

DEPARTMENT OF HOMELAND SECURITY INTEROPERABLE COMMUNICATIONS ACT

JUNE 19, 2014.—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. 4289]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4289) to amend the Homeland Security Act of 2002 to require the Under Secretary for Management of the Department of Homeland Security to take administrative action to achieve and maintain interoperable communications capabilities among the components of the Department of Homeland Security, 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. 4289 is to amend the Homeland Security Act of 2002 to require the Under Secretary for Management of the Department of Homeland Security to take administrative action to achieve and maintain interoperable communications capabilities among the Department's components.

BACKGROUND AND NEED FOR LEGISLATION

In November 2012, the Department of Homeland Security (DHS)'s Office of Inspector General (OIG) released a report entitled, *DHS' Oversight of Interoperable Communications*, which found that despite \$430 million invested in communications capabilities, DHS lacks Department-wide interoperability. The report observed that the Department lacks effective oversight to achieve interoperable communications among the Department's components, specifically with radio communications, and that DHS component personnel were unaware of how to access the common communications channel and radios were improperly programmed. Finally, the report found that DHS did not establish a sufficient governance structure to ensure Department-wide interoperability. The report states that the Department believes that its current structure is sufficient to achieve interoperability; however, the OIG noted that the structure relies on cooperation, not authority, among the components, which OIG cautions could hinder future interoperability efforts. This legislation would require that the Department develop a strategy to achieve interoperability and strengthens the governance structure related to interoperability policies. Finally, this legislation would ensure that the Department informs the Committee about its efforts to address the Inspector General's recommendations and develop and maintain interoperable communications among its components.

HEARINGS

Although the Committee did not hold specific legislative hearings on H.R. 4289, the Committee did hold the following hearing where interoperability challenges at the Department were discussed.

113th Congress

On May 7, 2014, Committee on Homeland Security held a hearing entitled "Preventing Waste, Fraud, Abuse and Mismanagement in Homeland Security—A GAO High-Risk List Review." The Committee received testimony from Hon. Alejandro N. Mayorkas, Deputy Secretary, U.S. Department of Homeland Security; Hon. Gene L. Dodaro, Comptroller General of the United States, Government Accountability Office; and Hon. John Roth, Inspector General, U.S. Department of Homeland Security.

112th Congress

On November 17, 2011, the Subcommittee held a hearing entitled "Ensuring Coordination and Cooperation: A Review of the Emergency Communications Offices Within the Department of Homeland Security." The Subcommittee received testimony from Mr. Chris Essid, Director, Office of Emergency Communications, Department of Homeland Security; Mr. John O'Connor, Manager,

National Coordinating Center for Communications, National Protection and Programs Directorate, Department of Homeland Security; Mr. Damon Penn, Assistant Administrator, National Continuity Programs, Federal Emergency Management Agency, Department of Homeland Security; Mr. Eric Edwards, Director, Disaster Emergency Communications Division, Response Directorate, Federal Emergency Management Agency, Department of Homeland Security; and Ms. Linda K. Moore, Specialist in Telecommunications and Spectrum Policy, Congressional Research Service.

COMMITTEE CONSIDERATION

The Committee met on June 11, 2014, to consider H.R. 4289, and ordered the measure to be reported to the House with a favorable recommendation, without amendment by voice vote.

The Subcommittee on Emergency Preparedness, Response, and Communications met on March 27, 2014, to consider H.R. 4289, and ordered the measure forwarded to the Full Committee with a favorable recommendation, without amendment, by voice vote.

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. 4289.

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. 4289, the Department of Homeland Security Interoperable Communications 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, June 19, 2014.

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. 4289, the DHS Interoperable Communications Act.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 4289—DHS Interoperable Communications Act

H.R. 4289 would require the Department of Homeland Security (DHS), within 120 days of the bill's enactment, to devise a strategy to improve communications among DHS agencies. Within 220 days of enactment and biannually thereafter, DHS would have to prepare a report on the implementation of that strategy. There are ongoing activities within the department to improve communications, so CBO estimates that implementing the bill would not significantly affect spending by DHS in any year. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 4289 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Theresa Gullo, 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. 4289 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

H.R. 4289 directs the Under Secretary for Management to submit a strategy to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate within 120 days of enactment on how the Department of Homeland Security will achieve and maintain interoperable communications among its components.

DUPLICATIVE FEDERAL PROGRAMS

The Committee finds that H.R. 4289 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. 4289 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 4289 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 “Department of Homeland Security Interoperable Communications Act”.

Sec. 2. Inclusion of interoperable communications capabilities in responsibilities of Under Secretary for Management

This section amends section 701 of the Homeland Security Act of 2002 (Pub. L. 107–296) to include, among the responsibilities of the Under Secretary for Management (USM), developing policies and directives to achieve and maintain interoperable communications among the components of the Department. With respect to section 701, the bill defines interoperable communications to mean the ability of departmental components to communicate with one another, as necessary, to exchange voice, data, and video for daily operations, planned events, and emergencies.

Sec. 3. Strategy

This section requires the USM, within 120 days of enactment, to develop and submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate (the Committees), a strategy for achieving and maintaining interoperable communications among the components including:

- Information on efforts and activities, including current and planned policies and directives, and training to achieve and maintain interoperable communications among the components;
- An assessment of obstacles and challenges to achieving and maintaining interoperable communications;

- An assessment on the adequacy of mechanisms available to the USM to enforce and compel compliance with interoperable communications policies and directives;
- Guidance provided to the components to implement Departmental communications policies and directives;
- The total amount of funding expended by the Department since November 1, 2012, and projected future expenditures, to achieve interoperable communications; and
- Dates upon which Department-wide interoperability is projected to be achieved.

When transmitting the strategy to the Committees, the USM must also share information on any intra-agency efforts or taskforce to which the USM has delegated responsibility for achieving and maintaining interoperable communications, along with the individual responsible for implementing the policies and directives at the component level.

The Committee is disappointed that the Department has spent \$430 million on communications capabilities without effectuating the changes within practices in the components to achieve interoperability. The Committee believes that to advance interoperability goals at the Department, there needs to be leadership at the highest level and that implementation of interoperability-related directives by components should be mandatory, not voluntary. The Committee intends for this section to require the Department to establish a governance structure with the necessary authority to ensure that the components achieve interoperability and that the necessary policies are developed and disseminated.

Sec. 4. Report

This section requires the USM to submit, within 220 days of enactment and biannually thereafter, a report to the Committees detailing the status of efforts to implement the strategy required under section three.

In recognition of the importance of this undertaking, the Committee requires the Department to report, on an ongoing basis, about progress on achieving interoperability within the Department.

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 (new matter is printed in *italic* and existing law in which no change is proposed is shown in *roman*):

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE VII—MANAGEMENT

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) **IN GENERAL.**—The Under Secretary for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Depart-

ment, including management integration and transformation in support of homeland security operations and programs. The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) * * *

* * * * *

(4) Information technology and communications systems, *including policies and directives to achieve and maintain interoperable communications among the components of the Department.*

* * * * *

(d) *INTEROPERABLE COMMUNICATIONS DEFINED.—In this section, the term “interoperable communications” means the ability of components of the Department to communicate with each other as necessary, utilizing information technology systems and radio communications systems to exchange voice, data, and video in real time, as necessary, for acts of terrorism, daily operations, planned events, and emergencies.*

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