

Calendar No. 95

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
114-53

DHS INTEROPERABLE COMMUNICATIONS
ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 615

TO AMEND THE HOMELAND SECURITY ACT OF 2002 TO REQUIRE THE UNDER SECRETARY FOR MANAGEMENT OF THE DEPARTMENT OF HOMELAND SECURITY TO TAKE ADMINISTRATIVE ACTION TO ACHIEVE AND MAINTAIN INTEROPERABLE COMMUNICATIONS CAPABILITIES AMONG THE COMPONENTS OF THE DEPARTMENT OF HOMELAND SECURITY, AND FOR OTHER PURPOSES.



MAY 21, 2015.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2015

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CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	1
III. Legislative History	2
IV. Section-by-Section Analysis	3
V. Evaluation of Regulatory Impact	4
VI. Congressional Budget Office Cost Estimate	4
VII. Changes in Existing Law Made by the Act, as Reported	5

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DHS INTEROPERABLE COMMUNICATIONS ACT

MAY 21, 2015.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany H.R. 615]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 615) to amend the Homeland Security Act of 2002 to require the Under Secretary for Management of the Department of Homeland Security to take administrative action to achieve and maintain interoperable communications capabilities among the components of the Department of Homeland Security, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

I. PURPOSE AND SUMMARY

H.R. 615, the Department of Homeland Security Interoperable Communications Act, requires the Under Secretary for Management (USM) of the Department of Homeland Security (DHS or “the Department”) to develop a strategy for achieving and maintaining interoperable communications capabilities among the components of the Department of Homeland Security, as well as to report on the status of the strategy’s implementation.

II. BACKGROUND AND THE NEED FOR LEGISLATION

In 2012, the Department of Homeland Security Office of Inspector General issued a report entitled, *DHS’s Oversight of Interoperable Communications*.¹ In the report, the Inspector General noted that since 2003, DHS components have spent \$430 million on equipment, infrastructure, and resources to meet the Department’s

¹Office of Inspector General, Department of Homeland Security, OIG-13-06, DHS’ Oversight of Interoperable Communications (2012).

communications requirements.² Yet, the Inspector General also concluded that DHS “personnel do not have reliable interoperable communications for daily operations, planned events, and emergencies.”³

The Inspector General found the primary reason for the lack of reliable interoperable communications was that DHS did not provide effective oversight of its components.⁴ The report concluded that DHS had not established a sufficient authoritative governance structure to ensure Department-wide interoperability, instead relying on a voluntary structure and individual memoranda of agreements between components.⁵ As a result, DHS personnel were unaware of how to access the common radio channel, radios were improperly programmed, and only one of the 479 field radios users reviewed in the audit could access and use the common channel.⁶

This legislation is designed to address the interoperability issues identified in the Inspector General’s report. H.R. 615 requires the Department to develop a strategy to achieve interoperability and strengthens the governance structure related to interoperability policies. The Department must also report every other year to the Committee on its efforts to implement the strategy and develop and maintain interoperable communications among its components. In developing and implementing the strategy, the Committee expects that the USM will collaborate with DHS offices for which interoperable communications is a primary mission, including leveraging existing interoperability planning documents provided by such offices.

III. LEGISLATIVE HISTORY

Representative Payne, along with Representatives McCaul, Brooks, and Thompson, introduced H.R. 615 on January 28, 2015, which was referred to the House Committee on Homeland Security. The act was discharged and passed the House under suspension with a vote of 379–0 on February 2, 2015. The act was received in the Senate and referred to the Committee on Homeland Security and Governmental Affairs on February 3, 2015. The Committee considered H.R. 615 at a business meeting on March 4, 2015.

Chairman Johnson and Ranking Minority Member Carper offered one amendment in the nature of a substitute, changing the definition of interoperability to conform with the definition laid out in 6 U.S.C. Section 194(g)(1); requiring the strategy outlined in the act to be submitted to Congress no later than 180 days after enactment instead of 120 days; making the report required in Section 5 of the act to be required 100 days after the strategy is submitted, instead of 220 days after the act’s enactment; requiring the report to be submitted every other year following the submission of the first report, and ending the report after six years; and clarifying that the strategy and required reports pertain only to DHS and its components.

The Committee adopted the amendment and ordered the act, as amended, reported favorably, both by voice vote. Senators present for both the vote on the amendment and the vote on the act were

²*Id.* at 2.

³*Id.* at 3.

⁴*Id.* at 3–4.

⁵*Id.* at 6–7.

⁶*Id.* at 3–4.

Senators Johnson, Portman, Lankford, Ayotte, Ernst, Carper, McCaskill, Baldwin, Heitkamp, and Peters.

IV. SECTION-BY-SECTION ANALYSIS OF THE ACT, AS REPORTED

Section 1. Short title

This section provides that the Act may be cited as the “Department of Homeland Security Interoperable Communications Act” or “DHS Interoperable Communications Act.”

Section 2. Definitions

This section defines several terms, including “interoperable communications.”

Section 3. Inclusion of interoperable communications capabilities in responsibilities of Under Secretary for Management

This section amends section 701 of the Homeland Security Act of 2002 (Public Law 107–296) to task the USM with overseeing policies and directives to achieve and maintain interoperable communications among the components of DHS.

This section also defines “interoperable communications” for the purposes of section 701 as the ability of emergency response providers and relevant Federal, State, and local government agencies to communicate with each other as necessary, through a dedicated public safety network utilizing information technology systems and radio communications systems, and to exchange voice, data, and video with one another on demand, in real time, as necessary.

Section 4. Strategy

Subsection (a) requires that within 180 days of the act’s enactment, the USM submit a strategy for achieving and maintaining interoperable communications among the components of DHS to the House Homeland Security Committee and the Senate Homeland Security and Governmental Affairs Committee. The strategy must include: an assessment of interoperability gaps in radio communications among the components of the Department; information on efforts, including current and planned policies, directives, and training to achieve and maintain interoperable communications since November 1, 2012; an assessment of obstacles and challenges to achieve and maintain interoperable communications among the components of the Department; information on, and an assessment of, the adequacy of mechanisms available to the USM to enforce and compel compliance with interoperable communications policies and directives; guidance provided to implement interoperable communications policies and directives; total funds expended since November 1, 2012, and projected future expenditures to achieve interoperable communications in the form of equipment, infrastructure, and maintenance; and dates upon which interoperability is projected to be achieved, along with interim milestones.

Subsection (b) requires that the USM submit to the House Homeland Security Committee and the Senate Homeland Security and Governmental Affairs Committee information on any intra-agency effort or task force that has been delegated certain responsibilities by the USM relating to achieving and maintaining interoperable communications among the components of the Department, and

designate who within each component is responsible for implementing interoperable communications.

Section 5. Report

This section requires, within 100 days of submitting its interoperability strategy, and once every other year for the following six years, for a total of four reports, the USM to report to Congress on the status of its efforts. The report must include: progress on each interim milestone toward achieving and maintaining interoperable communications; information on policies, directives, guidance, and training established by the USM; assessment of compliance, adoption, and participation among components of DHS with the USM's policies, directives, guidance, and training; and information on any additional resources or authorities needed by the USM.

Section 6. Applicability

This section clarifies that the strategy and reports for interoperable communications capabilities required by this act apply only to DHS and components thereof for inter- or intra-organizational communications.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this act and determined that the act will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MARCH 17, 2015.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 615, the DHS Interoperable Communications Act.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 615—DHS Interoperable Communications Act

H.R. 615 would require the Department of Homeland Security (DHS), within 180 days of the legislation's enactment, to submit to the Congress a strategy to improve communications among DHS agencies. Within 100 days of that submission, and biannually thereafter for a period of six years, DHS would have to prepare a report on the implementation of the strategy. There are ongoing activities within the department to improve communications, so CBO

estimates that implementing H.R. 615 would not significantly affect spending by DHS.

Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 615 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE ACT, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by H.R. 615 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE VII—MANAGEMENT

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) **IN GENERAL.**—The Under Secretary for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of homeland security operations and programs. The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) * * *

* * * * *

(4) Information technology and communications systems, *including policies and directives to achieve and maintain interoperable communications among the components of the Department.*

* * * * *

(d) **INTEROPERABLE COMMUNICATIONS DEFINED.**—*In this section, the term ‘interoperable communications’ has the meaning given that term in section 7303(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)).*

* * * * *