

DRONE ORIGIN SECURITY ENHANCEMENT ACT

NOVEMBER 19, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 4753]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4753) to prohibit the Secretary of Homeland Security from operating or procuring foreign-made unmanned aircraft systems, 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 .....  | 1    |
| Background and Need for Legislation .....  | 2    |
| Hearings .....   | 2    |
| Committee Consideration .....  | 2    |
| Committee Votes .....  | 3    |
| Committee Oversight Findings .....   | 3    |
| C.B.O. Estimate, New Budget Authority, Entitlement Authority, and Tax Expenditures ..... | 3    |
| Federal Mandates Statement .....   | 3    |
| Statement of General Performance Goals and Objectives .....                              | 3    |
| Duplicative Federal Programs .....   | 3    |
| Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...            |      |
| Advisory Committee Statement .....   |      |
| Applicability to Legislative Branch .....  |      |
| Section-by-Section Analysis of the Legislation .....                                     | 4    |

PURPOSE AND SUMMARY

H.R. 4753, the “Drone Origin Security Enhancement Act,” would prohibit the Secretary of Homeland Security from operating, providing financial assistance for, or entering into or renewing a contract for the procurement of certain unmanned aircraft systems (UAS). Specifically, the prohibition applies to UAS manufactured in or consisting of parts made in foreign countries that the Depart-

ment of Defense defines as “strategic competitors” in its 2018 National Defense Strategy.

#### BACKGROUND AND NEED FOR LEGISLATION

Among its many missions, the Department of Homeland Security is tasked with protecting Americans from terrorism and other threats and securing cyberspace and the nation’s critical infrastructure. In order to effectively carry out these tasks, the equipment that the Department uses must be secure. However, reports over the last several years suggest that Chinese-manufactured drones could be used to send sensitive information to the Chinese government.<sup>1</sup> The Cybersecurity and Infrastructure Security Agency has similarly noted that the use of UAS technology manufactured overseas creates a risk that data may be compromised.<sup>2</sup>

In acknowledgement of these cybersecurity vulnerabilities, in May 2018, the Department of Defense banned the purchase and use of all commercial off-the-shelf drones except under limited circumstances.<sup>3</sup> H.R. 4753 similarly puts a necessary halt to the Department of Homeland Security’s use of UAS technology manufactured in covered foreign countries or by entities located in covered foreign countries.

#### HEARINGS

For the purposes of section 103(i) of H. Res. 6. of the 116th Congress, the following hearings were used to develop H.R. 4753:

- On June 25, 2019, the Committee held a hearing entitled “Cybersecurity Challenges for State and Local Governments: Assessing How the Federal Government Can Help.” The Committee received testimony from Keisha Lance Bottoms, Mayor, City of Atlanta; Thomas Duffy, Senior Vice President of Operations and Chair of Multi-State ISAC, Center for Internet Security; Ahmad Sultan, Affiliated Researcher, Center for Long Term Cybersecurity, University of California, Berkeley; and Frank J. Cilluffo, Director, McCrary Institute for Cyber and Critical Infrastructure Security, Auburn University.

- On September 10, 2019, the Committee held a hearing entitled “Global Terrorism: Threats to the Homeland, Part I.” The Committee received testimony from Peter Bergen, Vice President, Global Studies and Fellows, New America; Ali Soufan, Founder, the Soufan Center; Brian Levin, Director, Center for the Study of Hate and Extremism; and Thomas Joscelyn, Senior Fellow, Foundation for the Defense of Democracies.

#### COMMITTEE CONSIDERATION

The Committee met on October 23, 2019, with a quorum being present, to consider H.R. 4753 and ordered the measure to be re-

<sup>1</sup> Mozur, Paul. “Drone Maker DJI May Be Sending Data to China, U.S. Officials Say,” *New York Times* (November 29, 2017). <https://www.nytimes.com/2017/11/29/technology/dji-china-data-drones.html>.

<sup>2</sup> Johnson, Bridget. “CISA Warns Industries of Security Risks Posed by Chinese-Made Drones,” *Homeland Security Today* (May 20, 2019). <https://www.hstoday.us/subject-matter-areas/intelligence/cisa-warns-industries-of-security-risks-posed-by-chinese-made-drones/>.

<sup>3</sup> Snow, Shawn. “Quads for Squads’ Grounds Over Cyber Concerns,” *Marine Corps Times* (June 15, 2018). <https://www.marinecorpstimes.com/news/your-marine-corps/2018/06/15/quads-for-squads-grounded-over-cyber-concerns/>.

ported 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. 4753.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office.

#### FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

#### DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 4753 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

#### PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the objective of H.R. 4753 is to direct the Secretary of Homeland Security to halt the procurement or use of UAS technologies manufactured in or consisting of parts made in foreign countries that the Department of Defense defines as “strategic competitors” in its 2018 National Defense Strategy. The prohibition also applies to UAS that use software developed in countries labeled as strategic competitors as well as UAS that use network connectivity or data storage located in such countries. The DHS Secretary may waive the prohibition on a case-by-case basis by certifying to the homeland security committees in both the House and

Senate that the purpose of the waiver is required in the national interest, for counter-UAS surrogate testing, or for intelligence operations, testing, analysis, or training.

The goal and objective of H.R. 4753 is to protect the Department of Homeland Security from cybersecurity vulnerabilities associated with the use of foreign-made UAS.

#### ADVISORY ON EARMARKS

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(d), 9(e), or 9(f) of the rule XXI.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

This section provides that the bill may be cited as the “Drone Origin Security Enhancement Act.”

##### *Sec. 2. Prohibition on operation or procurement of foreign-made unmanned aircraft systems*

This section prohibits the Secretary of Homeland Security from operating, procuring, or providing financial assistance for a UAS that is manufactured in or uses (1) technology or systems manufactured in, (2) ground control systems or operating software developed by, or (3) network connectivity or data storage located in a covered foreign country. Moreover, it prohibits the use of any of those technologies if they are manufactured, developed, or administered by a corporation domiciled in a covered foreign country.

For the purposes of this prohibition, a “covered foreign country” means a country labeled as a strategic competitor in the “Summary of the 2018 National Defense Strategy of the United States of America: Sharpening the American Military’s Competitive Edge,” issued by the Department of Defense.

This section also sets forth the limited circumstances under which the Secretary would be permitted to waive the prohibition. Such a waiver requires that the Secretary certify in writing to the homeland security committees of the House and Senate that the operation or procurement subject to the waiver is required (1) in the national interest of the United States, (2) for counter-UAS testing and training, or (3) for intelligence, electronic warfare, or information warfare operations, testing, analysis, or training.

Once enacted, the Department of Homeland Security should immediately halt the use or procurement of any qualifying UAS. Should any of those uses or procurements meet the circumstances permitting a waiver, the Secretary should submit its waiver certifications to Congress in an expedited manner to ensure that the Department continues to serve those interests.