

FOREIGN FIGHTER REVIEW ACT OF 2016

FEBRUARY 23, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCCAUL, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 4402]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4402) to require a review of information regarding persons who have traveled or attempted to travel from the United States to support terrorist organizations in Syria and Iraq, 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 “Foreign Fighter Review Act of 2016”.

SEC. 2. UNITED STATES GOVERNMENT REVIEW OF CERTAIN FOREIGN FIGHTERS.

(a) **REVIEW.**—Not later than 30 days after the date of the enactment of this Act, the President, acting through the Secretary of Homeland Security, shall initiate a review of known instances since 2011 in which a person has traveled or attempted to travel to a conflict zone in Iraq or Syria from the United States to join or provide material support or resources to a terrorist organization. Such review shall—

(1) include relevant unclassified and classified information held by the United States Government related to each instance;

(2) ascertain which factors, including operational issues, security vulnerabilities, systemic challenges, or other issues that may have undermined efforts to prevent the travel of such persons to a conflict zone in Iraq or Syria from the United States, including the timely identification of suspects, information sharing, intervention, and interdiction; and

(3) identify lessons learned and areas for improvement to prevent additional travel by such persons to a conflict zone in Iraq or Syria, or other terrorist safe havens abroad, to join or provide material support or resources to a terrorist organization.

(b) **INFORMATION SHARING.**—If necessary, the President shall direct the heads of relevant Federal agencies to provide the appropriate information necessary for the Secretary of Homeland Security to complete the review required under subsection (a).

(c) **SUBMISSION TO CONGRESS.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, consistent with the protection of classified information, submit to the appropriate congressional committees the results of the review required under subsection (a), which may include information on travel routes of greatest concern.

(d) **PROHIBITION ON ADDITIONAL FUNDING.**—No additional funds are authorized to be appropriated to carry out this section. This section shall be carried out using amounts otherwise appropriated or made available to the Department of Homeland Security.

(e) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) in the House of Representatives—

- (i) the Committee on Homeland Security;
- (ii) the Permanent Select Committee on Intelligence;
- (iii) the Committee on the Judiciary;
- (iv) the Committee on Armed Services;
- (v) the Committee on Foreign Affairs;
- (vi) the Committee on Financial Services; and
- (vii) the Committee on Appropriations; and

(B) in the Senate—

- (i) the Committee on Homeland Security and Governmental Affairs;
- (ii) the Select Committee on Intelligence;
- (iii) the Committee on the Judiciary;
- (iv) the Committee on Armed Services;
- (v) the Committee on Foreign Relations;
- (vi) the Committee on Banking, Housing, and Urban Affairs; and
- (vii) the Committee on Appropriations.

(2) **MATERIAL SUPPORT OR RESOURCES.**—The term “material support or resources” has the meaning given such term in section 2339A of title 18, United States Code.

PURPOSE AND SUMMARY

The purpose of H.R. 4402 is to require a review of information regarding persons who have traveled or attempted to travel from the United States to support terrorist organizations in Syria and Iraq, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

In September 2015, the final report of the Committee on Homeland Security’s Task Force on Combating Terrorist and Foreign Fighter Travel was published. The report, produced by a bipartisan

panel, included 32 findings and provided more than 50 recommendations for enhancing U.S. security. Among other conclusions, the Task Force report found that “despite concerted efforts to stem the flow, [the U.S. [G]overnment has] failed to stop Americans from traveling overseas to join jihadist organizations.

Of the hundreds of Americans who have sought to travel to the conflict zone in Syria and Iraq, authorities have only interdicted a fraction of them. Several dozen have also managed to make it back into America.

In fact, the Task Force report was only able to identify 28 cases where U.S. individuals were stopped before leaving the United States—a small fraction of the total that have attempted to travel to the conflict zone. That number has since increased modestly, and a handful of others have been stopped at other stages of the journey. But the majority appear to have succeeded in reaching the conflict zone, with many joining jihadist groups. In fact, around 40 individuals have returned to the United States, with some going back and forth to the conflict zone multiple times. The Task Force report found that one suspect from Florida allegedly trained with extremists in Syria and returned to the United States for several months before heading back to the conflict zone. During that time, he was never on the radar screen of U.S. authorities.

The Task Force report concluded that it was unacceptable that this many Americans have been able to make it to such a dangerous terrorist safe haven without being interdicted and that, by reviewing such instances, progress can be made to identify systemic weaknesses in the security architecture we have built into the U.S. travel system since 9/11. To-date, there has never been a comprehensive and coordinated Government-wide examination of these instances. Therefore, the Task Force report concluded that a deep-dive review is needed of all of the recent American foreign fighter incidents.

H.R. 4402 requires such a review and the development of “lessons learned” in order to prevent additional U.S. persons from traveling to the terrorist safe havens. The bill requires the President, via the Secretary of Homeland Security, to conduct the review with appropriate Federal agencies to identify vulnerabilities in the system, which have allowed travel for aspiring jihadists. It further requires the Secretary of Homeland Security to report back to Congress on the results of the review.

HEARINGS

The Committee did not hold any hearings on H.R. 4408, however, the Committee held the following oversight hearings:

On February 11, 2015, the Committee held a hearing entitled “Countering Violent Islamist Extremism: The Urgent Threat of Foreign Fighters and Homegrown Terror.” The Committee received testimony from Hon. Francis X. Taylor, Under Secretary, Intelligence and Analysis, U.S. Department of Homeland Security; Hon. Nicholas J. Rasmussen, Director, National Counterterrorism Center, Office of the Director of National Intelligence; and Mr. Michael B. Steinbach, Assistant Director, Counterterrorism Division, Federal Bureau of Investigation, U.S. Department of Justice.

On March 24, 2015, the Committee held a hearing entitled “A Global Battleground: The Fight Against Islamist Extremism at

Home and Abroad.” The Committee received testimony from Hon. Newt Gingrich, Former Speaker of the U.S. House of Representatives; General Michael Hayden (USAF-Ret.), Former Director, Central Intelligence Agency and Former Director, National Security Agency; Mr. Philip Mudd, Senior Fellow, New America Foundation; and Mr. Brian Michael Jenkins, Senior Adviser to the RAND President, The RAND Corporation.

On June 3, 2015, the Committee held a hearing entitled “Terrorism Gone Viral: The Attack in Garland, Texas and Beyond.” The Committee received testimony from Mr. John J. Mulligan, Deputy Director, National Counterterrorism Center; Hon. Francis X. Taylor, Under Secretary, Intelligence and Analysis, U.S. Department of Homeland Security; and Mr. Michael B. Steinbach, Assistant Director, Counterterrorism Division, Federal Bureau of Investigation, U.S. Department of Justice.

On July 15, 2015, the Committee held a hearing entitled “The Rise of Radicalization: Is the U.S. Government Failing to Counter International and Domestic Terrorism?” The Committee received testimony from Ms. Farah Pandith, Adjunct Senior Fellow, Council on Foreign Relations; Mr. Seamus Hughes, Deputy Director, Program on Extremism, Center for Cyber and Homeland Security, George Washington University; and Mr. J. Richard Cohen, President, Southern Poverty Law Center.

On September 8, 2015, the Committee held a field hearing in New York City, New York entitled “Beyond Bin Laden’s Caves and Couriers to A New Generation of Terrorists: Confronting the Challenges in a Post 9/11 World.” The Committee received testimony from Hon. Rudolph “Rudy” W. Giuliani, Former Mayor, City of New York, New York; Mr. William J. Bratton, Commissioner, Police Department, City of New York, New York; Mr. Daniel A. Nigro, Commissioner, Fire Department, City of New York, New York; Mr. Lee A. Ielpi, President, September 11th Families Association; and Mr. Gregory A. Thomas, National President, National Organization of Black Law Enforcement Executives.

On October 21, 2015, the Committee held a hearing entitled “Worldwide Threats and Homeland Security Challenges.” The Committee received testimony from Hon. Jeh C. Johnson, Secretary, Department of Homeland Security; Hon. Nicholas J. Rasmussen, Director, The National Counterterrorism Center, Office of the Director of National Intelligence; and Hon. James B. Comey, Director, Federal Bureau of Investigation, U.S. Department of Justice.

On November 18, 2015, the Committee on Homeland Security and the Committee on Foreign Affairs held a joint hearing entitled “The Rise of Radicalism: Growing Terrorist Sanctuaries and the Threat to the U.S. Homeland.” The Committees received testimony from Hon. Matthew G. Olsen, Co-Founder and President, Business Development and Strategy, IronNet Cybersecurity; Gen. John M. Keane (Ret. U.S. Army), Chairman of the Board, Institute for the Study of War; and Mr. Peter Bergen, Vice President, Director International Security and Fellows Programs, New America.

COMMITTEE CONSIDERATION

The Committee met on February 2, 2016, to consider H.R. 4402, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote.

The following amendments were offered:

An amendment by MS. JACKSON LEE (#1); was AGREED TO by voice vote.

In section 2(c), insert before the period at the end the following: “, which may include information on travel routes of greatest concern”.

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. 4402.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4402, the Foreign Fighter Review Act of 2016, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 19, 2016.

Hon. MICHAEL MCCAUL,
Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4402, the Foreign Fighter Review Act of 2016.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 4402—Foreign Fighter Review Act of 2016

H.R. 4402 would require the Department of Homeland Security (DHS), within 120 days of the bill’s enactment, to report to the Congress on instances since 2011 in which persons traveled or attempted to travel from the United States to Iraq or Syria to support terrorist organizations. The report also would evaluate any

flaws in existing programs or procedures that aim to prevent such travel and identify ways to improve their effectiveness.

Based on information from DHS, CBO estimates that implementing H.R. 4402 would cost less than \$500,000 in 2016 and would be subject to the availability of appropriated funds. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 4402 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 4402 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.

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

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 4402 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The goal of H.R. 4402 is to require the President, acting through the Secretary of Homeland Security, to conduct an end-to-end review of instances since 2011 where individuals have attempted to travel from the United States to join jihadist groups in Syria and Iraq. By mandating such a review, the bill seeks to determine the primary factors that have allowed such individuals to successfully evade detection or interception en route to the conflict zone. H.R. 4402 requires these “lessons learned” to be provided to Congress, with the goal of making more informed adjustments to the U.S. security posture in order to prevent additional U.S. persons from traveling to enlist with terrorist organizations abroad.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 4402 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

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

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.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 4402 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 4402 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that this bill may be cited as the “Foreign Fighter Review Act”.

*Section 2. United States Government review of certain foreign fighters**Subsection (a)—Review*

This subsection requires, not later than 30 days after enactment of this Act, the President, acting through the Secretary of Homeland Security, to conduct an end-to-end review of all known instances, since 2011, in which a person traveled or attempted to travel from the United States to a conflict zone in Iraq or Syria to join or provide material support or resources to a terrorist organization. The review shall include: all relevant information held by the U.S. Government; factors that may have undermined efforts to prevent the travel of such persons to Iraq or Syria; and lessons learned to prevent additional travel by such persons to Iraq, Syria, or other terrorist safe havens abroad.

Subsection (b)—Information sharing

This subsection directs the President to compel, if necessary, the heads of relevant Federal agencies to share with the Secretary of Homeland Security the appropriate information needed for the Secretary to complete the review required under subsection (a).

The Committee anticipates the provision of appropriate information to the Secretary of Homeland Security by the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of the Treasury, and the Director of National Intelligence.

Subsection (c)—Submission to Congress

This subsection requires the Secretary of Homeland Security to submit the results of the review required under subsection (a) to the appropriate congressional committees within 120 days after the date of enactment of this Act.

The subsection also permits the Secretary to include information on travel routes of greatest concern taken by foreign fighters into and out of the conflict zone. The Committee remains alarmed that aspiring extremists and trained jihadists continue to evade detection as they travel to places like Syria. Congress would be able to conduct even more effective oversight of these challenges with additional detail regarding how these routes are changing and affecting the ability of law enforcement and intelligence agencies to intercept terror suspects.

Subsection (d)—Prohibition on additional funding

This subsection requires the Secretary of Homeland Security to complete the review required under subsection (a) using funds already appropriated or made available to the Department of Homeland Security.

Subsection (e)—Definitions

This subsection defines the terms “appropriate congressional committees” and “material support or resources”.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 4402 makes no changes to existing law.