

DHS COUNTERING UNMANNED AIRCRAFT SYSTEMS
COORDINATOR ACT

DECEMBER 18, 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. 3787]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3787) to amend the Homeland Security Act of 2002 to establish in the Department of Homeland Security an Unmanned Aircraft Systems Coordinator, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “DHS Countering Unmanned Aircraft Systems Coordinator Act”.

SEC. 2. UNMANNED AIRCRAFT SYSTEMS COUNTERMEASURES COORDINATOR.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following new section:

“SEC. 321. COUNTERING UNMANNED AIRCRAFT SYSTEMS COORDINATOR.

“(a) COORDINATOR.—The Secretary shall designate an official of the Department as the Countering Unmanned Aircraft Systems (UAS) Coordinator (in this section referred to as the ‘Coordinator’) to coordinate with relevant Department offices and components, including the Office for Civil Rights and Civil Liberties and the Privacy Office and other relevant Federal agencies, as appropriate, on the development of policies and plans to counter threats associated with UAS, including the following:

“(1) Countering UAS that may be used in a terrorist attack.

“(2) Promoting research and development of counter UAS technologies.

“(3) Ensuring the dissemination of information and guidance related to countering UAS threats.

“(4) Serving as the Department point of contact for Federal, State, local, and Tribal law enforcement entities and the private sector regarding the Department’s activities related to countering UAS.

“(5) Carrying out other related UAS activities, as directed by the Secretary.

“(b) COORDINATION WITH APPLICABLE FEDERAL LAWS.—The Coordinator shall, in addition to other assigned duties, coordinate with relevant Department offices and components and other relevant Federal agencies, as appropriate, to ensure testing, evaluation, or deployment of a system used to identify, assess, or defeat a UAS is carried out in accordance with applicable Federal laws.

“(c) COORDINATION WITH PRIVATE SECTOR.—The Coordinator shall, working with the Office of Partnership and Engagement and other relevant Department offices and components, or other Federal agencies, as appropriate, serve as the principal Department official responsible for disseminating to the private sector information regarding counter UAS technology, particularly information regarding instances in which counter UAS technology may impact lawful private sector services or systems.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 320 the following new item:

“Sec. 321. Countering Unmanned Aircraft Systems Coordinator.”.

PURPOSE AND SUMMARY

H.R. 3787, the “DHS Countering Unmanned Aircraft Systems Coordinator Act,” will amend the Homeland Security Act of 2002 to establish in the Department of Homeland Security (the Department or DHS) a Countering Unmanned Aircraft Systems (CUAS) Coordinator. H.R. 3787 enables DHS to centralize the coordination of counter-drone threat planning efforts at DHS under one official. Last year, legislation was enacted into law that granted the Department statutory authority to counter credible threats from unmanned aircraft systems to the safety or security of a covered facility or asset.¹ Under H.R. 3787, the Coordinator would be responsible for coordinating with relevant DHS components on the development of policies and plans to counter threats from UAS. The Coordinator would also serve as the principal Department official responsible for disseminating information to the private sector regarding DHS counter-drone measures and will ensure that DHS counter-drone activities are carried out in accordance with Federal laws.

¹Division H of the “FAA Reauthorization Act of 2018” (P.L. 115–254).

BACKGROUND AND NEED FOR LEGISLATION

The increased availability and expanded use of unmanned aircraft systems, commonly known as drones, have raised significant security concerns. Drones provide both a robust aerial delivery mechanism for potentially hazardous material payloads and anonymity for would be attackers. Terrorist groups such as ISIS, Hezbollah, and Hamas, among others, have all used drones in varying capacities including for surveillance and armed attacks.² Cartels have also weaponized drones and used them for smuggling operations, among other things.³ Additionally, unidentified drones have been flown over NFL and Olympic stadiums during events, potentially posing a significant threat to sports fans and spectators.⁴

Federal and State regulators have struggled to keep pace with the exponential growth in the use of drones. In 2016, the Federal Aviation Administration and Department of Transportation promulgated regulations, which included prohibitions on attaching hazardous materials to drones.⁵ Several DHS offices and components are members of numerous interagency and industry drone working groups, which promote information sharing, research, and joint problem-solving initiatives. The DHS Science and Technology Directorate assesses the capabilities and threats associated with drones and how technology can be used to offer solutions. The Department's Office of Intelligence and Analysis assesses the threats posed by small drones within the homeland. However, the Department currently does not have a centralized, Department-wide official responsible for the coordination of counter-drone policies and activities, as is required by H.R. 3787.

Earlier this year, the Committee held briefings related to threats to the homeland, which included the use of armed drones by global and domestic terrorist groups. Under H.R. 3787, the Coordinator would work with Department offices and components to coordinate on the development of policies and plans to counter drones that may be used in a terrorist attack on the homeland.

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. 3787:

- On June 25, 2019, the Committee held a hearing entitled "Cybersecurity Challenges for State and Local Governments:

²Testimony of Peter Bergen, Vice President, Global Studies and Fellows, New America before the House Committee on Homeland Security for the hearing entitled "Global Terrorism: Threats to the Homeland, Part I" on September 10, 2019.

³Gina Harkins, *Illicit drone flights surge along U.S.-Mexico border as smugglers hunt for soft spots*, The Washington Post (June 24, 2018) https://www.washingtonpost.com/world/national-security/illicit-drone-flights-surge-along-us-mexico-border-as-smugglers-hunt-for-soft-spots/2018/06/24/ea353d2a-70aa-11e8-bd50-b80389a4e569_story.html (accessed November 26, 2019).

⁴Michael Laris, *Stadium and team owners see drones as major league threat*, The Washington Post (May 11, 2018) https://www.washingtonpost.com/local/trafficandcommuting/nationalinclude/stadium-and-team-owners-see-drones-as-major-league-threat/2018/05/10/83e0b954-50ad-11e8-84a0-458a1aa9ac0a_story.html (accessed November 26, 2019); and Russell Brandom, *How Brazil is trying (and failing) to keep drones away from the Olympics*, The Verge (August 8, 2016) <https://www.theverge.com/2016/8/8/12402972/olympics-rio-2016-anti-drone-jamming-public-safety> (accessed November 26, 2019).

⁵Federal Aviation Administration and Office of the Secretary of Transportation, Department of Transportation, *Final Rule: Operation and Certification of Small Unmanned Aircraft Systems* (June 28, 2016) <https://www.federalregister.gov/documents/2016/06/28/2016-15079/operation-and-certification-of-small-unmanned-aircraft-systems> (accessed November 26, 2019).

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. 3787 and ordered the measure to be reported to the House with a favorable recommendation, with amendments, by unanimous consent.

The following amendments were offered and agreed to by unanimous consent:

An amendment offered by Ms. Jackson Lee.

Page 2, line 12, insert “, including the Office for Civil Rights and Civil Liberties and the Privacy Office,” after “components”.

An amendment offered by Ms. Lesko.

Page 2, line 12, insert “and other relevant Federal agencies, as appropriate,” after “components”

Page 3, line 6 insert “and other relevant Federal agencies, as appropriate,” after “components and offices”

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. 3787.

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 adopts as its own the estimate of the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 11, 2019.

Hon. BENNIE G. THOMPSON,
*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 Security Legislation.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

Department of Homeland Security Legislation			
As ordered reported by the House Committee on Homeland Security on October 23, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = less than \$500,000; the table above applies to each bill described below.			

On October 23, 2019, the House Committee on Homeland Security ordered reported the following bills:

- H.R. 2932, the Homeland Security for Children Act, which would direct the Department of Homeland Security (DHS) to consider the needs of children during its strategic planning activities (such as preparation for natural disasters);
- H.R. 3787, the DHS Countering Unmanned Aircraft Systems Coordinator Act, which would direct DHS to designate one of its officials to coordinate the department's efforts to combat threats from unmanned aircraft systems (or drones);
- H.R. 4737, the Department of Homeland Security Climate Change Research Act, which would direct DHS to assess and potentially expand upon existing federal research projects that

examine ways to mitigate the effects of climate change on homeland security programs; and

DHS is currently carrying out activities similar to those required by the bills listed above, and any new activities required under the legislation would not require substantial action by the department. Thus, CBO estimates that implementing each bill would not have a significant cost; any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Kim Cawley. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

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.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 3787 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. 3787 is for the Secretary of Homeland Security to designate a Countering Unmanned Aircraft Systems Coordinator to coordinate all relevant Department policies and activities for countering-unmanned aircraft systems that may be used in an attack on the homeland.

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 this bill may be cited as the “DHS Countering Unmanned Aircraft Systems Coordinator Act”.

Sec. 2. Unmanned Aircraft Systems Countermeasures Coordinator

This section establishes a new Section 321 of the Homeland Security Act as follows:

Subsection 321(a) authorizes the Secretary to designate a Countering Unmanned Aircraft Systems Coordinator of the Department to coordinate with relevant Department offices and components, including the Office for Civil Rights and Civil Liberties and the Privacy Office, as well as other relevant Federal agencies as appropriate, on the development of policies and plans to counter threats associated with unmanned aircraft systems. The Coordinator’s responsibilities include coordinating all relevant Department policies

and activities for countering unmanned aircraft systems that may be used in a terrorist attack on the homeland; promoting the research and development of counter-unmanned aircraft systems technologies within the Department; ensuring that information and guidance regarding unmanned aircraft system threats are disseminated as appropriate; and providing Federal, State, local and tribal law enforcement and the private sector with the appropriate unmanned aircraft systems-related points of contact within the Department.

Subsection 321(b) requires the Coordinator to coordinate with Department offices and components, as well as other relevant Federal agencies, as appropriate, to ensure that any testing, evaluation, or deployment of systems used to identify, assess, or defeat unmanned aircraft systems by the Department operate in compliance with Federal law. The Committee expects the Coordinator to work with Department offices and components to carry out the functions of this section with due consideration given to avoid interference with lawful aviation operations.

Subsection 321(c) requires that the Coordinator work with relevant Department offices, including the Office of Partnership and Engagement, and other Federal agencies to share information regarding counter unmanned aircraft system technology with parties in the private sector whose systems or services may be impacted by the use of such technology.

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:

Sec. 1. Short title; table of contents.

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TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

Sec. 301. Under Secretary for Science and Technology.

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Sec. 320. EMP and GMD mitigation research and development.

Sec. 321. *Countering Unmanned Aircraft Systems Coordinator.*

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TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

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SEC. 321. COUNTERING UNMANNED AIRCRAFT SYSTEMS COORDINATOR.

(a) **COORDINATOR.**—*The Secretary shall designate an official of the Department as the Countering Unmanned Aircraft Systems (UAS) Coordinator (in this section referred to as the “Coordinator”) to coordinate with relevant Department offices and components, including the Office for Civil Rights and Civil Liberties and the Privacy Office and other relevant Federal agencies, as appropriate, on the development of policies and plans to counter threats associated with UAS, including the following:*

- (1) *Countering UAS that may be used in a terrorist attack.*
- (2) *Promoting research and development of counter UAS technologies.*
- (3) *Ensuring the dissemination of information and guidance related to countering UAS threats.*
- (4) *Serving as the Department point of contact for Federal, State, local, and Tribal law enforcement entities and the private sector regarding the Department’s activities related to countering UAS.*
- (5) *Carrying out other related UAS activities, as directed by the Secretary.*

(b) **COORDINATION WITH APPLICABLE FEDERAL LAWS.**—*The Coordinator shall, in addition to other assigned duties, coordinate with relevant Department offices and components and other relevant Federal agencies, as appropriate, to ensure testing, evaluation, or deployment of a system used to identify, assess, or defeat a UAS is carried out in accordance with applicable Federal laws.*

(c) **COORDINATION WITH PRIVATE SECTOR.**—*The Coordinator shall, working with the Office of Partnership and Engagement and other relevant Department offices and components, or other Federal agencies, as appropriate, serve as the principal Department official responsible for disseminating to the private sector information regarding counter UAS technology, particularly information regarding instances in which counter UAS technology may impact lawful private sector services or systems.*

* * * * *