

NATIONAL STRATEGY TO COMBAT TERRORIST TRAVEL
 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. 4408]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4408) to require the development of a national strategy to combat terrorist travel, 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	3
Committee Consideration	4
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	5
Advisory Committee Statement	5
Applicability to Legislative Branch	7
Section-by-Section Analysis of the Legislation	7
Changes in Existing Law Made by the Bill, as Reported	8

PURPOSE AND SUMMARY

The purpose of H.R. 4408 is to require the development of a national strategy to combat terrorist travel, 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 more than 50 recommendations for enhancing U.S. security. Among other conclusions, the Task Force report found that the U.S. government lacks a comprehensive strategy for combating terrorist and foreign fighter travel—and has failed to maintain a comprehensive system for identifying and plugging related vulnerabilities in America's defenses. The Task Force report found that hundreds of programs, projects, and initiatives have sprouted up to combat terrorist travel since 9/11, but without an overarching strategy to coordinate them, the United States may be wasting taxpayer dollars and failing to allocate resources where they are needed most. Indeed, lack of a strategy not only increases the risk terrorists might exploit weaknesses in the U.S. travel system, but also raises the prospect of waste, overlap, and duplication between agencies.

It has been nearly a decade since the Executive Branch produced a whole-of-government plan to constrain terrorist movements. In its 2004 final report, the 9/11 Commission recommended the United States develop “a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility.” That year, Congress passed the Intelligence Reform and Terrorism Prevention Act, which mandated such a plan, required the Administration to explain how it would be implemented, and called for an assessment of vulnerabilities in U.S. and foreign travel systems that could be exploited by terrorists and violent extremists. The result was the 2006 National Strategy to Combat Terrorist Travel. It has not been updated since.

The 2006 Strategy is woefully outdated. Some of the programs identified under the Strategy are no longer operational and new programs that have been stood up since 2006 are not included. The evolving threat environment has also made the document obsolete. For instance, the Strategy makes no mention of foreign fighters or the challenges associated with violent extremists' social media recruiting.

There appears to be no comprehensive accounting of terrorist-travel programs in the U.S. Government or any systematic Government-wide effort to identify gaps between them. The President's 2011 National Strategy for Counterterrorism makes little mention of the subject of terrorist travel aside from noting the United States will work with foreign partners to “identify terrorist operatives and prevent their travel . . . across national borders and within states.” A full audit of America's terror-travel preventative and protective measures should be produced, given that the current Administration has identified “disrupting the flow of foreign fighters” as one of its top priorities in the fight against the Islamic State of Iraq and Syria (ISIS).

H.R. 4408 requires the President to submit to Congress a strategy focused on intercepting terrorists and foreign fighters and making their travel more difficult. The strategy must include an accounting of all U.S. Government programs to constrain terrorist travel, identify vulnerabilities and how they will be mitigated, and describe actions to eliminate waste, overlap, and duplication of efforts. The bill requires such a strategy in the first year of each Presidential term, accompanied by annual implementation plans.

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. 4408, 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. 4408.

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. 4408, the National Strategy to Combat Terrorist Travel 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. 4408, the National Strategy to Combat Terrorist Travel 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. 4408—National Strategy to Combat Terrorist Travel Act of 2016

H.R. 4408 would require the Department of Homeland Security (DHS), within 180 days of the bill's enactment, to transmit to the Congress a strategy to disrupt the domestic and international travel of terrorists. This report would describe existing programs to combat terrorist travel, identify current vulnerabilities that could be exploited by enemies of the United States, and include a plan to implement protective actions. During the seven-year period after enactment, H.R. 4408 would require DHS to update the strategy within 180 days of the beginning of a new presidential administration. For 10 years after enactment, DHS would have to update the implementation plan annually.

Based on information from DHS, CBO estimates that the reports and implementation plans required by H.R. 4408 would cost less than \$500,000 annually and would be subject to the availability of appropriated funds. Any costs in subsequent years to carry out those plans for additional equipment or personnel, for example—would be attributable to separate legislation. 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. 4408 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 4408 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. 4408 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The goal of H.R. 4408 is to require the President of the United States to issue a national strategy to combat terrorist travel with the aim of identifying and strengthening U.S. Government efforts

to intercept terrorists and foreign fighters and to make it harder for such persons to travel domestically and internationally. The bill seeks to ensure that U.S. Government counterterrorism defenses are adaptable to threat environment changes, including changes in terrorist and foreign fighter tactics to evade detection. However, in order to identify vulnerabilities, the U.S. Government must first regularly catalogue and assess existing efforts to combat terrorist travel and the gaps in such efforts. Accordingly, the bill requires the President and subsequent administrations to conduct such a Government-wide audit and include it in the strategy. H.R. 4408 requires the President's strategy to delineate how security vulnerabilities will be addressed, how resources will be prioritized in a risk-based manner, and how existing programs will be adjusted or streamlined, in addition to any new efforts proposed. The bill requires the submission of implementation plans to ensure that the strategy is acted upon and that the U.S. government regularly seeks to strengthen U.S. protections against terrorist travel.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 4408 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. 4408 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 4408 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 “National Strategy to Combat Terrorist Travel Act of 2016”.

*Sec. 2. National strategy to combat terrorist travel**Subsection (a)—Sense of Congress*

This subsection asserts a sense of Congress that it should be the policy of the United States to: regularly assess the evolving terrorist threat to the United States; catalogue existing efforts by the Federal Government to obstruct terrorist and foreign fighter travel; identify existing efforts that may benefit from reform or consolidation, or require elimination; identify potential security vulnerabilities related to terrorist travel; and prioritize resources to address any such vulnerabilities.

Subsection (b)—National strategy and updates

This subsection requires the President to submit to Congress a national strategy to combat terrorist travel, which shall address efforts to intercept terrorists and foreign fighters and make it harder for such persons to travel domestically and internationally. The strategy must account for all U.S. Government programs to constrain terrorist and foreign fighter travel, identify specific security vulnerabilities and how they will be closed, and describe actions to streamline any such security efforts or programs.

The Committee believes the strategy should include a focus on programs and activities related to “identification and prevention” and “detection and disruption.” The former could include intelligence collection on terror suspects and their movements, information sharing at all levels of government and with foreign partners, watchlisting, counter-finance, countering violent extremism (CVE) activities, and other relevant efforts. The latter could include transportation security, border security, traveler screening, document security, law enforcement interdiction, legal systems, and other relevant efforts.

The President is required to direct the Secretary of Homeland Security to develop the national strategy. If necessary, the President shall also direct the heads of other Federal agencies to coordinate with the Secretary to develop the strategy.

The Committee recommends the President direct the following to participate in the development of the strategy: the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of the Treasury, and the Director of National Intelligence.

The initial national strategy must be submitted to Congress within 180 days after the enactment of this Act. Subsequent updates are due to Congress within the first 180 days of each new presidential administration.

The requirement to transmit the updated national strategy to Congress terminates seven years after the date of enactment of this Act.

Subsection (c)—Development of implementation plans

This subsection requires the President to direct the Secretary of Homeland Security to develop an implementation plan for the Department of Homeland Security for each national strategy required under subsection (b). The Secretary is also required to coordinate with the heads of other relevant Federal agencies to ensure each agency develops its own implementation plan.

At a minimum, the Committee expects the President direct the following agency and department heads to develop implementation plans for submission to Congress: the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of the Treasury, and the Director of National Intelligence.

Subsection (d)—Implementation plans

This subsection requires the President to submit implementation plans to Congress for each national strategy. The implementation plans are to be submitted simultaneously with the initial and updated strategies and then updated and submitted annually thereafter.

The Committee believes that each implementation plan should include actions to be taken by the relevant department or agency to address specific security vulnerabilities which may include reforming, improving, and streamlining existing government efforts to align with the current threat environment; new programs, projects, or activities related to combating terrorist and foreign fighter travel; new authorities implemented or changes in existing authorities needed from Congress; and specific budget adjustments made or being requested to enhance U.S. security in a risk-based manner.

The requirement to transmit implementation plans to Congress terminates ten years after the date of enactment of this Act.

Subsection (e)—Prohibition on additional funding

This subsection requires the development of the national strategy and accompanying implementation plans required under this Act to be prepared using funds already appropriated or made available to the Department of Homeland Security.

Subsection (f)—Definition

This subsection defines the term “appropriate congressional committees”.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 4408 makes no changes to existing law.