

115TH CONGRESS }
1st Session }

SENATE

{ REPORT
115-29

SECURING OUR AGRICULTURE AND
FOOD ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 500

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



APRIL 24, 2017.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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SECURING OUR AGRICULTURE AND FOOD ACT

APRIL 24, 2017.—Ordered to be printed

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

REPORT

[To accompany S. 500]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 500) 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, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 500, Securing our Agriculture and Food Act, amends the Homeland Security Act of 2002 to require the Assistant Secretary for the Office of Health Affairs (OHA) within the Department of Homeland Security (DHS or Department) to lead the coordination of agriculture, food and veterinary defense against terrorism. The bill authorizes the creation of a program focused in the agriculture, food and veterinary sector to provide oversight and management of the Department’s responsibilities and activities, lead policy initia-

tives related to domestic preparedness and incident response, and coordinate within the Department and with appropriate federal agencies and departments.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The United States agricultural system is critical to our nation's security and economic prosperity. Our nation's farms not only produce the food that Americans eat, but also play a significant role in the domestic and global economy. For example, the Government Accountability Office (GAO) reports that the United States agricultural system supports one twelfth of the American workforce.¹ Additionally, according to the U.S. Department of Agriculture (USDA), the United States agricultural industry contributes \$300 billion annually to our economy.² The United States also exports hundreds of billions of dollars in agricultural products to countries around the world, such as Canada, China, and Latin America.³

The potential threat of a terrorist attack against the United States' food and agricultural system, referred to as agro-terrorism, would have significant consequences for United States farmers and consumers. This underscores the need for clarity in Federal agencies' roles and responsibilities to secure the agricultural sector. In testimony before the Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, John Hoffman of the National Center for Food Protection and Defense at the University of Minnesota identified four possible consequences of an agro-terrorism attack: detrimental impact on human health throughout the country, damage to the food supply chain and to global trade, severe economic devastation, and harm to the United States' standing in the world.⁴ An agro-terrorism incident represents a high-risk event with the potential to cause severe harm to human health and the economy.

Prior administrations have issued directives to elevate and coordinate the security of the agricultural sector. On December 17, 2003, President George W. Bush released Homeland Security Presidential Directive-7 (HSPD-7).⁵ This directive designates the food and agriculture system as one of 16 critical infrastructure sectors.⁶ Critical infrastructure sectors provide resources and services to the American people and support the United States economy. The elevation of the food and agriculture system to that of a critical infrastructure sector is an important first step in recognizing the impor-

¹ *Agro-Defense: Responding to Threats Against America's Agriculture and Food System: Hearing Before the Subcomm. on Oversight of Gov't Mgmt., the Fed. Workforce, and the Dist. of Columbia of the S. Comm. on Homeland Sec. & Governmental Affairs*, 112th Cong. 1 (2011) [hereinafter *Agro-Defense Hearing*], available at <https://www.gpo.gov/fdsys/pkg/CHRG-112shrg72478/pdf/CHRG-112shrg72478.pdf>.

² Econ. Research Serv., U.S. Dep't Of Agric., *Effects Of Trade On The U.S. Economy—2015*, available at <https://www.ers.usda.gov/data-products/agricultural-trade-multipliers/effects-of-trade-on-the-us-economy-2015>.

³ *Id.*

⁴ *Agro-Defense Hearing*, *supra* note 1, at 41 (statement of Col. John T. Hoffman (Ret.), Senior Research Fellow, National Center for Food Protection and Defense, University of Minnesota).

⁵ Office of the President, HSPD-7, *Subject: Critical Infrastructure Identification, Prioritization, and Protection*, Dec. 17, 2003 [hereinafter HSPD-7], available at <https://fas.org/irp/offdocs/nspd/hspd-7.html>.

⁶ *Id.*; U.S. Dep't of Homeland Sec., NIPP 2013 Partnering for Critical Infrastructure Security and Resilience, at 9 (2013), available at https://www.dhs.gov/sites/default/files/publications/NIPP%202013%20Partnering%20for%20Critical%20Infrastructure%20Security%20and%20Resilience_508_0.pdf.

tant role it plays within the United States, as well as underscoring the crippling and dangerous impacts that an attack on this system could have. An attack from terrorists on a critical infrastructure sector could potentially cause massive casualties, damage the economy, and weaken the confidence of the American public.⁷

On January 30, 2005, President Bush released Homeland Security Presidential Directive—9 (HSPD-9), which established a national security policy to defend the agriculture and food sector against terrorist attacks and other major catastrophes.⁸ The policy called for improved early warning systems, prioritization of key areas for protection, vulnerability mitigation, and preparedness and recovery measures.⁹ As established in HSPD-7 and reaffirmed in HSPD-9, the Secretary of Homeland Security is responsible for coordinating food and agriculture security across the Federal Government acting through the Department’s Food, Agriculture and Veterinary Defense Division (FAVD) under the OHA. The directives also assign responsibilities to the Secretaries of Agriculture, Health and Human Services, and the Administrator of the Environmental Protection Agency in the protection of sector-specific efforts.¹⁰

Additionally, President Obama signed the FDA Food Safety Modernization Act in January 2011.¹¹ The law requires a National Agriculture and Food Defense Strategy prepared by the Secretaries of Agriculture and Health and Human Services in coordination with DHS.¹² The report details plans to protect the nation’s food supply and agriculture system, as well as plans for preparedness, detection, response, and recovery from an attack.¹³ The strategy contains goals, objectives, and key initiatives such as: improving agriculture and food system detection abilities, guaranteeing a sufficient response to emergencies, and long-term response recovery plans.¹⁴

DHS has also recognized that the security of the agricultural system is vital to the nation’s homeland security. Implementing Recommendations of the 9/11 Commission Act enacted in 2007 requires the Secretary of Homeland Security to conduct a comprehensive review every four years of the nation’s security and recommend strategy and priorities for the upcoming years in terms of budgets, programs, and policies.¹⁵ The first such report was the 2010 Quadrennial Homeland Security Review (QHSR). In this report, the Secretary identified agriculture as one of the emergency and support functions of the Homeland Security Enterprise.¹⁶ The 2014 QHSR took a more in-depth look at national security and specifically looked at preparedness and mitigation of biological threats.

⁷ HSPD-7, *supra* note 5.

⁸ Office of the President, HSPD-9, *Subject: Defense of United States Agriculture and Food*, Jan. 30, 2004 [hereinafter HSPD-9], available at <https://fas.org/irp/offdocs/nsdp/hspd-9.html>.

⁹ *Id.*

¹⁰ HSPD-7, *supra* note 5; HSPD-9, *supra* note 8.

¹¹ FDA Food Safety Modernization Act, Pub. L. No. 111–353, 124 Stat. 3910–3911 (2011).

¹² *Id.*

¹³ U.S. Dep’t of Health and Human Services & U.S. Dep’t of Agriculture, Report to Congress on the National Agriculture and Food Defense Strategy, at 7, 10–11, 14 (2015), available at <https://www.fda.gov/downloads/Food/GuidanceRegulation/FSMA/UCM444464.pdf>.

¹⁴ *Id.*

¹⁵ Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110–53, 121 Stat. 544 (2007).

¹⁶ U.S. Dep’t of Homeland Sec., Quadrennial Homeland Security Review Report: A Strategic Framework for a Secure Homeland, at A-9 (2010), available at <https://www.dhs.gov/sites/default/files/publications/2010-qhsr-report.pdf>.

Within biological threats, the 2014 QHSR outlined the importance of an effective response and recovery to an attack on agriculture. It specifically discussed the need for Federal, state, local, tribal, and territorial governments to “[s]tabilize food, agriculture, and other critical sector functions.”¹⁷

Past congressional hearings have also identified the importance of securing the agricultural system. In 2011, the Committee’s Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia held a hearing entitled “Agro-Defense: Responding to Threats Against America’s Agriculture and Food System.”¹⁸ The GAO testified during the hearing about the challenges the Federal Government faces in securing and responding to an attack on the food and agriculture sector.¹⁹ Lisa Shames, the GAO Director for Natural Resources and Environment, stated that there is no coordinated effort in food and agriculture security policy.²⁰ Ms. Shames testified that the White House Homeland Security Council (HSC), supplemented by DHS, used to coordinate on food and agriculture security; however, when the HSC merged with the National Security Council in 2009 interest in the sector waned and coordination ceased.²¹

Additionally, the Subcommittee on Emergency Preparedness, Response, and Communications of the House Homeland Security Committee held a hearing in February 2016, entitled, *Food for Thought: Efforts to Defend the Nation’s Agriculture and Food*.²² In the hearing, Bobby Acord, the former administrator for the USDA Animal Plant Health Inspection Service, testified, “[t]here seems to be a growing consensus that there are serious flaws in the country’s preparedness to deal with threats to the U.S. agriculture and the U.S. food supply.”²³

S. 500 codifies an existing program within DHS and requires the Department to coordinate with other federal agencies and its own components on food and agriculture security. The bill also tasks DHS with management and oversight of HSPD-9 and integrating security policy and initiatives. Lastly, the bill designates DHS as the lead agency in the response and recovery of an attack on the food or agricultural system.

III. LEGISLATIVE HISTORY

On March 2, 2017, Senator Pat Roberts and Senator Claire McCaskill, introduced S. 500, which was referred to the Senate Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 500 at a business meeting on March 15, 2017. The bill was ordered reported favorably *en bloc* by voice vote. Senators Johnson, Portman, Lankford, Daines, McCas-

¹⁷U.S. Dep’t of Homeland Sec., The 2014 Quadrennial Homeland Security Review, at 53 (2010), available at <https://www.dhs.gov/sites/default/files/publications/2010-qhsr-report.pdf>.

¹⁸*Agro-Defense Hearing*, *supra* note 1.

¹⁹*Id.* at 16–18 (statement of Lisa Shames, Natural Resources and Environment Director, Government Accountability Office).

²⁰*Id.* at 16.

²¹*Id.* at 24.

²²*Food for Thought: Efforts to Defend the Nation’s Agriculture and Food: Hearing Before the Subcomm. on Emergency Preparedness, Response, and Comm’ns of the H. Comm. On Homeland Sec.*, 114th Cong. (2016), available at <https://www.gpo.gov/fdsys/pkg/CHRG-114hrg21528/pdf/CHRG-114hrg21528.pdf>.

²³*Id.* at 28 (statement of Bobby Acord, former Animal Plant Health Inspection Service Administrator, U.S. Department of Agriculture).

kill, Carper, Tester, Heitkamp, Peters, Hassan, and Harris were present for the vote.

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

Section 1. Short title

This section names the bill, “Securing Our Agriculture and Food Act”.

Section 2. Coordination of food, agriculture, and veterinary defense against terrorism

This section codifies a program under the Assistant Secretary of Health Affairs to coordinate efforts across the Federal Government regarding the defense of food, agriculture, and veterinary systems. The bill requires the program to, at a minimum, provide oversight of the food and agriculture critical infrastructure sector. It also designates the Department as the lead for creating policy on security and preparedness for an attack on the food and agriculture system, but clarifies that this in no way alters the authority of the Secretary of Agriculture. This legislation also authorizes FAVD for the first time.

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 bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill 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 24, 2017.

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 S. 500, 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.

S. 500—Securing Our Agriculture and Food Act

S. 500 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 S. 500 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 S. 500 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 500 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 500 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.

On March 13, 2017, CBO transmitted a cost estimate for H.R. 1238, the Securing our Agriculture and Food Act, as ordered reported by the House Committee on Homeland Security on March 8, 2017. The two pieces of legislation are similar and CBO's estimates of their budgetary effects are the same.

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

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

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

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

* * * * *

SEC. 528. COORDINATION OF DEPARTMENT OF HOMELAND SECURITY EFFORTS RELATED TO FOOD, AGRICULTURE, AND VETERINARY DEFENSE AGAINST TERRORISM

(a) *PROGRAM REQUIRED.*—The Secretary, acting through the Assistant Secretary for Health Affairs, shall carry out a program to coordinate the efforts of the Department relating 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 responsibilities of the Department under Homeland Security Presidential Directive 9—Defense of United States Agriculture and Food.*

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

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

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

(5) *Coordinating with other components of the Department, including U.S. Customs and Border Protection, as appropriate, on activities relating 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 shall be construed to alter or supersede the authority of the Secretary of Agriculture relating to food and agriculture.*

