) shall be in unclassified form but may contain a classified annex.

“(l) PUBLIC DISCLOSURES.—

“(1) IN GENERAL.—Notwithstanding any provision of State, local, Tribal, or territorial law, information shall be governed by the disclosure obligations set forth in section 552 of title 5, United
States Code (commonly known as the ‘Freedom of Information Act’), if the information relates to—

“(A) any capability, limitation, or sensitive detail of the operation of any technology used to carry out an action described in subsection (e)(1) of this section; or

“(B) an operational procedure or protocol used to carry out this section.

“(2) STATE, LOCAL, TRIBAL, OR TERRITORIAL AGENCY USE.—

“(A) CONTROL.—Information described in paragraph (1) that is obtained by a State, local, Tribal, or territorial law enforcement agency from a Federal agency under this section—

“(i) shall remain subject to the control of the Federal agency, notwithstanding that the State, local, Tribal, or territorial law enforcement agency has the information described in paragraph (1) in the possession of the State, local, Tribal, or territorial law enforcement agency; and

“(ii) shall not be subject to any State, local, Tribal, or territorial law authorizing or requiring disclosure of the information described in paragraph (1).
“(B) Access.—Any request for public access to information described in paragraph (1) shall be submitted to the originating Federal agency, which shall process the request as required under section 552(a)(3) of title 5, United States Code.

“(m) Assistance and Support.—

“(1) Facilities and services of other agencies and non-federal entities.—

“(A) In general.—The Secretary and the Attorney General are authorized to use or accept from any other Federal agency, or any other public or private entity, any supply or service to facilitate or carry out any action described in subsection (e).

“(B) Reimbursement.—In accordance with subparagraph (A), the Secretary and the Attorney General may accept any supply or service with or without reimbursement to the entity providing the supply or service and notwithstanding any provision of law that would prevent the use or acceptance of the supply or service.

“(C) Agreements.—To implement the requirements of subsection (a)(5)(C), the Sec-
Secretary or the Attorney General may enter into 1 or more agreements with the head of another executive agency or with an appropriate official of a non-Federal public or private agency or entity, as may be necessary and proper to carry out the responsibilities of the Secretary and Attorney General under this section.

“(2) MUTUAL SUPPORT.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary and the Attorney General are authorized to provide support or assistance, upon the request of a Federal agency or department conducting—

“(i) a mission described in subsection (a)(5)(C);

“(ii) a mission described in section 130i of title 10, United States Code; or

“(iii) a mission described in section 4510 of the Atomic Energy Defense Act (50 U.S.C. 2661).

“(B) REQUIREMENTS.—Any support or assistance provided by the Secretary or the Attorney General shall only be granted—

“(i) for the purpose of fulfilling the roles and responsibilities of the Federal
agency or department that made the request for the mission for which the request was made;

“(ii) when exigent circumstances exist;

“(iii) for a specified duration and location;

“(iv) within available resources;

“(v) on a non-reimbursable basis; and

“(vi) in coordination with the Administrator of the Federal Aviation Administration.

“(n) SEMIANNUAL BRIEFINGS AND NOTIFICATIONS.—

“(1) IN GENERAL.—On a semiannual basis beginning 180 days after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2023, the Secretary and the Attorney General shall each provide a briefing to the appropriate committees of Congress on the activities carried out pursuant to this section.

“(2) REQUIREMENT.—The Secretary and the Attorney General each shall conduct the briefing required under paragraph (1) jointly with the Secretary of Transportation.
“(3) CONTENT.—Each briefing required under paragraph (1) shall include—

“(A) policies, programs, and procedures to mitigate or eliminate impacts of activities carried out pursuant to this section to the national airspace system and other critical infrastructure relating to national transportation;

“(B) a description of—

“(i) each instance in which any action described in subsection (e) has been taken, including any instances that may have resulted in harm, damage, or loss to a person or to private property;

“(ii) the guidance, policies, or procedures established by the Secretary or the Attorney General to address privacy, civil rights, and civil liberties issues implicated by the actions permitted under this section, as well as any changes or subsequent efforts by the Secretary or the Attorney General that would significantly affect privacy, civil rights, or civil liberties;

“(iii) options considered and steps taken by the Secretary or the Attorney General to mitigate any identified impacts
to the national airspace system relating to
the use of any system or technology, in-
cluding the minimization of the use of any
technology that disrupts the transmission
of radio or electronic signals, for carrying
out the actions described in subsection
(c)(2); and
“(iv) each instance in which a commu-
ication intercepted or acquired during the
course of operations of an unmanned air-
craft system or unmanned aircraft was—
“(I) held in the possession of the
Department or the Department of
Justice for more than 180 days; or
“(II) shared with any entity
other than the Department or the De-
partment of Justice;
“(C) an explanation of how the Secretary,
the Attorney General, and the Secretary of
Transportation have—
“(i) informed the public as to the pos-
sible use of authorities granted under this
section; and
“(ii) engaged with Federal, State,
local, Tribal, and territorial law enforce-
ment agencies to implement and use au-

thorities granted under this section;

“(D) an assessment of whether any gaps
or insufficiencies remain in laws, regulations,
and policies that impede the ability of the Fed-
eral Government or State, local, Tribal, and ter-
ritorial governments and owners or operators of
critical infrastructure to counter the threat
posed by the malicious use of unmanned air-
craft systems and unmanned aircraft;

“(E) an assessment of efforts to integrate
unmanned aircraft system threat assessments
within National Special Security Event and
Special Event Assessment Rating event plan-
ning and protection efforts;

“(F) recommendations to remedy any gaps
or insufficiencies described in subparagraph
(D), including recommendations relating to nec-
essary changes in law, regulations, or policies;

“(G) a description of the impact of the au-
thorities granted under this section on—

“(i) lawful operator access to national
airspace; and
“(ii) unmanned aircraft systems and unmanned aircraft integration into the national airspace system; and

“(II) a summary from the Secretary of any data and results obtained pursuant to subsection (r), including an assessment of—

“(i) how the details of the incident were obtained; and

“(ii) whether the operation involved a violation of Federal Aviation Administration aviation regulations.

“(4) UNCLASSIFIED FORM.—Each briefing required under paragraph (1) shall be in unclassified form but may be accompanied by an additional classified briefing.

“(5) NOTIFICATION.—

“(A) IN GENERAL.—Not later than 30 days after an authorized department, agency, or owner or operator of an airport or critical infrastructure deploys any new technology to carry out the actions described in subsection (e), the Secretary and the Attorney General shall, individually or jointly, as appropriate, submit a notification of the deployment to the appropriate committees of Congress.
“(B) CONTENTS.—Each notification submitted pursuant to subparagraph (A) shall include a description of options considered to mitigate any identified impacts to the national airspace system relating to the use of any system or technology, including the minimization of the use of any technology that disrupts the transmission of radio or electronic signals in carrying out the actions described in subsection (e).

“(o) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

“(1) vest in the Secretary, the Attorney General, or any State, local, Tribal, or territorial law enforcement agency that is authorized under subsection (e) or designated under subsection (d)(2) any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration;

“(2) vest in the Secretary of Transportation, the Administrator of the Federal Aviation Administration, or any State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2) any authority of the Secretary or the Attorney General;
“(3) vest in the Secretary any authority of the Attorney General;

“(4) vest in the Attorney General any authority of the Secretary; or

“(5) provide a new basis of liability with respect to an officer of a State, local, Tribal, or territorial law enforcement agency designated under subsection (d)(2) or who participates in the protection of a mass gathering identified by the Secretary or Attorney General under subsection (a)(5)(C)(iii)(II), who—

“(A) is acting in the official capacity of the individual as an officer; and

“(B) does not exercise the authority granted to the Secretary and the Attorney General by this section.

“(p) TERMINATION.—

“(1) TERMINATION OF ADDITIONAL LIMITED AUTHORITY FOR DETECTION, IDENTIFICATION, MONITORING, AND TRACKING.—The authority to carry out any action authorized under subsection (c), if performed by a non-Federal entity, shall terminate on the date that is 5 years and 6 months after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft
Systems Act of 2023 and the authority under the pilot program established under subsection (d) shall terminate as provided for in paragraph (3) of that subsection.

“(2) TERMINATION OF AUTHORITIES WITH RESPECT TO COVERED FACILITIES AND ASSETS.—The authority to carry out this section with respect to a covered facility or asset shall terminate on the date that is 7 years after the date of enactment of the Safeguarding the Homeland from the Threats Posed by Unmanned Aircraft Systems Act of 2023.

“(q) SCOPE OF AUTHORITY.—Nothing in this section shall be construed to provide the Secretary or the Attorney General with any additional authority other than the authorities described in subsections (a)(5)(C)(iii), (b), (c), (d), (f), (m), and (r).

“(r) UNITED STATES GOVERNMENT DATABASE.—

“(1) AUTHORIZATION.—The Department is authorized to develop a Federal database to enable the transmission of data concerning security-related incidents in the United States involving unmanned aircraft and unmanned aircraft systems between Federal, State, local, Tribal, and territorial law enforcement agencies for purposes of conducting analyses of such threats in the United States.
“(2) POLICIES, PLANS, AND PROCEDURES.—

“(A) COORDINATION AND CONSULTATION.—Before implementation of the database developed under paragraph (1), the Secretary shall develop policies, plans, and procedures for the implementation of the database—

“(i) in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Transportation (acting through the Administrator of the Federal Aviation Administration); and

“(ii) in consultation with State, local, Tribal, and territorial law enforcement agency representatives, including representatives of fusion centers.

“(B) REPORTING.—The policies, plans, and procedures developed under subparagraph (A) shall include criteria for Federal, State, local, Tribal, and territorial reporting of unmanned aircraft systems or unmanned aircraft incidents.

“(C) DATA RETENTION.—The policies, plans, and procedures developed under subparagraph (A) shall ensure that data on security-related incidents in the United States involving
unmanned aircraft and unmanned aircraft systems that is retained as criminal intelligence information is retained based on the reasonable suspicion standard, as permitted under part 23 of title 28, Code of Federal Regulations.”.