

NO FLY FOR FOREIGN FIGHTERS ACT

APRIL 15, 2016.—COMMITTED TO THE COMMITTEE OF THE WHOLE HOUSE ON THE
 STATE OF THE UNION AND ORDERED TO BE PRINTED

Mr. GOODLATTE, from the Committee on the Judiciary,
 submitted the following

R E P O R T

[To accompany H.R. 4240]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4240) to require an independent review of the operation and administration of the Terrorist Screening Database (TSDB) maintained by the Federal Bureau of Investigation and subsets of the TSDB, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The Amendment

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 “No Fly for Foreign Fighters Act”.

SEC. 2. GAO STUDY ON THE TERRORIST SCREENING DATABASE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit, to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, a report on—

(1) whether past weaknesses in the operation and administration of the Terrorist Screening Database (hereinafter referred to as the “TSDB”) and subsets of the TSDB have been addressed; and

(2) the extent to which existing vulnerabilities to the United States may be addressed or mitigated through additional changes to the TSDB and subsets of the TSDB, thereby enhancing America’s security and defenses.

(b) REQUIRED INFORMATION.—The study and report under subsection (a) shall include information on the extent to which—

(1) information is being integrated into the TSDB from all relevant sources across the government in a timely manner;

(2) agencies are able to comply with increased demands for information to improve the TSDB;

(3) the TSDB, and relevant subsets of the TSDB, are accessible to agencies, authorities, and other entities, as appropriate; and

(4) the TSDB is capable of enabling users to identify known or suspected terrorists in the most timely and comprehensive manner possible.

Purpose and Summary

This legislation requires the U.S. Government Accountability Office to conduct an independent review of the operation and administration of the Terrorist Screening Database and its subsets.

Background and Need for the Legislation

Pursuant to Homeland Security Presidential Directive 6, the Terrorist Screening Center (TSC) was established to create and maintain the U.S. government’s consolidated watchlist—the Terrorist Screening Database (TSDB)—and to provide for the use of watchlist records during security-related and other screening processes.¹ The watchlisting and screening processes are intended to support the U.S. government’s efforts to combat terrorism by consolidating the terrorist watchlist and providing screening and law enforcement agencies with information to help them respond appropriately during encounters with known or suspected terrorists, among other things.

The U.S. Government Accountability Office (GAO) previously conducted a study of the terrorist watchlist following the December 25, 2009, attempted bombing of Northwest flight 253. That study exposed certain weaknesses in how the Federal Government nominated individuals to the terrorist watchlist and gaps in how agencies used the list to screen individuals. The GAO specifically recommended in its May 2012 unclassified report that the Assistant to the President for Homeland Security and Counterterrorism establish mechanisms or use existing interagency bodies to routinely assess:

- how the watchlisting guidance has impacted the watchlisting community—including its capacity to submit and process nominations in accordance with provisions in the guidance—

¹Homeland Security Presidential Directive/HSPD-6, *Integration and Use of Screening Information* (Sept. 16, 2003).

and whether any adjustments to agency programs or the guidance are needed, and

- whether use of the watchlist during agency screening processes is achieving intended results, including whether the overall outcomes and impacts of screening on agency resources and the traveling public are acceptable and manageable or if adjustments to agency programs or the watchlisting guidance are needed.

In July 2010, the Federal Government finalized guidance to address these identified weaknesses in the watchlist nominations process and to clarify how agencies are to nominate individuals to the watchlist. In 2011, an interagency policy committee began an initiative to assess the initial impacts the changes in watchlisting guidance had on nominating agencies. At the time the GAO report was published in 2012, agencies were also pursuing staffing, technology, and other solutions to address challenges in processing the volumes of information.

The GAO stated in its 2012 watchlisting report that routine, government-wide assessments of the outcomes and impacts of agencies' watchlist screening or vetting programs could help ensure that these programs are achieving their intended results or identify if revisions are needed. Such assessments could also help identify broader issues that require attention, determine if impacts on agency resources and the traveling public are acceptable, and communicate to key stakeholders how the nation's investment in the watchlist screening or vetting processes is enhancing security of the nation's borders, commercial aviation, and other security-related activities.

Hearings

The Committee on the Judiciary held no hearings on H.R. 4240.

Committee Consideration

On January 12, 2016, the Committee met in open session and ordered the bill H.R. 4240 favorably reported, with an amendment, by voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 4240.

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.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4240, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 29, 2016.

Hon. BOB GOODLATTE, CHAIRMAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4240, the “No Fly for Foreign Fighters Act.” If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford, who can be reached at 226–2860.

Sincerely,

KEITH HALL,
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 4240—No Fly for Foreign Fighters Act.

As ordered reported by the House Committee on the Judiciary
on January 12, 2015.

H.R. 4240 would direct the Government Accountability Office to prepare a study within 1 year of enactment on the operation and administration of the Terrorist Screening Database (commonly referred to as the Terrorist Watchlist) maintained by the Federal Bureau of Investigation. The database consolidates all terrorist information collected by the Federal Government for all terrorist screening systems. The report to the Congress would weigh whether weaknesses and vulnerabilities that have been identified in the database have been corrected. Based on the cost of similar studies, CBO estimates the report would cost less than \$500,000 over the 2016–2017 period; such spending would be subject to the availability of appropriated funds.

Because enacting the bill would not affect direct spending or revenues, pay-as-you go procedures do not apply. CBO estimates that enacting H.R. 4240 would not increase direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

H.R. 4240 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 Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

Duplication of Federal Programs

No provision of H.R. 4240 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Disclosure of Directed Rule Makings

The Committee estimates that H.R. 4240 specifically directs to be completed no specific rule makings within the meaning of 5 U.S.C. 551.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 4240, requires the U.S. Government Accountability Office to conduct an independent review of the operation and administration of the Terrorist Screening Database and its subsets.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 4240 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title. Section 1 sets forth the short title of the bill as the “No Fly for Foreign Fighters Act.”

Sec. 2. GAO Study on the Terrorist Screening Database. Section 2 provides that the GAO conduct a study and submit a report on whether past weaknesses in the operation and administration of the TSDB and subsets of the TSDB have been addressed, and the extent to which vulnerabilities to the United States may be addressed or mitigated through additional changes to the TSDB.