

HOMELAND SECURITY DRONE ASSESSMENT AND
ANALYSIS ACT

JUNE 18, 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. 1646]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1646) to require the Secretary of Homeland Security to research how small and medium sized unmanned aerial systems could be used in an attack, how to prevent or mitigate the effects of such an attack, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Hearings	3
Committee Consideration	4
Committee Votes	5
Committee Oversight Findings	5
New Budget Authority, Entitlement Authority, and Tax Expenditures	5
Congressional Budget Office Estimate	5
Statement of General Performance Goals and Objectives	6
Duplicative Federal Programs	6
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	7
Federal Mandates Statement	7
Preemption Clarification	7
Disclosure of Directed Rule Makings	7
Advisory Committee Statement	7
Applicability to Legislative Branch	7
Section-by-Section Analysis of the Legislation	7
Changes in Existing Law Made by the Bill, as Reported	8
Committee Correspondence	9

The amendments are as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Homeland Security Drone Assessment and Analysis Act”.

SEC. 2. DRONE ASSESSMENT AND ANALYSIS.

(a) **IN GENERAL.**—The Secretary of Homeland Security shall, in consultation with the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, and the Chairman of the Nuclear Regulatory Commission research how commercially available small and medium sized unmanned aircraft, excluding aircraft over 1,300 pounds could be used to perpetuate an attack and, based on such research, the Secretary of Homeland Security shall develop policies, guidance, and protocols to prevent such an attack or mitigate the risks of such an attack. Not later than 180 days after the completion of the research required under this subsection, the Secretary of Homeland Security may provide, as appropriate, the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, and the Chairman of the Nuclear Regulatory Commission advice, based on such research, regarding how to best prevent and mitigate the risk of such an attack.

(b) **DISSEMINATION TO STATE AND LOCAL OFFICIALS.**—The Secretary of Homeland Security shall disseminate information to State, local, and tribal law enforcement officials and State and major urban area fusion centers, as appropriate, regarding how such officials may bolster preparedness for and responses to attacks perpetrated by commercially available small and medium sized unmanned aircraft, excluding aircraft over 1,300 pounds.

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science and Transportation of the Senate an assessment of the security risk associated with commercially available small and medium sized unmanned aircraft, excluding aircraft over 1,300 pounds. Such assessment shall be informed by research conducted in accordance with subsection (a), shall contain recommendations, if applicable, to prevent and mitigate the risk of an unmanned aircraft system attack, and may be developed in coordination with the Centers of Excellence of the Department of Homeland Security and other academic institutions.

Amend the title so as to read:

A bill to require the Secretary of Homeland Security to research how certain commercially available small and medium sized unmanned aircraft systems could be used in an attack, how to prevent or mitigate the risk of such an attack, and for other purposes

PURPOSE AND SUMMARY

The purpose of H.R. 1646 is to require the Secretary of Homeland Security to research how commercially-available small and medium sized unmanned aerial aircraft could be used in an attack, develop policies, guidance and protocols for the Department of Homeland Security to prevent an attack or mitigate the effects of an attack, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The rapid proliferation of small and medium sized unmanned aircraft systems (UAS) poses an evolving security threat. Recent high profile incidents at the White House, the Japanese Prime Minister’s residence, French nuclear power plants and numerous airports and sports venues raise significant questions about the risk of small and medium sized UAS being used in a malicious or terrorist attack. Concerns about the security risk posed by UAS of this size are not new; in 2011, an individual was arrested for plotting to attack the U.S. Capitol and Pentagon using small UAS

laden with explosives. There is also concern about UAS being used to undermine border security as drug cartels have used small UAS as a cheap method for smuggling drugs across the United States' southern border. Furthermore, the public safety risk generated from inexperienced, reckless, and negligent operators is also a concern.

As the use of this technology continues to increase exponentially, Federal, state, local, and tribal law enforcement entities need information on how to deter, detect, investigate, and mitigate the unauthorized and/or unsafe use of small and medium sized UAS. Over the past few years, the Department of Homeland Security (DHS) has released a few bulletins to inform the public and law enforcement about potential illicit uses, impacts, and indicators of malicious activity related to UAS. In March 2015, the Federal Aviation Administration (FAA) announced updated safety procedures for the utilization of small UAS in civilian airspace. Given how quickly the technology is proliferating, the Committee believes DHS must address the security implications associated with the risks posed by small and medium UAS.

By the end of fiscal year 2015, the FAA is expected to establish new rules to allow the operation of UAS, for non-recreational purposes, in U.S. airspace. The Committee believes that the FAA's efforts would be better informed by a DHS assessment of the potential security risk, as the use of small and medium sized UAS continues to increase. However, to date, DHS has not conducted such an assessment and has not developed a strategy to counter the malicious use of small and/or medium sized UAS. The Committee notes that DHS is operating under NSPD-47/HSPD-16 and the National Strategy for Aviation Security, which was released in 2007 and has not been updated to reflect the proliferation of technology such as UAS.

The Committee believes that it is imperative that a thorough risk assessment be conducted and the necessary policies, guidance, and protocols for use by DHS be developed before the national airspace is opened to expanded UAS use.

This bill requires DHS to research how commercially available small and medium sized drones could be used to perpetuate an attack, conduct a risk assessment of small or medium-sized UAS attacks, develop policies regarding the mitigation of risk of small or medium sized UAS attacks, and disseminate information to law enforcement regarding how to respond to potential UAS threats

HEARINGS

The Committee held no hearings on H.R. 1646, however, the Committee held the following oversight hearings:

112th Congress

On July 19, 2012, the Subcommittee on Oversight, Investigations, and Management held a hearing entitled "Using Unmanned Aerial Systems Within the Homeland: Security Game Changer?" The Subcommittee received testimony from Mr. Todd E. Humphreys, Ph.D, Assistant Professor, Cockrell School of Engineering, The University of Texas at Austin; Mr. Gerald Dillingham, PhD, Director, Physical Infrastructure Issues, Government Accountability Office; Chief Deputy William McDaniel, Montgomery County

Sheriff's Office, Conroe, Texas; and Ms. Amie Stepanovich, Litigation Counsel, Electronic Privacy Information Center.

114th Congress

On March 18, 2015, the Subcommittee on Oversight and Management Efficiency held a hearing entitled "Unmanned Aerial System Threats: Exploring Security Implications and Mitigation Technologies." The Subcommittee received testimony from Dr. Todd E. Humphreys, Assistant Professor, Cockrell School of Engineering, The University of Texas at Austin; Major General Frederick Roggero, (USAF-Ret.), President and Chief Executive Officer, Resilient Solutions, Ltd.; Chief Richard Beary, President, International Association of Chiefs of Police; and Gregory S. McNeal, JD/PhD, Associate Professor, School of Law, Pepperdine University.

COMMITTEE CONSIDERATION

The Committee met on May 20, 2015, to consider H.R. 1646, and ordered the measure to be reported to the House with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

The title of the bill was amended so as to read: "A bill to require the Secretary of Homeland Security to research how certain commercially available small and medium sized unmanned aircraft systems could be used in an attack, how to prevent or mitigate the risk of such an attack, and for other purposes."

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MRS. WATSON COLEMAN (#1); was AGREED TO by voice vote.

The Subcommittee on Oversight and Management Efficiency met on May 13, 2015, to consider H.R. 1646, and ordered the measure to be reported to the Full Committee with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

The following amendment was offered:

An amendment offered by MRS. WATSON COLEMAN (#1); was AGREED TO by voice vote.

In subsection (a) of section 2, strike "and the Secretary of Energy," and insert "the Secretary of Energy, and the Chairman of the Nuclear Regulatory Commission".

In subsection (b) of section 2, insert "and State and major urban area fusion centers, as appropriate," after "officials".

In subsection (c) of section 2, strike "threat" and insert "risk".

In subsection (c) of section 2, strike "the commercial availability of" and insert "commercially available".

An amendment offered by MR. PERRY (#2); was AGREED TO by voice vote.

In subsection (a) of section 2, insert ", in consultation with the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, and the Chairman of the Nuclear Regulatory Commission" before "research".

In subsection (a) of section 2, strike "aerial systems" and insert "aircraft, excluding aircraft over 1,300 pounds".

In subsection (a) of section 2, strike "in consultation with the Secretary of Defense, the Secretary of Transportation, and the Secretary of Energy," and insert ", based on such research, the Secretary of Homeland Security shall".

In subsection (a) of section 2, strike "Federal".

In subsection (a) of section 2, strike "effects" and insert "risk".

In subsection (a) of section 2, add at the end the following new sentence: "Not later than 180 days after the completion of the research required under this sub sec-

tion, the Secretary of Homeland Security may provide, as appropriate, the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, and the Chairman of the Nuclear Regulatory Commission advice, based on such research, regarding how to best prevent and mitigate the risk of such an attack.”

In subsection (b) of section 2, strike “aerial systems” and insert “aircraft, excluding aircraft over 1,300 pounds”.

In subsection (c) of section 2, in the first sentence, insert “and the Committee on Transportation and Infrastructure” before “of the House of Representatives”.

In subsection (c) of section 2, in the first sentence, insert “and the Committee on Commerce, Science and Transportation” before “of the Senate”.

In subsection (c) of section 2, in the first sentence, strike “aerial systems” and insert “aircraft, excluding aircraft over 1,300 pounds”.

In subsection (c) of section 2, in the second sentence, insert “, shall contain recommendations, if applicable, to prevent and mitigate the risk of an unmanned aircraft system attack,” after “in accordance with subsection (a)”.

Amend the long title to read as follows: “To require the Secretary of Homeland Security to research how certain commercially-available small and medium sized unmanned aircraft systems could be used in an attack, how to prevent or mitigate the risk of such an attack, and for other purposes.”

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. 1646.

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. 1646, the Homeland Security Drone Assessment and Analysis 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 18, 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. 1646, the Homeland Security Drone Assessment and Analysis Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz and Ben Christopher.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 1646—Homeland Security Drone Assessment and Analysis Act

CBO estimates that implementing H.R. 1646 would cost \$3 million in fiscal year 2016, assuming appropriation of the necessary amounts. Because enacting the legislation would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

H.R. 1646 would direct the Department of Homeland Security (DHS) to investigate the potential use of small and medium sized drones to attack U.S. interests and to work with federal agencies to develop and standardize protocols for preventing such actions. The bill also would require DHS to advise state, local, and tribal governments on prevention of drone attacks and to report to the Congress on the risks of such attacks.

Based on information from DHS about the costs of similar activities, CBO estimates that implementing the bill would cost \$3 million in fiscal year 2016, assuming appropriation of the necessary amounts. The costs would mostly result from the additional personnel required to coordinate activities across different agencies and to communicate with law enforcement officials throughout the country.

H.R. 1646 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contacts for this estimate are Mark Grabowicz and Ben Christopher. The estimate was approved by Theresa Gullo, 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. 1646 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The performance goals and objectives of H.R. 1646 include the Department of Homeland Security conducting a risk assessment of the threat posed by unmanned aerial systems under 1300 lbs. Information about bolstering preparedness and response to a UAS-based attack must be disseminated to State, local, and Tribal law enforcement entities, as appropriate. The Department of Homeland Security will also submit a report on the findings of the risk assessment to Congress no later than one year after the enactment of this Act.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 1646 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. 1646 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 1646 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 “Homeland Security Drone Assessment and Analysis Act”.

Section 2. Drone assessment and analysis

Section 2(a) requires the Secretary of Homeland Security (DHS), in consultation with the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, and the Chairman of the Nuclear Regulatory Commission to research how commercially available small and medium sized unmanned aircraft under 1300 lbs. could be used to perpetuate an attack. Further, based on such research, the Secretary of Homeland Security is directed to develop policies, guidance, and protocols for use by DHS to prevent such an attack or mitigate the risk of such an attack, and may provide advice and information based on such research, as appropriate, to the Secretary of Defense, the Secretary of Transportation, the Secretary of Energy, and the Chairman of the Nuclear Regulatory Commission.

Section 2(b)—Dissemination to state and local officials

Section 2(b) requires the DHS Secretary to disseminate information to State, local, and tribal law enforcement officials, and State and major urban area fusion centers, as appropriate, regarding how to bolster preparedness for and respond to attacks perpetrated by commercially available small and medium sized unmanned aircraft under 1300 lbs.

Section 2(c)—Report

Section 2(c) requires the DHS Secretary to submit a report, no later than one year after the date of the enactment of this Act, to the Committees on Homeland Security and Transportation and Infrastructure of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Commerce, Science, and Transportation of the Senate assessing the security risk associated with commercially available small and medium sized unmanned aircraft under 1300 lbs. The assessment is to be informed by research conducted in accordance with Subsection 2(a), and shall contain recommendations, if applicable, to prevent and mitigate the risk of an attack, and may be developed in coordination with DHS Centers of Excellence and other academic institutions.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1646, as reported, makes no changes to existing law.

COMMITTEE CORRESPONDENCE



Committee on Transportation and Infrastructure
U.S. House of Representatives

Bill Shuster
Chairman

Washington, DC 20515

Peter A. DeFazio
Ranking Member

June 9, 2015

Christopher P. Bertram, Staff Director

Katherine W. Hedrick, Democratic Staff Director

The Honorable Michael T. McCaul
Chairman
Committee on Homeland Security
112-176 Ford House Office Building
Washington, DC 20515

Dear Chairman McCaul:

I write concerning H.R. 1646, the *Homeland Security Drone Assessment and Analysis Act*. This legislation includes matters that fall within the Rule X jurisdiction of the Committee on Transportation and Infrastructure.

In order to expedite floor consideration of H.R. 1646, the Committee on Transportation and Infrastructure will forgo action on this bill. However, this is conditional on our mutual understanding that forgoing consideration of the bill does not prejudice the Committee with respect to the appointment of conferees or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation that fall within the Committee's Rule X jurisdiction. In addition, the bill's sponsor and the Committee on Homeland Security have agreed to include two changes to the bill in a Manager's Amendment on the House Floor. Finally, I request you urge the Speaker to name members of the Committee on Transportation and Infrastructure to any conference committee named to consider H.R. 1646.

Please place a copy of this letter and your response acknowledging our jurisdictional interest into the *Congressional Record* during consideration of the measure on the House floor.

Sincerely,

Bill Shuster
Chairman

cc: The Honorable John Boehner
The Honorable Peter A. DeFazio
The Honorable Bennie G. Thompson
Mr. Thomas J. Wickham, Jr., Parliamentarian

MICHAEL T. McCaul, TEXAS
CHAIRMAN

BENNIE G. THOMPSON, MISSISSIPPI
RANKING MEMBER



One Hundred Fourteenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515
June 10, 2015

The Honorable Bill Shuster
Chairman, Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Shuster,

Thank you for your letter regarding H.R. 1646, the "Homeland Security Drone Assessment and Analysis Act." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Transportation and Infrastructure will forego further action on the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing further action on this bill at this time, the Committee on Transportation and Infrastructure does not waive any jurisdiction over the subject matter contained in this bill or similar legislation in the future. In addition, should a conference on this bill be necessary, I would support your request to have the Committee on Transportation and Infrastructure represented on the conference committee.

I will insert copies of this exchange in the report on the bill and in the *Congressional Record* during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. McCaul
Chairman
Committee on Homeland Security

cc: The Honorable John Boehner, Speaker
The Honorable Bennie G. Thompson, Ranking Member, Committee on Homeland Security
The Honorable Peter A. DeFazio, Ranking Member, Committee on Transportation and Infrastructure
Mr. Thomas J. Wickham, Parliamentarian