

Calendar No. 109

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-44

TERRORIST AND FOREIGN FIGHTER TRAVEL
EXERCISE 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. 1590

TO REQUIRE AN EXERCISE RELATED TO TERRORIST AND
FOREIGN FIGHTER TRAVEL, AND FOR OTHER PURPOSES



JUNE 5, 2019.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

89-010

WASHINGTON : 2019

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

RON JOHNSON, Wisconsin, *Chairman*

ROB PORTMAN, Ohio
RAND PAUL, Kentucky
JAMES LANKFORD, Oklahoma
MITT ROMNEY, Utah
RICK SCOTT, Florida
MICHAEL B. ENZI, Wyoming
JOSH HAWLEY, Missouri

GARY C. PETERS, Michigan
THOMAS R. CARPER, Delaware
MAGGIE HASSAN, New Hampshire
KAMALA D. HARRIS, California
KYRSTEN SINEMA, Arizona
JACKY ROSEN, Nevada

GABRIELLE D'ADAMO SINGER, *Staff Director*

JOSEPH C. FOLIO, III, *Chief Counsel*

MICHAEL J. LUEPTOW, *Chief Counsel for Homeland Security*

DAVID M. WEINBERG, *Minority Staff Director*

ZACHARY I. SCHRAM, *Minority Chief Counsel*

JULIE G. KLEIN, *Minority National Security Advisor*

LAURA W. KILBRIDE, *Chief Clerk*

Calendar No. 109

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-44

**TERRORIST AND FOREIGN FIGHTER TRAVEL EXERCISE
ACT OF 2019**

JUNE 5, 2019.—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. 1590]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the Act (H.R. 1590) to require an exercise related to terrorist and foreign fighter travel, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	4
IV. Section-by-Section Analysis	4
V. Evaluation of Regulatory Impact	5
VI. Congressional Budget Office Cost Estimate	5
VII. Changes in Existing Law Made by the Act, as Reported	6

I. PURPOSE AND SUMMARY

The purpose of H.R. 1590, the Terrorist and Foreign Fighter Travel Exercise Act of 2019, is to require the Department of Homeland Security (the Department) to, in coordination with other Federal agencies and stakeholders, develop and conduct an exercise related to the threats posed by the travel of terrorists or foreign fighters. The Act also requires the Department to provide a report to Congress upon the completion of the exercise detailing any lessons learned from the exercise.

II. BACKGROUND AND THE NEED FOR LEGISLATION

In December 2018, President Trump issued the National Strategy to Combat Terrorist Travel. The national strategy is “an integrated plan to ensure the United States stops terrorist attempts to travel to conduct attacks on the homeland.”¹ The national strategy includes three goals: to “identify and deter terrorists before they travel,” to “detect and interdict terrorists during their travel,” and to “enhance travel security capabilities and capacity of foreign partners.”² This Act will further the goals of the national strategy by bringing together local, state, Federal, and foreign law enforcement and other stakeholders in an exercise to build national and international preparedness in the detection and prevention of terrorist and foreign fighter travel.³

In 2015, the Department’s Homeland Security Advisory Council (HSAC) Foreign Fighter Task Force issued its interim report on the potential threat posed by foreign fighter travel, and its impact on homeland security.⁴ The interim report found that “more than 180 U.S. persons have traveled or attempted to travel to participate in conflict” and “about 40 have returned” to the United States.⁵ The interim report also determined that “[e]arly detection, prevention and intervention relating to the radicalizing pathways towards violent extremism or foreign fighter travel cannot be overstated.”⁶ In addition, the interim report found that success in prevention and “off-ramping” is “contingent on strong relationships between local, state and federal law enforcement working in conjunction with—or supporting—communities including those in the private, non-profit and academic sectors.”⁷ Based on its review, the HSAC recommended, among other things, that the Department “[e]nsure efficient information sharing systems between local and federal levels.”⁸

As of 2017, the international community identified over 40,000 foreign terrorist fighters across more than 120 countries, according to Army Lt. General Michael K. Nagata, director of the National Counterterrorism Center’s (NCTC) Directorate for Strategic Operational Planning.⁹ During the 115th Congress, the Committee held hearings that included a discussion of threats posed by terrorists

¹National Strategy to Combat Terrorist Travel (Dec. 2018), *available at* <https://www.whitehouse.gov/wp-content/uploads/2019/02/NSCTT-Signed.pdf>.

²*Id.*

³In addition, this Act conforms to the recommendation of the Task Force on Combating Terrorist and Foreign Fighter Travel that there should be a “[n]ational-level exercise series designed around the foreign fighter threat to test all phases of extremist planning and travel to determine how partners at all levels of Government—and abroad—are currently responding to these scenarios.” H. Comm. on Homeland Security, Task Force on Combating Terrorist and Foreign Fighter Travel, Final Report (Oct. 2015), *available at* https://fas.org/irp/congress/2015_rpt/travel.pdf.

⁴Dep’t of Homeland Sec., Homeland Sec. Advisory Council, Foreign Fighter Task Force, Interim Report (2015), *available at* <https://www.dhs.gov/sites/default/files/publications/DHS-HSAC-Foreign-Fighter-Task-Force-Interim-Report-May-2015.pdf>.

⁵*Id.*

⁶*Id.*

⁷*Id.* The 2018 national strategy echoes this sentiment. See National Strategy to Combat Terrorist Travel (Dec. 2018) (noting that the federal government will work closely with state, local, and tribal governments, in addition to foreign partners to achieve the goals of the strategy).

⁸Dep’t of Homeland Sec., Homeland Sec. Advisory Council, Foreign Fighter Task Force, Interim Report (2015).

⁹Karen Parrish, Dep’t. of Def., *Official: Stopping Foreign Fighter Flow to ISIS Requires Collaboration* (April 5, 2017), *available at* <https://dod.defense.gov/News/Article/Article/1141615/stopping-flow-of-foreign-fighters-to-isis-will-take-years-official-says>.

and foreign fighters.¹⁰ In September 2017, Mr. Nicholas Rasmussen, then-Director of the NCTC, testified about the flow of foreign fighters out of conflict zones in the Middle East and back into Europe or, potentially, the United States:

What we expected when we saw that large inflow of foreign fighters was at some point to deal with a large outflow. That outflow is coming. It is, in fact, in some ways already happening, but it is not nearly as large in volume as perhaps we anticipated. That is a good thing that we are not going to have to deal with thousands and thousands of foreign fighters departing the conflict zone. I would say, though, quality matters here. Quality matters in some ways more than quantity. The wrong set of individuals who escape from the conflict zone in Iraq and Syria, if they have got a particularly specialized set of skills or a particularly full Rolodex or deep connections into an extremist community in Europe or even potentially here inside the United States, they could pose a significant threat to us.¹¹

Similarly, in 2018, NCTC Acting Director Russell Travers noted that “[w]e have almost 20 ISIS branches and networks ranging from hundreds to thousands of individuals around the globe, al Qaeda and its branches and affiliates, tens of thousands of foreign fighters that flock to Iraq and Syria from 100 countries, and Iran and its proxies.”¹² While ISIS remains the most active terrorist organization worldwide, attacks and deaths attributed to this terrorist group declined across the West in 2018. ISIS claimed responsibility for or inspired: 14 successful attacks in Europe and North America in 2015, 22 successful attacks in in 2016, 27 successful attacks in 2017, and 8 successful attacks in 2018.¹³ According to the National Consortium for the Study of Terrorists and Responses to Terrorism’s data analysis, the perceived stabilization is best attributed to effective law enforcement action, and not to a decrease in the actual threat.¹⁴ The number of both foiled and successful jihadist-linked plots has increased since 2010.¹⁵

In December 2018, the Department established the National Vetting Center (NVC) in accordance with National Security Presidential Memorandum-9.¹⁶ The purpose of the NVC is to “provide a clearer picture of threats to national security, border security, homeland security, or public safety posed by individuals seeking to

¹⁰See e.g., *Threats to the Homeland: Hearing before S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018) (testimony of Mr. Russell Travers, Acting Director, Nat’l Counterterrorism Center); *Adapting to Defend the Homeland Against the Evolving International Terrorist Threat: Hearing before S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017); *Threats to the Homeland: Hearing before S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017).

¹¹*Threats to the Homeland: Hearing before S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2017).

¹²*Threats to the Homeland: Hearing before S. Comm. on Homeland Sec. & Governmental Affairs*, 115th Cong. (2018).

¹³Rukmini Callimachi, *Why a “Dramatic Dip” in ISIS Attacks in the West is Scant Comfort*, N.Y. Times (Sept. 12, 2018) available at <https://www.nytimes.com/2018/09/12/world/middleeast/isis-attacks.html>.

¹⁴*Jihadist Terrorist Plots in the United States*, Nat. Consortium for the Study of Terrorism and Responses to Terrorism (Dec. 2017), available at http://www.start.umd.edu/pubs/START_JihadistTerroristPlotsUS_Dec2017.pdf.

¹⁵*Id.*

¹⁶Dep’t of Homeland Sec., Customs and Border Prot., *National Vetting Center* (2018), available at <https://www.cbp.gov/border-security/ports-entry/national-vetting-center>.

transit our borders or exploit our immigration system” by streamlining information sharing between intelligence, law enforcement and other agencies.¹⁷ A national level exercise should engage the nation’s whole-of-government ability to address threats posed by foreign fighter travel, including the effectiveness of the newly formed NVC.

H.R. 1590 builds on the Department’s national exercise framework by requiring a specific exercise focused on threats posed by terrorist and foreign fighter travel. The legislation sets a few specific guidelines meant to increase collaboration between stakeholders, partner agencies, and our foreign allies. A report to the appropriate congressional committees on lessons learned from the exercise will support the Department’s and Congress’ ability to adjust resources to better suit the needs of the Department and its partners.

III. LEGISLATIVE HISTORY

Representative Michael Guest (R–MS–3) introduced H.R. 1590 on March 7, 2019. The House of Representatives passed the Act by a vote of 394 to 7 on April 1, 2019, and it was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered H.R. 1590 at a business meeting on May 15, 2019. The Committee ordered the Act reported favorably by voice vote *en bloc*. Senators present for the vote on the Act were: Johnson, Paul, Lankford, Scott, Peters, Carper, Hassan, and Rosen. For the record only, Senators Portman, Romney, Hawley, and Sinema later asked to be recorded as “yes” by unanimous consent.

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

Section 1. Short title

This section provides the Act’s short title, the “Terrorist and Foreign Fighter Travel Exercise Act of 2019.”

Section 2. Exercise on terrorist and foreign fighter travel

Subsection (a) requires the Secretary of Homeland Security, in coordination with other relevant Federal agencies, to organize and hold an exercise on threats posed by terrorist and foreign fighter travel.

Subsection (b) details the requirements of the exercise, including the focus of the training scenario; coordination between Federal, state, and local law enforcement, foreign governments, and fusion centers; and coordination with the private sector and stakeholders.

Subsection (c) requires the Secretary of Homeland Security to submit a report to Congress within 60 days of completion of the exercise, including identifying any lessons learned and plans to incorporate those lessons into the Department’s operations.

Subsection (d) references the statutory definition of “material support or resources” in section 2339A of title 18, United States Code as it applies to section 2(b)(1)(A) of the Act.

¹⁷*Id.*

Section 3. Emerging threats in the national exercise program

This section amends the Post-Katrina Emergency Management Reform Act of 2006 to require the Federal Government include emerging threats into national exercise program scenarios.

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 bill 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, May 22, 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 H.R. 1590, the Terrorist and Foreign Fighter Travel Exercise Act of 2019.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 1590, Terrorist and Foreign Fighter Travel Exercise Act of 2019			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 15, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	n.e.
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

n.e. = not estimated; * = between zero and \$500,000.

H.R. 1590 would require the Federal Emergency Management Agency (FEMA) to develop and carry out national exercises designed to evaluate the nation's preparedness against the threat of

foreign fighters and terrorists. Using information from FEMA, CBO estimates that implementing the legislation would not significantly affect the federal budget over the 2020–2024 period because the new exercises would be integrated into existing programs.

Under current law, at least every two years, the agency conducts a national exercise to evaluate the preparedness of federal, state, local, and tribal governments to respond to catastrophic events—including acts of terrorism—in a coordinated manner. The agency allocated approximately \$21 million in fiscal year 2018 under the National Exercise Program for such activities including education and training efforts related to the ability to respond to emergencies.

Under the act, the agency would develop and conduct an exercise to test the ability to respond to the threat of persons leaving the United States to join or provide material support to terrorist organizations or of foreign fighters attempting to enter the United States. The agency also would be required to submit a report to the Congress following the exercise. Using information from FEMA, CBO estimates that the agency would develop and integrate the new exercises into existing preparedness activities and would incur no significant additional costs to implement the act.

On March 28, 2019, CBO transmitted a cost estimate for H.R. 1590, the Terrorist and Foreign Fighter Travel Exercise Act, as ordered reported by the House Committee on Homeland Security on March 13, 2019. The two versions of the legislation are similar and CBO’s estimates of their budgetary effects are the same.

The CBO staff contact for this estimate is Jon Sperl. 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 H.R. 1590 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):

POST-KATRINA EMERGENCY MANAGEMENT REFORM ACT

* * * * *

TITLE VI—NATIONAL EMERGENCY MANAGEMENT

* * * * *

Subtitle C—Comprehensive Preparedness System

* * * * *

CHAPTER 1—NATIONAL PREPAREDNESS SYSTEM

* * * * *

SEC. 648. TRAINING AND EXERCISES.

* * * * *

(b) NATIONAL EXERCISE PROGRAM.—

(1) * * *

(2) REQUIREMENTS.—The national exercise program—

(A) shall be—

(i) as realistic as practicable, based on current risk assessments, including credible *and emerging threats*, vulnerabilities, and consequences, and designed to stress the national preparedness system;

* * * * *

○