

DHS COUNTERING UNMANNED AIRCRAFT SYSTEMS
COORDINATOR ACT

AUGUST 28, 2018.—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. 6438]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 6438) to amend the Homeland Security Act of 2002 to establish in the Department of Homeland Security an Unmanned Aircraft Systems Coordinator, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 6438 is to amend the Homeland Security Act of 2002 to establish in the Department of Homeland Security a Countering Unmanned Aircraft Systems (UAS) Coordinator. H.R. 6438 enables DHS to centralize the coordination of counter-drone threat planning efforts at DHS under one official. Under H.R. 6438, the Countering UAS Coordinator is responsible for coordinating with relevant DHS components on the development of policies and plans to counter threats from UAS. The Coordinator will also serve as the principal Department official responsible for disseminating information to the private sector regarding DHS counter-drone measures and will ensure that DHS counter-drone activities are carried out in accordance with Federal laws.

BACKGROUND AND NEED FOR LEGISLATION

Recent incidents involving unmanned aircraft systems, commonly known as drones, have brought to light growing security concerns and risks due to the increased availability and expanded use of drones. Drones provide both a robust aerial delivery mechanism for potentially hazardous material payloads and anonymity for would-be attackers. ISIS has utilized drones for reconnaissance and munition delivery missions in Iraq and Syria, and other known incidents involving drones have included weaponized use by cartels, smuggling operations, among other things. Additionally, unidentified drones have been flown over NFL and Olympic stadiums, potentially posing a significant threat to millions of sports fans and eventgoers.

Federal and State regulators have struggled to keep pace with the exponential growth in the use of drones. In 2016, the Federal Aviation Administration promulgated regulations, which included prohibitions on attaching hazardous materials to drones. Several Department of Homeland Security offices and components are members of numerous interagency and industry drone working groups, which promote information sharing, research, and joint problem-solving initiatives. The Science and Technology Directorate assesses the capabilities and threats associated with drones and how technology can be used to offer solutions. The Office of Intelligence and Analysis assesses the threats posed by small drones within the homeland. However, the Department currently does not have a centralized, Department-wide official responsible for the coordination of counter-drone policies and activities, as is required by H.R. 6438.

Earlier this year, the Committee held a classified briefing to learn more about drone threats to the homeland. Additionally, numerous bills have been introduced in both the House of Representatives and Senate during the 115th Congress to provide the Department of Homeland Security and Department of Justice with the authorities to counter threats from drones. Under H.R. 6438, the Coordinator works with Department offices and components to coordinate on the development of policies and plans implementing authorities like those proposed by Congress to counter drones that may be used in a terrorist attack on the homeland.

HEARINGS

The Committee held several briefings with officials from the Department, which provided information that helped the Committee develop an understanding of the need for this legislation.

COMMITTEE CONSIDERATION

The Committee met on July 24, 2018, to consider H.R. 6438, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by unanimous consent.

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. 4638.

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. 6438, the DHS Countering Unmanned Aircraft Systems Coordinator Act, 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, August 6, 2018.

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 Department of Homeland Security legislation ordered reported by the Committee on Homeland Security on July 24, 2018.

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,
Director.

Enclosure.

Department of Homeland Security Legislation

On July 24, the House Committee on Homeland Security ordered three bills to be reported. The bills are:

- H.R. 6400, the United States Ports of Entry Threat and Operational Review Act;
- H.R. 6430, the Securing the Homeland Security Supply Chain Act of 2018; and
- H.R. 6438, the DHS Countering Unmanned Aircraft Systems Coordinator Act.

H.R. 6400 would require the Department of Homeland Security (DHS) to prepare an analysis of security issues at U.S. ports of entry and a plan to mitigate threats to ports. H.R. 6430 would authorize DHS to take certain actions to improve the security of information and telecommunications systems acquired by the department. H.R. 6438 would direct DHS to designate one of its officials to coordinate the department's efforts to combat threats from unmanned aircraft systems (or drones).

CBO estimates that enacting those bills would not significantly affect spending by DHS in any fiscal year because the department could implement each bill with minimal additional personnel.

Enacting the bills would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting the bills would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

None of the bills contain 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 reviewed 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. 6438 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

This bill requires the Secretary to designate a Countering Unmanned Aircraft Systems Coordinator of the Department.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 6438 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. 6438 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 6438 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 this bill may be cited as the “DHS Countering Unmanned Aircraft Systems Coordinator Act”.

Sec. 2. Unmanned Aircraft Systems Countermeasures Coordinator

This section establishes a new Section 321 of the Homeland Security Act as follows:

Subsection 321(a) authorizes the Secretary to designate a Countering Unmanned Aircraft Systems Coordinator of the Department to coordinate with relevant Department offices and components on the development of policies and plans to counter threats associated with unmanned aircraft systems. The Coordinator’s responsibilities include coordinating all relevant Department policies and activities for countering unmanned aircraft systems that may be used in a terrorist attack on the homeland; promoting the research and development of counter unmanned aircraft systems technologies within the Department; ensuring that information and guidance regarding unmanned aircraft system threats are disseminated as appropriate; and providing Federal, State, local and tribal law enforcement and the private sector with the appropriate unmanned aircraft systems-related points of contact within the Department.

Subsection 321(b) requires the Coordinator to coordinate with Department offices and components to ensure that any testing, evaluation, or deployment of systems used to identify, assess, or de-

feat unmanned aircraft systems by the Department operate in compliance with Federal law. The Committee also expects that the Coordinator work with Department offices and components to carry out the functions of this section with due consideration given to avoid interference with lawful aviation operations.

Subsection 321(c) requires that the Coordinator work with relevant Department offices, including the Office of Partnership and Engagement, and other Federal agencies to share information regarding counter unmanned aircraft system technology with parties in the private sector whose systems or services may be impacted by the use of such technology. The Committee expects that the Coordinator serve as the Department's lead official responsible for providing the private sector with information regarding the use of technologies by the Department to counter unmanned aircraft systems in order to limit, to the extent practical, the impact of such technologies on private sector services and systems.

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:

Sec. 1. Short title; table of contents.

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TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

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[Sec. 317. Promoting antiterrorism through international cooperation program.

[Sec. 319. EMP and GMD mitigation research and development.

[Sec. 318. Social media working group.

[Sec. 319. Transparency in research and development.**]**

Sec. 317. Promoting antiterrorism through international cooperation program.

Sec. 318. Social media working group.

Sec. 319. Transparency in research and development.

Sec. 320. EMP and GMD mitigation research and development.

Sec. 321. Countering Unmanned Aircraft Systems Coordinator.

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TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

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SEC. 321. COUNTERING UNMANNED AIRCRAFT SYSTEMS COORDINATOR.

(a) *COORDINATOR.*—The Secretary shall designate an official of the Department as the Countering Unmanned Aircraft Systems (UAS) Coordinator (in this section referred to as the “Coordinator”) to coordinate with relevant Department offices and components on the development of policies and plans to counter threats associated with UAS, including—

- (1) countering UAS that may be used in a terrorist attack;
- (2) promoting research and development of counter UAS technologies;
- (3) ensuring the dissemination of information and guidance related to countering UAS threats;
- (4) serving as the Department point of contact for Federal, State, local, and tribal law enforcement entities and the private sector regarding the Department’s activities related to countering UAS; and
- (5) carrying out other related UAS activities, as directed by the Secretary.

(b) *COORDINATION WITH APPLICABLE FEDERAL LAWS.*—The Coordinator shall, in addition to other assigned duties, coordinate with relevant Department components and offices to ensure testing, evaluation, or deployment of a system used to identify, assess, or defeat a UAS is carried out in accordance with applicable Federal laws.

(c) *COORDINATION WITH PRIVATE SECTOR.*—The Coordinator shall, working with the Office of Partnership and Engagement and other relevant Department offices and components, or other Federal agencies, as appropriate, serve as the principal Department official responsible for disseminating to the private sector information regarding counter UAS technology, particularly information regarding instances in which counter UAS technology may impact lawful private sector services or systems.

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