

SECURING OUR AGRICULTURE AND FOOD ACT

MARCH 16, 2017.—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. 1238]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1238) to amend the Homeland Security Act of 2002 to make the Assistant Secretary of Homeland Security for Health Affairs responsible for coordinating the efforts of the Department of Homeland Security related to food, agriculture, and veterinary defense against terrorism, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

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

## PURPOSE AND SUMMARY

The purpose of H.R. 1238 is to amend the Homeland Security Act of 2002 to make the Assistant Secretary of Homeland Security for Health Affairs responsible for coordinating the efforts of the Department of Homeland Security related to food, agriculture, and veterinary defense against terrorism.

## BACKGROUND AND NEED FOR LEGISLATION

Agriculture is critical to public health and the Nation's economy. According to the Government Accountability Office (GAO), the food and agriculture sector annually produces \$300 billion in food and other products and is responsible for an estimated one out of every 12 U.S. jobs. Agriculture directly or indirectly supports 16 million jobs.<sup>1</sup> According to the U.S. Department of Agriculture (USDA), "agricultural exports surpassed \$152 billion in Fiscal Year 2014, and have climbed more than 58% in value since 2009, totaling \$771.7 billion over the past 5 years."<sup>2</sup> An intentional attack on, or natural disruption of, our agriculture or food production systems "can present a serious threat to the national economy and human health and can halt or slow trade."<sup>3</sup>

The food and agriculture sector is one of 16 critical infrastructure sectors. According to the Department of Homeland Security (DHS), "the Food and Agriculture Sector is almost entirely under private ownership and is composed of an estimated 2.2 million farms, 900,000 restaurants, and more than 400,000 registered food manufacturing, processing, and storage facilities. This sector accounts for roughly one-fifth of the Nation's economic activity."<sup>4</sup>

Former Secretary of Health and Human Services Tommy Thompson highlighted the vulnerability of the agricultural sector to a terrorist attack in his farewell address in December 2004. He said "for the life of me, I cannot understand why the terrorists have not [targeted] our food supply because it is so easy to do."<sup>5</sup>

The Department of Homeland Security (Department) has responsibility for food, agriculture, and veterinary defense pursuant to Homeland Security Presidential Directive (HSPD) 9—*Defense of United States Food and Agriculture*. Specifically, the Secretary of Homeland Security is responsible for coordinating the "overall national effort to enhance the protection of the critical infrastructure and key resources of the United States."<sup>6</sup> The food and agriculture sector is part of that critical infrastructure. The Secretary of Homeland Security has delegated HSPD-9 implementation to the Assist-

<sup>1</sup> Testimony of Edward Avalos, Under Secretary for Marketing and Regulatory Programs, U.S. Department of Agriculture, before the House Committee on Agriculture, *Full Committee hearing to review USDA organization and program administration (Part 2)*, September 16, 2015, at 5. Available at: <https://archives-agriculture.house.gov/sites/republishans.agriculture.house.gov/files/pdf/Avalos%20Testimony.pdf>

<sup>2</sup> Id.

<sup>3</sup> Statement of Lisa Shames, Government Accountability Office, *Challenges for the Food and Agriculture Sector in Responding to Potential Terrorist Attacks and Natural Disasters*, GAO-11-946T, September 13, 2011, at 1. Available at <http://www.gao.gov/assets/130/126937.pdf>. (Hereafter "GAO Food and Ag Sector Challenges".)

<sup>4</sup> U.S. Department of Homeland Security, *Food and Agriculture Sector*, at <http://www.dhs.gov/food-and-agriculture-sector>.

<sup>5</sup> Hirsch, Jesse, *Food (In)security: Are Farms the Next Great Terrorist Target?*, Modern Farmer, December 16, 2013, at <http://modernfarmer.com/2013/12/food-insecurity-farms-next-terrorist-target/>. (Hereafter "Food (In)security".)

<sup>6</sup> *Homeland Security Presidential Directive 9 - Defense of United States Agriculture and Food*, Jan. 30, 2004 at 2.

ant Secretary of the Office of Health Affairs. This legislation authorizes, for the first time, the Department's Food, Agriculture, and Veterinary Defense (FAVD) Program within the Office of Health Affairs.

#### HEARINGS

The Committee on Homeland Security did not hold a legislative hearing on H.R. 1238. However, the Subcommittee on Emergency Preparedness, Response, and Communications held a hearing on February 26, 2016, entitled "Food for Thought: Efforts to Defend the Nation's Agriculture and Food." The Subcommittee received testimony from R. Douglas Meckes, D.V.M., State Veterinarian, Veterinary Division, Department of Agriculture and Consumer Services, State of North Carolina; Tammy R. Beckham, D.V.M., Ph.D., Dean, College of Veterinary Medicine, Kansas State University; Mr. Bobby Acord, Former Administrator, Animal Plant Health Inspection Service, U.S. Department of Agriculture, *testifying on behalf of the National Pork Producers Council*; and Mr. Brian Williams, Assistant Extension Professor, Mississippi State University.

Witnesses highlighted public and private sector prevention, planning, and preparedness activities, including those conducted by the Department, aimed at reducing vulnerabilities of the food and agricultural sector to an intentional attack or natural disruption.

#### COMMITTEE CONSIDERATION

The Committee met on March 8, 2017, to consider H.R. 1238, and ordered the measure to be reported to the House 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. 1238.

#### 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. 1238, the Securing our Agriculture and Food 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, March 13, 2017.*

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. 1238, the Securing our Agriculture and Food Act.

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

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 1238—Securing our Agriculture and Food Act*

H.R. 1238 would amend the Homeland Security Act of 2002 to authorize a program within the Department of Homeland Security's Office of Health Affairs to coordinate efforts to defend U.S. food, agriculture, and veterinary systems against terrorism.

CBO estimates that implementing H.R. 1238 would cost about \$500,000 a year; such spending would be subject to the availability of appropriated funds. In 2016, the department allocated \$475,000 for this activity. A full year appropriation for the department has not yet been enacted for 2017.

Enacting H.R. 1238 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 1238 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1238 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 contact for this estimate is Robert Reese. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 1238 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

H.R. 1238 authorizes and provides direction to the Food, Agriculture, and Veterinary Defense Program. It requires the Assistant Secretary for Health Affairs to provide oversight and management of the Department's responsibilities pursuant to HSPD-9. It also requires the Assistant Secretary to lead and coordinate the Department's policy initiatives related to agricultural terrorism and other incidents impacting animal and public health.

#### DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 1238 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. 1238 does not preempt any State, local, or Tribal law.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 1238 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 “Securing our Agriculture and Food Act”.

##### *Sec. 2. Coordination of Food, Agriculture, and Veterinary Defense Against Terrorism.*

This section amends Title V of the Homeland Security Act of 2002 to require the Secretary of Homeland Security, through the Assistant Secretary of the Office of Health Affairs, to carry out a program to coordinate the Department of Homeland Security’s ef-

forts related to food, agriculture, and veterinary defense from acts of terrorism and other high-consequence events that pose a high risk to homeland security.

The bill requires the program to include, at a minimum:

- Providing oversight and management of the Department's responsibilities pursuant to *Homeland Security Presidential Directive 9—Defense of United States Food and Agriculture*;
- Providing oversight and integration of the Department's activities related to veterinary public health, food defense, and agricultural security;
- Leading the Department's policy initiatives relating to food, animal, and agricultural incidents, and the impact of such incidents on animal and public health;
- Leading the Department's policy initiatives relating to overall domestic preparedness for and collective response to agricultural terrorism;
- Coordinating efforts with appropriate federal agencies and departments; and
- Other activities as determined necessary by the Secretary.

The section includes a rule of construction indicating that nothing in the section may be construed as altering or superseding the authority of the Secretary of Agriculture.

#### 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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

*	*	*	*	*	*	*
TITLE V—NATIONAL EMERGENCY MANAGEMENT						
*	*	*	*	*	*	*
<i>Sec. 528. Coordination of Department of Homeland Security efforts related to food, agriculture, and veterinary defense against terrorism.</i>						
*	*	*	*	*	*	*

### TITLE V—NATIONAL EMERGENCY MANAGEMENT

*	*	*	*	*	*	*
<b>SEC. 528. COORDINATION OF DEPARTMENT OF HOMELAND SECURITY EFFORTS RELATED TO FOOD, AGRICULTURE, AND VETERINARY DEFENSE AGAINST TERRORISM.</b>						

(a) PROGRAM REQUIRED.—*The Secretary, acting through the Assistant Secretary for Health Affairs, shall carry out a program to co-*

ordinate the Department's efforts related to defending the food, agriculture, and veterinary systems of the United States against terrorism and other high-consequence events that pose a high risk to homeland security.

(b) PROGRAM ELEMENTS.—The coordination program required by subsection (a) shall include, at a minimum, the following:

(1) Providing oversight and management of the Department's responsibilities pursuant to Homeland Security Presidential Directive 9—Defense of United States Agriculture and Food.

(2) Providing oversight and integration of the Department's activities related to veterinary public health, food defense, and agricultural security.

(3) Leading the Department's policy initiatives relating to food, animal, and agricultural incidents, and the impact of such incidents on animal and public health.

(4) Leading the Department's policy initiatives relating to overall domestic preparedness for and collective response to agricultural terrorism.

(5) Coordinating with other Department components, including U.S. Customs and Border Protection, as appropriate, on activities related to food and agriculture security and screening procedures for domestic and imported products.

(6) Coordinating with appropriate Federal departments and agencies.

(7) Other activities as determined necessary by the Secretary.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed as altering or superseding the authority of the Secretary of Agriculture relating to food and agriculture.

\* \* \* \* \*

## COMMITTEE CORRESPONDENCE

K. MICHAEL CONAWAY, TEXAS,  
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**U.S. House of Representatives**  
**Committee on Agriculture**  
Room 1301, Longworth House Office Building  
Washington, DC 20515-6001

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March 10, 2017

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LISA BLUMENTHAL, DELAWARE

MATTHEW S. SCHERIZ  
STAFF DIRECTOR  
ANNE SHAMENS  
MINORITY STAFF DIRECTOR

The Honorable Michael McCaul  
Chairman, Committee on Homeland Security  
H2-176 Ford House Office Building  
Washington, D.C. 20515

Dear Chairman McCaul:

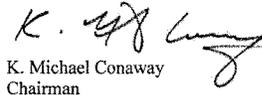
Thank you for the opportunity to review H.R. 1238, "Securing our Agriculture and Food Act." As you are aware, the bill was primarily referred to the Committee on Homeland Security, while the Agriculture Committee received an additional referral.

I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I agree to discharge H.R. 1238 from further consideration by the Committee on Agriculture. I do so with the understanding that by discharging the bill, the Committee on Agriculture does not waive any future jurisdictional claim on this or similar matters. Further, the Committee on Agriculture reserves the right to seek the appointment of conferees, if it should become necessary.

I ask that you insert a copy of our exchange of letters into the Congressional Record during consideration of this measure on the House floor.

Thank you for your courtesy in this matter and I look forward to continued cooperation between our respective committees.

Sincerely,



K. Michael Conaway  
Chairman

cc: The Honorable Bennie G. Thompson  
The Honorable Collin Peterson  
The Honorable Paul Ryan  
Mr. Thomas J. Wickham Jr., Parliamentarian

MICHAEL T. McCAUL, TEXAS  
CHAIRMAN



BENNIE G. THOMPSON, MISSISSIPPI  
RANKING MEMBER

One Hundred Fifteenth Congress  
U.S. House of Representatives  
Committee on Homeland Security  
Washington, DC 20515  
March 10, 2017

The Honorable K. Michael Conaway  
Chairman, Committee on Agriculture  
1301 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Conaway,

Thank you for your letter regarding H.R. 1238, the "Securing our Agriculture and Food Act." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Agriculture will forego consideration of the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing consideration on this bill at this time, the Committee on Agriculture 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 a request by the Committee on Agriculture for conferees on those provisions within your jurisdiction.

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

Sincerely,

A handwritten signature in black ink that reads "Michael T. McCaul".

MICHAEL T. McCAUL

cc: The Honorable Paul D. Ryan, Speaker  
The Honorable Bennie G. Thompson, Ranking Member, Committee on Homeland Security  
The Honorable Collin C. Peterson, Ranking Member, Committee on Agriculture  
Mr. Thomas J. Wickham, Parliamentarian

GREG WALDEN, OREGON  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

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Minority (202) 225-3641

March 16, 2017

The Honorable Michael T. McCaul  
Chairman  
Committee on Homeland Security  
H2-176 Ford House Office Building  
Washington, D.C. 20515

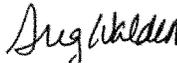
Dear Chairman McCaul:

I write in regard to H.R. 1238, Securing our Agriculture and Food Act, which was referred in addition to the Committee on Energy and Commerce. I wanted to notify you that the Committee will forgo action on the bill so that it may proceed expeditiously to the House floor for consideration.

The Committee on Energy and Commerce takes this action with our mutual understanding that by foregoing consideration of H.R. 1238, the Committee does not waive any jurisdiction over the subject matter contained in this or similar legislation and will be appropriately consulted and involved as this or similar legislation moves forward to address any remaining issues within the Committee's jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation and asks that you support any such request.

I would appreciate your response confirming this understanding with respect to H.R. 1238 and ask that a copy of our exchange of letters on this matter be included in your committee's report on the legislation or the Congressional Record during its consideration on the House floor.

Sincerely,



Greg Walden  
Chairman

MICHAEL T. McCAUL, TEXAS  
CHAIRMAN



BENNIE G. THOMPSON, MISSISSIPPI  
RANKING MEMBER

One Hundred Fifteenth Congress  
U.S. House of Representatives  
Committee on Homeland Security  
Washington, DC 20515  
March 16, 2017

The Honorable Greg Walden  
Chairman, Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Walden,

Thank you for your letter regarding H.R. 1238, the "Securing our Agriculture and Food Act." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Energy and Commerce will forego consideration of the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing consideration on this bill at this time, the Committee on Energy and Commerce 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 a request by the Committee on Energy and Commerce for conferees on those provisions within your jurisdiction.

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

Sincerely,

A handwritten signature in black ink that reads "Michael T. McCaul".

MICHAEL T. McCAUL

cc: The Honorable Paul D. Ryan, Speaker  
The Honorable Bennie G. Thompson, Ranking Member, Committee on Homeland Security  
The Honorable Frank Pallone, Jr., Ranking Member, Committee on Energy and Commerce  
Mr. Thomas J. Wickham, Parliamentarian