

DHS OPIOID DETECTION RESILIENCE ACT OF 2019

DECEMBER 3, 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. 4761]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4761) to ensure U.S. Customs and Border Protection officers, agents, and other personnel have adequate synthetic opioid detection equipment, that the Department of Homeland Security has a process to update synthetic opioid detection capability, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 4761, the “DHS Opioid Detection Resilience Act of 2019” seeks to ensure U.S. Customs and Border Protection (CBP) officers, agents, and other personnel have adequate synthetic opioid detec-

tion equipment, and that the Department of Homeland Security (DHS) has a process to update synthetic opioid detection capability.

H.R. 4761 addresses limitations in chemical screening devices used by CBP to detect fentanyl and other opioids. The bill would require CBP to implement a strategy to ensure that deployed chemical screening devices are able to identify synthetic opioids in an operational environment at a purity level of 10 percent or lower, or provide ports of entry with an alternative method for identifying narcotics at lower purity levels. The bill requires that any new chemical screening devices are tested to assess their limitations before acquisition. It also directs the DHS Secretary to implement a plan for developing a centralized spectral database for chemical screening devices that addresses how newly identified drug compounds will be collected, stored, and distributed to these devices in an operational environment and who the appropriate parties responsible for updates and maintenance of the database are.

#### BACKGROUND AND NEED FOR LEGISLATION

The opioid crisis (including synthetic opioids, such as fentanyl) has reached epidemic levels and currently affects large portions of the United States. The majority of fentanyl is smuggled into the country through international mail facilities, express consignment facilities, and ports of entry (POE) along the southern land border. CBP plays a vital role in detecting and interdicting illicit narcotics before they enter the United States. However, in September 2019, a DHS Office of Inspector General report (OIG–19–67) called attention to limitations of the screening technology that CBP deploys to detect synthetic opioids. The report found that while most fentanyl seized at the southern land border POEs contain purity levels of less than 10 percent, CBP purchased and deployed screening devices at these locations that are unable to detect fentanyl and other illicit narcotics with purity levels below 10 percent.<sup>1</sup> This occurred because CBP failed to test the screening device capability to identify illicit narcotics and failed to identify purity requirements prior to purchasing and deploying the device. Because of this, CBP has a limited ability to intercept low purity levels of fentanyl and other illicit narcotics that fuel the opioid crisis in the United States.

#### HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop H.R. 4761:

- On July 25, 2019, the Committee held a hearing entitled “Homeland Security Implications of the Opioid Crisis.” The Committee received testimony from Sondra McCauley, Assistant Inspector General for Audits, Office of Inspector General, U.S. Department of Homeland Security; Bridget G. Brennan, Special Narcotics Prosecutor for the City of New York; Bryce Pardo, Associate Policy Researcher, RAND Corporation; and James Edward Hinson, Jr., Deputy Chief, Greensboro Police Department, Investigative Bureau Commander.

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<sup>1</sup>DHS Office of Inspector General, *Limitations of CBP OFO’s Screening Device Used to Identify Fentanyl and Other Narcotics*. OIG–19–67, September 30, 2019.

## COMMITTEE CONSIDERATION

The Committee met on October 23, 2019, with a quorum being present, to consider H.R. 4761 and ordered the measure to be reported 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. 4761.

## 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. 4761 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. 4761 is to address the current detection capability gap in technology used by CBP to detect fentanyl and other opioids. H.R. 4761 will also require CBP to test any new technology before acquisition to ensure that CBP has the necessary technology to detect fentanyl and other opioids at ports of entry. Another objective of H.R. 4761 is to ensure DHS chemical

screening devices have the most up-to-date spectral library to ensure resilience of DHS opioid detection capability.

#### 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 Opioid Detection Resilience Act of 2019.”

##### *Sec. 2. Strategy to ensure detection of all opioid purity levels at ports of entry*

This section requires the CBP Commissioner to implement a strategy to ensure deployed chemical screening devices are able to identify narcotics in an operational environment at purity levels less than or equal to 10 percent, or provide ports of entry with an alternative method for identifying narcotics at lower purity levels. The strategy must be documented and must clearly identify and assess: the detection capability gap as it relates to CBP’s operational environment, actionable solutions, and defined metrics in order for CBP to provide measurable performance. The strategy must be in place no later than 180 days after enactment.

This section also requires the CBP Commissioner to test any new chemical screening devices to understand the abilities and limitations of such devices relating to identifying narcotics at various purity levels before CBP commits to the acquisition of such devices. The testing of any new chemical screening devices must be documented and must include objectives, requirements, and testing deliverables, including testing outcomes.

##### *Sec. 3. Plan to ensure opioid detection equipment resiliency*

This section requires the Secretary of Homeland Security to implement a plan for the long-term development of a centralized spectral database for chemical screening devices no later than 180 days after enactment. The plan must address how newly identified spectra will be collected, stored, and distributed to screening devices in an operational environment and identify the parties responsible for updates and maintenance of the database. The plan must be documented, and include goals, requirements, objectives, and mechanisms for achieving the stated objectives.

## COMMITTEE CORRESPONDENCE

## Congress of the United States

## U.S. House of Representatives

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November 20, 2019

The Honorable Bennie G. Thompson  
Chairman  
Committee on Homeland Security  
H2-176 Ford House Office Building  
Washington, D.C. 20515

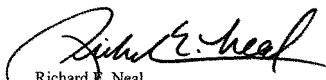
Dear Chairman Thompson,

In recognition of the desire to expedite consideration of H.R. 4761, the DHS Opioid Detection Resilience Act of 2019, the Committee on Ways and Means agrees to waive formal consideration of the bill as to provisions that fall within the rule X jurisdiction of the Committee on Ways and Means.

The Committee on Ways and Means takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and the Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues within our jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation.

Finally, I would appreciate your response to this letter confirming this understanding, and would ask that a copy of our exchange of letter on this matter be included in the *Congressional Record* during floor consideration of H.R. 4761.

Sincerely,



Richard E. Neal  
Chairman

cc: The Honorable Nancy Pelosi  
The Honorable Mike Rogers  
The Honorable Kevin Brady  
Mr. Tom Wickham, Jr.

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN



MIKE ROGERS, ALABAMA  
RANKING MEMBER

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

November 21, 2019

The Honorable Richard Neal  
Chairman  
Committee on Ways and Means  
1102 Longworth House Office Building  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Neal:

Thank you for your letter regarding H.R. 4761, the "DHS Opioid Detection Resilience Act of 2019." The Committee on Homeland Security recognizes that the Committee on Ways and Means has a jurisdictional interest in H.R. 4761, and I appreciate your effort to allow this bill to be considered on the House floor.

I concur with you that forgoing action on the bill does not in any way prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this bill or similar legislation in the future, and I would support your effort to seek appointment of an appropriate number of conferees to any House – Senate conference involving this legislation.

I will include our letters on H.R. 4761 in the *Congressional Record* during floor consideration of this bill. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

  
Bennie G. Thompson  
Chairman

cc: The Honorable Nancy Pelosi, Speaker  
The Honorable Michael Rogers, Ranking Member  
The Honorable Tom Wickham, Parliamentarian