

Calendar No. 459

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
116-228 }

DHS INTELLIGENCE AND INFORMATION
SHARING ACT OF 2019

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 2066

TO AMEND THE HOMELAND SECURITY ACT OF 2002 TO
ESTABLISH THE INTELLIGENCE ROTATIONAL ASSIGNMENT
PROGRAM IN THE DEPARTMENT OF HOMELAND SECURITY, AND
FOR OTHER PURPOSES



JUNE 1, 2020.—Ordered to be printed

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DHS INTELLIGENCE AND INFORMATION SHARING
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JUNE 1, 2020.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany H.R. 2066]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 2066) to amend the Homeland Security Act of 2002 to establish the Intelligence Rotational Assignment Program in the Department of Homeland Security, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The purpose of H.R. 2066, the DHS Intelligence Rotational Assignment Program Act of 2019, is to require the Department of Homeland Security (DHS or Department) to establish an Intelligence Rotational Assignment Program. Department employees eligible for this program include DHS analysts within a Department intelligence component, United States Secret Service (USSS) analysts, and others as determined appropriate by the Secretary of Homeland Security.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Throughout the Federal Government, rotational programs assist agencies in employee education and career development.¹ Within DHS, there are a “variety of training opportunities [available] to employees, including academic programs, leader development, career development, and technical skills training.”² One of the programs available to Department employees includes the Homeland Security Rotation Program.³ This program was authorized on October 4, 2006, and “provides developmental assignments that give DHS employees opportunities to broaden their skills, gain organizational knowledge, and enhance their personal and professional growth.”⁴

In 2017, the inspectors general of the Intelligence Community, DHS, and Department of Justice completed a report, *Review of Domestic Sharing of Counterterrorism Information*.⁵ They noted that “the DHS Intelligence Enterprise was not as effective and valuable to the [intelligence community] as it could be.”⁶ This was attributed to a lack of unity throughout the DHS Intelligence Enterprise, various staffing issues within DHS’s Office of Intelligence & Analysis (I&A), problems with the review and approval process of internal intelligence products, and issues accessing classified systems and locations.⁷ The report further stated that “the DHS Intelligence Enterprise was fragmented, with elements operating independently and with few repercussions or incentives to coordinate better outside of actual events.”⁸

The report noted that DHS I&A had taken steps to improve and further unify the DHS Intelligence Enterprise.⁹ These steps included establishing the DHS Intelligence Rotational Assignment Program in 2014 to “promote a broader understanding of the various intelligence missions and functions across the intelligence enterprise and fusion centers.”¹⁰ However, the DHS Chief Intelligence Officer has been unable to compel Department personnel to participate in such initiatives.¹¹

This legislation codifies DHS’s Intelligence Rotational Assignment Program in an effort to improve intra-agency participation in the program. It also extends eligibility to certain intelligence analysts across the DHS component agencies, ultimately fostering a better understanding of the Department’s intelligence enterprise

¹ Office of Personnel Mgmt., Training and Development: Leadership Development, President’s Management Council Interagency Rotation Program, available at <https://www.opm.gov/policy-data-oversight/training-and-development/leadership-development/#url=PMC-Interagency-Rotation-Prgm>.

² Dep’t of Homeland Security, Employee Resources: My Career, available at <https://www.dhs.gov/employee-resources/my-career>.

³ *Id.*

⁴ Pub. L. 109–295, title VI, § 622(a), Oct. 4, 2006, 120 Stat. 1416. See also Dep’t of Homeland Security, Employee Resources: My Career, available at <https://www.dhs.gov/employee-resources/my-career>.

⁵ Joint Report by the Intelligence Community Inspectors General of the Department of Homeland Security and the Department of Justice, *Review of Domestic Sharing of Counterterrorism Information*, https://www.dni.gov/files/documents/Newsroom/Domestic_Sharing_Counterterrorism_Information_Report.pdf.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

and resulting in increased intra-agency communication on specific threats.

III. LEGISLATIVE HISTORY

On April 3, 2019, Rep. Mike Gallagher (R-WI) introduced H.R. 2066, the DHS Intelligence Rotational Assignment Program Act of 2019. The Act passed the House under suspension of the rules on May 14, 2019. H.R. 2066 was referred to the Senate Committee on Homeland Security and Governmental Affairs on May 15, 2019.

The Committee considered H.R. 2066 at a business meeting on November 6, 2019. Chairman Ron Johnson offered a substitute amendment which expanded the rotation program's eligibility to additional DHS intelligence personnel. The substitute amendment also clarifies that the Chief Human Capital Officer is required to carry out the rotation program's responsibilities. The Committee favorably reported the Act, as amended by the Johnson substitute amendment, *en bloc* by voice vote. Senators present for the vote were: Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Sinema, and Rosen.

IV. SECTION-BY-SECTION ANALYSIS OF THE ACT, AS REPORTED

Section 1. Short title

This section provides the Act's short title, the "DHS Intelligence Rotational Assignment Program Act of 2019."

Section 2. Intelligence Rotational Assignment Program

This section amends Section 844 of the Homeland Security Act of 2002 (6 U.S.C. 414) by adding a new subsection at the end on the Intelligence Rotational Assignment Program.

Subsection (b)(1) requires the establishment of an Intelligence Rotational Assignment Program as part of the Homeland Security Rotation Program within one year of enactment.

Subsection (b)(2) establishes the eligibility for the program to include DHS analysts within a Department intelligence component, USSS analysts, and other positions within DHS as determined by the Secretary.

Subsection (b)(3) outlines the responsibilities for the Chief Human Capital Officer in regards to the Intelligence Rotational Assignment Program, as applicable.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this Act and determined that the Act will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the Act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 11, 2019.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for Department of Homeland Security Legislation.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

Department of Homeland Security Legislation			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on November 6, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = less than \$500,000; the table above applies to each act described below.

On November 6, 2019, the Senate Committee on Homeland Security and Governmental Affairs ordered reported the following pieces of legislation:

- H.R. 495, the Federal Information Resource to Strengthen Ties with State and Local Law Enforcement Act of 2019, which would require the Department of Homeland Security (DHS) to submit an annual report to the Congress on the department's efforts to coordinate activities and share information with state, local, and tribal law enforcement agencies;
- H.R. 1589, the CBRN Intelligence and Information Sharing Act of 2019, which would direct DHS to gather and analyze intelligence on terrorist threats involving chemical, biological, radiological, and nuclear (CBRN) materials and to share that information with federal, state, and local authorities; and
- H.R. 2066, the DHS Intelligence Rotational Assignment Program Act of 2019, which would authorize DHS to permit its intelligence analysts to participate in the department's in-house employee rotation program.

DHS is currently carrying out activities similar to those required by the acts listed above, and any new activities required under the legislation would not require substantial action by the department. Thus, CBO estimates that implementing each act would not have a significant cost; any spending would be subject to the availability of appropriated funds.

On April 23, 2019, CBO transmitted a cost estimate for H.R. 1589, the CBRN Intelligence and Information Sharing Act of 2019, as passed by the House of Representatives on April 1, 2019. The two versions of the legislation are similar and CBO's estimate of the budgetary effects for each version are the same.

The CBO staff contact for this estimate is Kim Cawley. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE ACT, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the act, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

* * * * *

Subtitle E—Human Resources Management

* * * * *

SEC. 844. HOMELAND SECURITY ROTATION PROGRAM.

(a) * * *

* * * * *

(b) *INTELLIGENCE ROTATIONAL ASSIGNMENT PROGRAM.—*

(1) *ESTABLISHMENT.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall establish an Intelligence Rotational Assignment Program as part of the Rotation Program under subsection (a).*

(2) *ELIGIBILITY.—The Intelligence Rotational Assignment Program shall be open to employees serving in analyst positions in an intelligence component of the Department, analyst positions in the United States Secret Service, and other positions in the Department, as Determined appropriate by the Secretary.*

(3) *COORDINATION.—The Chief Human Capital Officer shall carry out the responsibilities relating to the Rotation Program that are specified in subsection (a)(3)(B) with respect to the In-*

telligence Rotational Assignment Program under this subsection, to the extent those responsibilities are applicable to the Intelligence Rotational Assignment Program.

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