

UNITED STATES PORTS OF ENTRY THREAT AND
OPERATIONAL REVIEW ACT

SEPTEMBER 4, 2018.—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. 6400]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 6400) to require the Secretary of Homeland Security to conduct a threat and operational analysis of ports of entry, 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	4
Committee Votes	4
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

PURPOSE AND SUMMARY

The purpose of H.R. 6400, the United States Ports of Entry Threat and Operational Review Act is to require the Secretary of Homeland Security to conduct a threat and operational analysis of all United States air, land, and sea ports, followed by a strategy and implementation plan.

The analysis will include an assessment of current and potential threats posed by individuals and organized groups seeking to exploit security vulnerabilities at ports of entry (POE), and methods and pathways used by such individuals and groups. In addition, this assessment will identify improvements needed at POEs to prevent the unlawful movement of people, illicit drugs, and other contraband across the U.S. border, and to reduce wait times. Personnel, technology, and infrastructure needs and estimated costs will also be considered in the analysis.

BACKGROUND AND NEED FOR LEGISLATION

Transnational criminal organizations (TCOs) and drug smugglers continue to use ports of entry as a preferred entry point for the transportation of illicit drugs and contraband into the United States. According to the DEA 2017 Threat Assessment, the most common method used to traffic illicit drugs into the United States is in passenger vehicles with concealed compartments or commingled with legitimate goods on tractor vehicles. In fact, former Department of Homeland Security Secretary John Kelly stated in a hearing before Congress that, “the big issue right now with drugs coming into the United States is [at] the ports of entry.” Between October 1, 2010 and March 31, 2018, U.S. Customs and Border Protection (CBP) conducted more than 84 million Non-Intrusive Inspection examinations, resulting in more than 19,000 narcotics seizures and \$79 million in currency seizures.

With many U.S. ports of entry built forty to fifty years ago, most were never designed for post 9/11 security measures or the increased volume of traffic. These infrastructure constraints magnify the threats at our ports of entry, as long lines and bottlenecks strain CBP’s ability to properly vet all incoming traffic. For example, the DeConcini Port of Entry processes 10 million people attempting to enter the U.S. every year. Even with a \$220 million expansion in 2014, current facilities cannot handle the traffic flow, causing long wait times. With traffic overflow and CBP staffing shortages, there are more opportunities for TCOs to smuggle illicit drugs and other contraband through ports of entry.

In addition, long lines and wait times delay trade and cost the U.S. economy millions of dollars every year. According to a study completed by CBP, decreasing secondary inspection times at POEs would contribute \$23.1 million to the U.S. economy in increased trade and reduced costs. Further, the addition of even one agriculture specialist at the busiest POEs would result in \$254,000 in economic benefits.

The Committee believes it is important for the Department of Homeland Security to conduct a threat and operational analysis to take a comprehensive look at the ports of entry to better mitigate major threats and bolster the capacity and functionality of the ports in the interest of national security.

HEARINGS

The Committee did not hold any hearing specifically on H.R. 6400, but the full committee and Subcommittee on Border and Maritime Security held hearings relevant to the bill.

On February 7, 2017, the Committee on Homeland Security held a hearing entitled “Ending the Crisis: America’s Borders and the Path to Security.” The Subcommittee received testimony from The Honorable John F. Kelly, Secretary of U.S. Department of Homeland Security; Mr. Steve C. McCraw, Director of Texas Department of Homeland Security; Mr. Joe Frank Martinez, Sheriff of Val Verde County, Texas; Mr. Leon N. Wilmot, Sheriff of Yuma County, Arizona; and The Honorable Eddie Treviño, Jr., County Judge of Cameron County, Texas.

On February 16, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “A Dangerous and Sophisticated Adversary: The Threat To The Homeland Posed By Cartel Operations.” The Committee received testimony from Vice Admiral Charles Ray, Deputy Commandant for Operations, U.S. Coast Guard; Chief Paul Beeson, Commander, Joint Task Force—West, Arizona; Mr. Matt Allen, Assistant Director for HSI Investigative Programs, Homeland Security Investigations; Mr. Luis E. Arreaga, Principal Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs.

On July 25, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “Deter, Detect, and Interdict: Technology’s Role in Securing the Border.” The Subcommittee received testimony from Mr. Dennis J. Michelini, Acting Executive Director of Operations, Air and Marine Operations, U.S. Customs and Border Protection; Mr. Todd C. Owens, Executive Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection; Mr. Scott A. Luck, Acting Deputy Chief, U.S. Border Patrol; Ms. Rebecca Gambler, Director, Homeland Security and Justice, U.S. Government Accountability Office.

On November 14, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “Looking North: Assessing the Current Threat at the U.S.-Canada Border.” The Subcommittee received testimony from Mr. Michael Dougherty, Assistant Secretary for Border, Immigration, and Trade Policy, Office of Strategy, Policy, and Plans; Mr. Scott A. Luck, Acting Deputy Chief, U.S. Border Patrol; Mr. Kevin Kelly, Special Agent in Charge, U.S. Immigration and Customs Enforcement; and Dr. Michael Marchand, Chairman, Colville Business Council, National Congress of American Indians.

On March 15, 2018, the Subcommittee on Border and Maritime Security held a hearing entitled “Bang for the Border Security Buck: What do we get for \$33 Billion?” The Subcommittee received testimony from Ms. Claire M. Grady, Under Secretary for Management, Directorate for Management, U.S. Department of Homeland Security; Mr. Ronald D. Vitiello, Acting Deputy Commissioner, U.S. Customs and Border Protection; Ms. Rebecca Gambler, Director, Homeland Security and Justice, U.S. Government Accountability Office; Mr. Brandon Judd, National President, National Border Patrol Council; and Mr. Anthony M. Reardon, National President, National Treasury Employees Union.

On April 25, 2018, the Subcommittee on Border and Maritime Security held a hearing entitled “Border Security, Commerce and Travel: Commissioner McAleenan’s Vision for the Future of CBP.” The Subcommittee received testimony from Mr. Keven McAleenan, Commissioner, U.S. Customs and Border Protection.

On May 30, 2018, the Subcommittee on Border and Maritime Security held a hearing entitled “An Unsafe Border and the Opioid Crisis: The Urgent Need for Action to Save Lives.” The Subcommittee received testimony from Mr. Doug Ducey, Governor, State of Arizona; Mr. Guadalupe Ramirez, Acting Director of Field Operations, U.S. Customs and Border Protection, Tucson; Mr. Scott Brown, Special Agent in Charge, Homeland Security Investigations, Phoenix; Mr. Doug Coleman, Special Agent in Charge, Phoenix Field Division, Drug Enforcement Agency, U.S. Department of Justice; Mr. Tim Roemer, Deputy Director, Department of Homeland Security, State of Arizona; Dr. Cara Christ, Director, Department of Health Services, State of Arizona; Dr. Glorinda Segay, Health Director, Division of Health, The Navajo Nation; Ms. Debbie Moak, Co-Founder, notMYkid; Mr. Jay Cory, CEO and President, Phoenix Rescue Mission; and Mr. Wayne Warner, Dean of Men, Teen Challenge Christian Life Ranch.

COMMITTEE CONSIDERATION

The Committee met on July 24, 2018, to consider H.R. 6400, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by unanimous consent. The Committee took the following actions:

The following amendments were offered:

An amendment offered by MR. THOMPSON of Mississippi listed on the roster as by MR. VELA (#1); Page 3, line 15, strike “could be filled with non-law enforcement staff, the private sector, or automated” and insert the following: “could be—”

(i) filled—

(I) with non-law enforcement staff; or

(II) through the private sector, for processes or activities determined to not be inherently governmental (as such term is defined in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270)); or

(ii) automated.; was AGREED TO, by voice vote.

An amendment offered by MS. BARRAGÁN (#2); Page 2, beginning line 22, insert the following: (C) Improvements needed to end the use of metering, which prevents the lawful movement of people, including migrant families.

Page 5, beginning line 6, insert the following: (C) Efforts to end the use of metering, which prevents lawful movement of people, including migrant families.; was NOT AGREED TO, by a recorded vote of 8 yeas and 16 nays (Roll Call Vote No. 38).

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.

The Committee on Homeland Security considered H.R. 6400 on July 24, 2018, and took the following votes:

COMMITTEE ON HOMELAND SECURITY

Roll Call No. 38

H.R. 6400

On agreeing to an amendment offered by Ms. Barragán (#2); was NOT AGREED TO, by a recorded vote of 8 yeas and 16 nays (Roll Call Vote No. 38). The vote was as follows:

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul Chair	X	Mr. Thompson of Mississippi Ranking Member	.....	.....
Mr. Smith of Texas	Ms. Jackson Lee .....	.....	.....
Mr. King of New York	Mr. Langevin	X	.....
Mr. Rogers of Alabama	X	Mr. Richmond .....	.....	.....
Mr. Barletta	X	Mr. Keating	X	.....
Mr. Perry	X	Mr. Payne .....	.....	.....
Mr. Katko	X	Mr. Vela	X	.....
Mr. Hurd	X	Mrs. Watson Coleman	X	.....
Ms. McCally	X	Miss Rice of New York	X	.....
Mr. Ratcliffe	X	Mr. Correa	X	.....
Mr. Donovan	X	Mrs. Demings	X	.....
Mr. Gallagher	X	Ms. Barragán	X	.....
Mr. Higgins of Louisiana	X			
Mr. Garrett	X			
Mr. Fitzpatrick	X			
Mr. Estes	X			
Mr. Bacon	X			
Mrs. Lesko	X			
			Vote Total	8	16

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. 6400, the United States Ports of Entry Threat and Operational Review 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 Se-

curity 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. 6400 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The general performance goal and objective of H.R. 6400 is to ensure the Secretary of Homeland Security conducts a comprehensive threat and operational assessment of the ports of entry that would inform future homeland security resourcing needs at United States air, land, and sea ports.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 6400 does not contain any provision that establishes or reau-

thorizes 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. 6400 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 6400 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 “United States Ports of Entry Threat and Operational Review Act”.

Sec. 2. Ports of entry threat and operational analysis

This section directs the Secretary of Homeland Security, acting through the Commissioner of the U.S. Customs and Border Protection, to conduct a threat and operational analysis of all United States air, land, and sea ports, followed by a strategy and implementation plan.

The analysis shall include an assessment of current and potential threats posed by individuals and organized groups seeking to exploit security vulnerabilities at ports of entry (POE), and methods and pathways used by such individuals and groups. In addition, this assessment will identify improvements needed at POEs

to prevent the unlawful movement of people, illicit drugs, and other contraband across the U.S. border, and to reduce wait times. The analysis requires the Secretary of Homeland Security to identify processes conducted at POEs that could be filled by non-law enforcement staff, the private sector, or through automation. It also requires the consideration of personnel, technology, and infrastructure needs and estimated costs.

Once the threat and operational analysis of all United States air, land, and sea ports is complete, this section directs the Department of Homeland Security to develop a strategy and implementation plan. The strategy and implementation plan will include efforts to mitigate threats and address topics outlined in the threat and operational analysis report, and focus on intelligence collection at the POEs with the aim of disrupting transnational criminal organizations. Furthermore, the strategy and implementation plan will verify that new technology acquisitions can be operationally integrated with existing DHS technology at ports of entry. Lastly, the strategy and implementation plan will incorporate efforts to identify and detect fraudulent documents, and prevent, detect, investigate, and mitigate corruption at ports of entry.

This section specifies that the strategy and implementation plan shall also include the standards against which the effectiveness of these efforts may be determined, as well as a consideration of lessons learned from U.S. Customs and Border Protection (CBP) reports on business transformation initiatives, and CBP staffing requirements. It also indicates that three versions of the strategy and implementation plan will be required. The first, 270 days after the release of the ports of entry threat and operational analysis, then five and ten years after.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 6400 makes no changes to existing law.

COMMITTEE CORRESPONDENCE

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

August 31, 2018

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

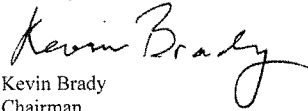
Dear Chairman McCaul,

I write to you regarding H.R. 6400, the "United States Ports of Entry Threat and Operational Review Act." The Committee on Ways and Means has jurisdiction over this bill and an additional referral was granted to the Committee on Homeland Security. The Committee on Homeland Security ordered this bill favorably reported. Because of the extensive communication regarding the policies contained in the bill, the Committee on Ways and Means is willing to waive formal consideration of the bill so that it may proceed expeditiously to the House Floor.

Please note that by waiving formal consideration of the bill, the Committee on Ways and Means is in no way waiving its jurisdiction over the subject matter contained in those provisions of the bills that fall within your Rule X jurisdiction.

I will include a copy of our letters in the *Congressional Record* during consideration of this legislation on the House floor and would support your effort to seek appointment of an appropriate number of conferees on any House-Senate conference involving this legislation.

Sincerely,



Kevin Brady
Chairman

cc: The Honorable Paul Ryan, Speaker
The Honorable Richard E. Neal
The Honorable Bennie G. Thompson
Thomas J. Wickham, Jr., Parliamentarian

MICHAEL T. McCAUL, TEXAS
CHAIRMAN

BENNE G. THOMPSON, MISSISSIPPI
RANKING MEMBER



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

September 4, 2018

The Honorable Kevin Brady
Chairman, Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Brady,

Thank you for your letter regarding H.R. 6400, the "United States Ports of Entry Threat and Operational Review Act." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Ways and Means will not take further action on this bill.

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

I will insert copies of this exchange in the report on the bill for H.R. 6400. I thank you for your cooperation in this matter.

Sincerely,


MICHAEL T. McCAUL
Chairman

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Bennie G. Thompson, Ranking Member, Committee on Homeland Security
The Honorable Richard Neal, Ranking Member, Committee on Ways and Means
Mr. Thomas J. Wickham, Parliamentarian