AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

114TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
114–481

COUNTERTERRORISM ADVISORY BOARD ACT OF 2016

APRIL 11, 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. 4407]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4407) to amend the Homeland Security Act of 2002 to establish in the Department of Homeland Security a board to coordinate and integrate departmental intelligence, activities, and policy related to counterterrorism, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Hearings	2
Committee Consideration	3
Committee Votes	4
Committee Oversight Findings	4
New Budget Authority, Entitlement Authority, and Tax Expenditures	4
Congressional Budget Office Estimate	4
Statement of General Performance Goals and Objectives	5
Duplicative Federal Programs	5
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits	5
Federal Mandates Statement	5
Preemption Clarification	5
Disclosure of Directed Rule Makings	6
Advisory Committee Statement	6
Applicability to Legislative Branch	6
Section-by-Section Analysis of the Legislation	6
Changes in Existing Law Made by the Bill, as Reported	7

PURPOSE AND SUMMARY

The purpose of H.R. 4407 is to amend the Homeland Security Act of 2002 to establish in the Department of Homeland Security a board to coordinate and integrate departmental intelligence, activities, and policy related to counterterrorism, 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 released. It included 32 findings and more than 50 recommendations for enhancing U.S. security. Among other conclusions, the Task Force found that Congress should authorize the DHS Counterterrorism Advisory Board (CTAB)—an internal body charged with advising the Secretary of Homeland Security on counterterrorism issues—and ensure it is aligned with the current threat environment.

Established at the behest of the Secretary of Homeland Security in 2010, the CTAB brings together top DHS officials to share information and coordinate counterterrorism activities. The CTAB has improved the Department's ability to respond to terrorism threats and harmonize counterterrorism programs and activities across DHS components. Given that the CTAB has never been authorized in law, there is a risk that the board will be dismantled and that the internal DHS gains achieved, with respect to counterterrorism coordination, will be lost. The Task Force concluded that authorization in law and updates to the charter would keep the CTAB on a strong footing so it can be utilized by future DHS Secretaries and component leaders.

H.R. 4407, the Counterterrorism Advisory Board Act of 2016, not only preserves this critical body, by authorizing it in law, but also ensures that changes in the threat environment, including the surge in homegrown extremism and the threat from foreign fighters, are considered by the CTAB.

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. 4407, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by voice vote.

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. 4407.

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. 4407, the Counterterrorism Advisory Board 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, March 18, 2016.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4407, the Counterterrorism Advisory Board 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,

ROBERT A. SUNSHINE
(For Keith Hall).

Enclosure.

H.R. 4407—Counterterrorism Advisory Board Act of 2016

H.R. 4407 would establish a counterterrorism advisory board in the Department of Homeland Security (DHS). The board would consist of senior representatives of operational agencies within DHS (such as Customs and Border Protection and the Coast Guard) and offices in DHS headquarters, including the Office of Intelligence and Analysis. The board would meet on a regular basis to coordinate departmental activities to combat terrorism.

DHS is currently carrying out activities similar to those required by the bill, and CBO estimates that implementing H.R. 4407 would have no significant effect on DHS spending. Because enacting the

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

CBO estimates that enacting H.R. 4407 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 4407 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 H. Samuel Papenfuss, Deputy 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. 4407 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The goal of H.R. 4407 is to authorize the Counterterrorism Advisory Board within DHS, outline the structure and functions of the board, including advising the DHS Secretary on the issuance of terrorism alerts, and requires a report to Congress on the status and activities of the board. This legislation will ensure that the Department's central advisory body for counterterrorism is constituted to confront today's threats and that Congress is able to exercise effective oversight of its operations. It also aims to ensure that the Secretary receives timely advice from top leaders in the Department before issuing terrorism alerts.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 4407 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. 4407 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 4407 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 "Counterterrorism Advisory Board Act of 2016".

Section 2. Department of Homeland Security Counterterrorism Advisory Board

Subsection (a)—In general

This subsection inserts a new section 210G into the Homeland Security Act of 2002 entitled "Departmental Coordination on Counterterrorism," establishing a board of senior representatives of departmental operational components and headquarters elements to coordinate and integrate departmental intelligence, activities, and policy related to the counterterrorism mission and functions of the Department. It requires the board to update its charter, as appropriate, every four years and to align it with the threat environment. This subsection further delineates the membership of the board and requires that Secretary to appoint a Coordinator for Counterterrorism who will serve as chair of the board. It requires the board to convene on a regular basis to discuss intelligence and coordinate ongoing threat mitigation efforts and departmental activities and to make recommendations to the Secretary. Finally, this subsection directs the board to advise the Secretary on the issuance of terrorism alerts.

Subsection (b)—Clerical amendment

This subsection makes a clerical amendment to the table of contents.

Subsection (c)—Provision of software and Congressional notification

This subsection requires the Secretary of Homeland Security, acting through the Coordinator for Counterterrorism, to submit a report to Congress on the status and activities of the board, no later than 90 days after enactment.

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 italics 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:

* * * * * * *

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Information and Analysis and Infrastructure Protection; Access to Information

* * * * * * *

Sec. 210G. Departmental coordination on counterterrorism.

* * * * * * *

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Information and Analysis and Infrastructure Protection; Access to Information

* * * * * * *

SEC. 210G. DEPARTMENTAL COORDINATION ON COUNTERTERRORISM.

(a) ESTABLISHMENT.—There is in the Department a board to be composed of senior representatives of departmental operational components and headquarters elements. The purpose of the board shall be to coordinate and integrate departmental intelligence, activities, and policy related to the counterterrorism mission and functions of the Department.

(b) CHARTER.—There shall be a charter to govern the structure and mission of the board. Such charter shall direct the board to focus on the current threat environment and the importance of aligning departmental counterterrorism activities under the Secretary's guidance. The charter shall be reviewed and updated every four years, as appropriate.

(c) MEMBERS.—

(1) CHAIR.—The Secretary shall appoint a Coordinator for Counterterrorism within the Department who will serve as the chair of the board.

(2) ADDITIONAL MEMBERS.—The Secretary shall appoint additional members of the board from among the following:

(A) The Transportation Security Administration.

(B) United States Customs and Border Protection.

(C) United States Immigration and Customs Enforcement.

(D) The Federal Emergency Management Agency.

(E) The Coast Guard.

(F) United States Citizenship and Immigration Services.

(G) The United States Secret Service.

(H) The National Protection and Programs Directorate.

(I) The Office of Operations Coordination.

(J) The Office of the General Counsel.

(K) The Office of Intelligence and Analysis.

(L) The Office of Policy.

(M) The Science and Technology Directorate.

(N) Other Departmental offices and programs as determined appropriate by the Secretary.

(d) MEETINGS.—The board shall meet on a regular basis to discuss intelligence and coordinate ongoing threat mitigation efforts and departmental activities, including coordination with other Federal, State, local, tribal, territorial, and private sector partners, and shall make recommendations to the Secretary.

(e) TERRORISM ALERTS.—The board shall advise the Secretary on the issuance of terrorism alerts pursuant to section 203 of this Act.

(f) PROHIBITION ON ADDITIONAL FUNDS.—No additional funds are authorized to carry out this section. This section shall be carried out using amounts otherwise appropriated or made available to the Department.

* * * * * * *

○