

Union Calendar No. 320

116TH CONGRESS
2D SESSION

H. R. 1140

[Report No. 116–398, Part I]

To enhance the security operations of the Transportation Security Administration and stability of the transportation security workforce by applying the personnel system under title 5, United States Code, to employees of the Transportation Security Administration who provide screening of all passengers and property, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2019

Mr. THOMPSON of Mississippi (for himself and Mrs. LOWEY) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

FEBRUARY 21, 2020

Additional sponsors: Ms. JACKSON LEE, Mrs. DEMINGS, Mrs. WATSON COLEMAN, Ms. WASSERMAN SCHULTZ, Mr. DEFAZIO, Mr. DAVID SCOTT of Georgia, Ms. TITUS, Ms. MOORE, Ms. BONAMICI, Mr. SOTO, Mr. KHANNA, Ms. BROWNLEY of California, Mrs. LURIA, Ms. WILD, Mr. MCGOVERN, Mrs. BEATTY, Mr. BLUMENAUER, Ms. HAALAND, Ms. PINGREE, Mr. CARBAJAL, Mr. HUFFMAN, Ms. LEE of California, Mr. LOWENTHAL, Mrs. TORRES of California, Mrs. NAPOLITANO, Ms. OCASIO-CORTEZ, Ms. LOFGREN, Mr. ESPAILLAT, Miss RICE of New York, Mr. SCHRADER, Mr. LYNCH, Mr. CLEAVER, Mr. POCAN, Ms. CLARK of Massachusetts, Mr. KILMER, Mr. DOGGETT, Mrs. LEE of Nevada, Mr. LAMB, Mr. SMITH of Washington, Mr. PAPPAS, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. VELÁZQUEZ, Mr. COHEN, Mr. COX of California, Mr. HIMES, Mr. HECK, Ms. MENG, Ms. HILL of California, Mr. ROSE of New York, Ms. CLARKE of New York, Mrs. CAROLYN B. MALONEY of New York, Mr. SCOTT of Virginia, Mr. PERLMUTTER, Ms. KAPTUR, Mr. TAKANO, Mr. RYAN, Ms. MUCARSEL-POWELL, Ms. SCHAKOWSKY, Ms. DELBENE, Mrs. MURPHY of Florida, Mr. JEFFRIES, Ms.

OMAR, Ms. NORTON, Mr. GRIJALVA, Mr. PAYNE, Mr. AGUILAR, Mr. PAL-
 LONE, Mr. LEWIS, Ms. BASS, Mr. KENNEDY, Ms. ESHOO, Mr. NEGUSE,
 Mr. DELGADO, Mrs. BUSTOS, Mr. BEYER, Ms. MCCOLLUM, Mr. CRIST,
 Ms. DELAURO, Mr. TRONE, Ms. KUSTER of New Hampshire, Mr.
 TONKO, Mr. SUOZZI, Ms. KENDRA S. HORN of Oklahoma, Mr. CORREA,
 Mr. MALINOWSKI, Mr. RUIZ, Mr. HIGGINS of New York, Mr. VEASEY,
 Mr. VELA, Ms. SHALALA, Ms. SEWELL of Alabama, Ms. ADAMS, Ms.
 WEXTON, Mr. LANGEVIN, Ms. DEGETTE, Mr. LARSEN of Washington,
 Mr. ZELDIN, Mr. CROW, Mrs. AXNE, Mr. SWALWELL of California, Mr.
 PRICE of North Carolina, Mr. YARMUTH, Mr. CUMMINGS, Mr. HASTINGS,
 Mr. CARSON of Indiana, Mr. RUSH, Ms. CASTOR of Florida, Mr.
 KRISHNAMOORTHY, Mr. LIPINSKI, Mr. GARCÍA of Illinois, Mr. BROWN of
 Maryland, Mr. RASKIN, Mr. WELCH, Ms. CRAIG, Mr. PHILLIPS, Mr. KIL-
 DEE, Mr. FOSTER, Mr. SIRES, Ms. BARRAGÁN, Mr. FITZPATRICK, Ms.
 FINKENAUER, Mr. LEVIN of Michigan, Ms. ROYBAL-ALLARD, Mr. MI-
 CHAEL F. DOYLE of Pennsylvania, Mr. NEAL, Mrs. TRAHAN, Mr. KIM,
 Mr. ENGEL, Ms. KELLY of Illinois, Mrs. MCBATH, Mr. LAWSON of Flor-
 ida, Ms. JAYAPAL, Mr. RICHMOND, Mr. ROUDA, Ms. SCHRIER, Mr.
 GARAMENDI, Mr. NADLER, Mr. KEATING, Mr. GALLEGO, Mr. PANETTA,
 Mrs. LAWRENCE, Mr. SERRANO, Mr. RUPPERSBERGER, Mr. LUJÁN, Mr.
 SHERMAN, Mr. HARDER of California, Ms. SCANLON, Mrs. HAYES, Mr.
 BERA, Mr. CARTWRIGHT, Mr. BRINDISI, Mr. LARSON of Connecticut, Mr.
 THOMPSON of California, Mr. VAN DREW, Ms. WATERS, Mr. VARGAS,
 Mrs. KIRKPATRICK, Mr. PETERS, Ms. SÁNCHEZ, Ms. FRANKEL, Mr.
 COLLINS of New York, Ms. DAVIDS of Kansas, Mr. GOTTHEIMER, Mr.
 NORCROSS, Ms. PRESSLEY, Mr. CUELLAR, Ms. TLAIB, Mr. LOEBSACK,
 Ms. JOHNSON of Texas, Ms. SPANBERGER, Mr. COURTNEY, Mr.
 CÁRDENAS, Mr. LEVIN of California, Mr. GOLDEN, Ms. JUDY CHU of
 California, Mr. GONZALEZ of Texas, Mr. CASTRO of Texas, Ms. GARCIA
 of Texas, Mr. KIND, Mr. EVANS, Ms. TORRES SMALL of New Mexico,
 Mr. MCNERNEY, Ms. UNDERWOOD, Mr. SABLAN, Mr. SCHNEIDER, Ms.
 HOULAHAN, Mr. BISHOP of Georgia, Ms. SPEIER, Ms. FUDGE, Mr.
 STANTON, Ms. DEAN, Ms. WILSON of Florida, Mr. SARBANES, Mr.
 CUNNINGHAM, Mr. GREEN of Texas, Mr. ALLRED, Mr. PASCRELL, Mrs.
 DINGELL, Mr. BUTTERFIELD, Mr. SEAN PATRICK MALONEY of New
 York, Mr. YOUNG, Mr. DANNY K. DAVIS of Illinois, Mr. QUIGLEY, Ms.
 ESCOBAR, Mrs. FLETCHER, Mr. MCEACHIN, Mr. MOULTON, Mr. SMITH
 of New Jersey, Ms. PORTER, Mr. CLAY, Ms. MATSUI, Ms. SHERRILL, Mr.
 PETERSON, Ms. GABBARD, Mr. CICILLINE, Mr. MEEKS, Mr. TED LIEU
 of California, Mr. GOMEZ, Mrs. DAVIS of California, Mr. CASE, Mr.
 DEUTCH, Mr. O'HALLERAN, Mr. CONNOLLY, Mr. DESAULNIER, Ms.
 STEVENS, Mr. MCKINLEY, Mr. CISNEROS, Mr. JOHNSON of Georgia, Mr.
 COSTA, Mr. RODNEY DAVIS of Illinois, Mr. HORSFORD, Mr. MORELLE,
 Mr. STAUBER, Mr. SCHIFF, Mr. JOYCE of Ohio, Ms. BLUNT ROCHESTER,
 Ms. SLOTKIN, Mr. COOPER, Mr. MCADAMS, Mr. CASTEN of Illinois, and
 Mr. VISCLOSKEY

FEBRUARY 21, 2020

Reported from the Committee on Homeland Security with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

FEBRUARY 21, 2020

Committee on Oversight and Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 11, 2019]

A BILL

To enhance the security operations of the Transportation Security Administration and stability of the transportation security workforce by applying the personnel system under title 5, United States Code, to employees of the Transportation Security Administration who provide screening of all passengers and property, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Rights for Transpor-*
5 *tation Security Officers Act of 2020”.*

6 **SEC. 2. DEFINITIONS.**

7 *For purposes of this Act—*

8 (1) *the term “adjusted basic pay” means—*

9 (A) *the rate of pay fixed by law or adminis-*
10 *trative action for the position held by a covered*
11 *employee before any deductions; and*

12 (B) *any regular, fixed supplemental pay-*
13 *ment for non-overtime hours of work creditable*
14 *as basic pay for retirement purposes, including*
15 *any applicable locality payment and any special*
16 *rate supplement;*

17 (2) *the term “Administrator” means the Admin-*
18 *istrator of the Transportation Security Administra-*
19 *tion;*

20 (3) *the term “covered employee” means an em-*
21 *ployee who holds a covered position;*

22 (4) *the term “covered position” means a position*
23 *within the Transportation Security Administration;*

1 (5) the term “conversion date” means the date as
2 of which paragraphs (1) through (4) of section 3(c)
3 take effect;

4 (6) the term “2019 Determination” means the
5 publication, entitled “Determination on Transpor-
6 tation Security Officers and Collective Bargaining”,
7 issued on July 13, 2019, by Administrator David P.
8 Pekoske;

9 (7) the term “employee” has the meaning given
10 such term by section 2105 of title 5, United States
11 Code;

12 (8) the term “Secretary” means the Secretary of
13 Homeland Security; and

14 (9) the term “TSA personnel management sys-
15 tem” means any personnel management system estab-
16 lished or modified under—

17 (A) section 111(d) of the Aviation and
18 Transportation Security Act (49 U.S.C. 44935
19 note); or

20 (B) section 114(n) of title 49, United States
21 Code.

22 **SEC. 3. CONVERSION OF TSA PERSONNEL.**

23 (a) **RESTRICTIONS ON CERTAIN PERSONNEL AUTHORI-**
24 **TIES.**—Notwithstanding any other provision of law, effec-
25 tive as of the date of the enactment of this Act—

1 (1) *any TSA personnel management system in*
2 *use for covered employees and covered positions on the*
3 *day before such date of enactment, and any TSA per-*
4 *sonnel management policy, letters, guideline, or direc-*
5 *tive in effect on such day may not be modified;*

6 (2) *no TSA personnel management policy, letter,*
7 *guideline, or directive that was not established before*
8 *such date issued pursuant to section 111(d) of the*
9 *Aviation and Transportation Security Act (49 U.S.C.*
10 *44935 note) or section 114(n) of title 49, United*
11 *States Code, may be established; and*

12 (3) *any authority to establish or adjust a human*
13 *resources management system under chapter 97 of*
14 *title 5, United States Code, shall terminate with re-*
15 *spect to covered employees and covered positions.*

16 (b) *PERSONNEL AUTHORITIES DURING TRANSITION*
17 *PERIOD.—Any TSA personnel management system in use*
18 *for covered employees and covered positions on the day be-*
19 *fore the date of enactment of this Act and any TSA per-*
20 *sonnel management policy, letter, guideline, or directive in*
21 *effect on the day before the date of enactment of this Act*
22 *shall remain in effect until the effective date under sub-*
23 *section (c).*

24 (c) *TRANSITION TO GENERAL PERSONNEL MANAGE-*
25 *MENT SYSTEM APPLICABLE TO CIVIL SERVICE EMPLOY-*

1 *EES.—Effective as of the date determined by the Secretary,*
2 *but in no event later than 180 days after the date of the*
3 *enactment of this Act—*

4 (1) *each provision of law cited in section 2(9) is*
5 *repealed;*

6 (2) *any TSA personnel management policy, let-*
7 *ter, guideline, and directive, including the 2019 De-*
8 *termination, shall cease to be effective;*

9 (3) *any human resources management system es-*
10 *tablished or adjusted under chapter 97 of title 5,*
11 *United States Code, with respect to covered employees*
12 *or covered positions shall cease to be effective; and*

13 (4) *covered employees and covered positions shall*
14 *be subject to the provisions of title 5, United States*
15 *Code.*

16 (d) *SAFEGUARDS ON GRIEVANCES.—In carrying out*
17 *this Act, the Secretary shall take such actions as are nec-*
18 *essary to provide an opportunity to each covered employee*
19 *with a grievance or disciplinary action (including an ad-*
20 *verse action) pending within TSA on the date of enactment*
21 *of this Act or at any time during the transition period de-*
22 *scribed in subsection (c) to have such grievance removed to*
23 *proceedings pursuant to title 5, United States Code, or con-*
24 *tinued within TSA.*

1 **SEC. 4. TRANSITION RULES.**

2 (a) *NONREDUCTION IN PAY AND COMPENSATION.*—
3 *Under pay conversion rules as the Secretary may prescribe*
4 *to carry out this Act, a covered employee converted from*
5 *a TSA personnel management system to the provisions of*
6 *title 5, United States Code, pursuant to section 2(c)(4) shall*
7 *not be subject to any reduction in the rate of adjusted basic*
8 *pay payable, or total compensation provided, to such cov-*
9 *ered employee.*

10 (b) *PRESERVATION OF OTHER RIGHTS.*—*In the case*
11 *of each covered employee as of the conversion date, the Sec-*
12 *retary shall take any actions necessary to ensure that—*

13 (1) *any annual leave, sick leave, or other paid*
14 *leave accrued, accumulated, or otherwise available to*
15 *a covered employee immediately before the conversion*
16 *date shall remain available to the employee until*
17 *used; and*

18 (2) *the Government share of any premiums or*
19 *other periodic charges under chapter 89 of title 5,*
20 *United States Code, governing group health insurance*
21 *shall remain at least the same as was the case imme-*
22 *diately before the conversion date.*

23 **SEC. 5. CONSULTATION REQUIREMENT.**

24 (a) *EXCLUSIVE REPRESENTATIVE.*—*The labor organi-*
25 *zation certified by the Federal Labor Relations Authority*
26 *on June 29, 2011, or successor labor organization shall be*

1 *treated as the exclusive representative of full- and part-time*
2 *non-supervisory TSA personnel carrying out screening*
3 *functions under section 44901 of title 49, United States*
4 *Code, and shall be the exclusive representative for such per-*
5 *sonnel under chapter 71 of title 5, United States Code, with*
6 *full rights under such chapter. Any collective bargaining*
7 *agreement covering such personnel on the date of enactment*
8 *of this Act shall remain in effect, consistent with subsection*
9 *(d).*

10 *(b) CONSULTATION RIGHTS.—Not later than 7 days*
11 *after the date of the enactment of this Act, the Secretary*
12 *shall consult with the exclusive representative for the per-*
13 *sonnel described in subsection (a) under chapter 71 of title*
14 *5, United States Code, on the formulation of plans and*
15 *deadlines to carry out the conversion of covered employees*
16 *and covered positions under this Act. Prior to the conver-*
17 *sion date, the Secretary shall provide (in writing) to such*
18 *exclusive representative the plans for how the Secretary in-*
19 *tends to carry out the conversion of covered employees and*
20 *covered positions under this Act, including with respect to*
21 *such matters as—*

- 22 *(1) the anticipated conversion date; and*
23 *(2) measures to ensure compliance with sections*
24 *3 and 4.*

1 (c) *REQUIRED AGENCY RESPONSE.*—*If any views or*
2 *recommendations are presented under subsection (b) by the*
3 *exclusive representative, the Secretary shall consider the*
4 *views or recommendations before taking final action on any*
5 *matter with respect to which the views or recommendations*
6 *are presented and provide the exclusive representative a*
7 *written statement of the reasons for the final actions to be*
8 *taken.*

9 (d) *SUNSET PROVISION.*—*The provisions of this sec-*
10 *tion shall cease to be effective as of the conversion date.*

11 **SEC. 6. NO RIGHT TO STRIKE.**

12 *Nothing in this Act shall be considered—*

13 (1) *to repeal or otherwise affect—*

14 (A) *section 1918 of title 18, United States*
15 *Code (relating to disloyalty and asserting the*
16 *right to strike against the Government); or*

17 (B) *section 7311 of title 5, United States*
18 *Code (relating to loyalty and striking); or*

19 (2) *to otherwise authorize any activity which is*
20 *not permitted under either provision of law cited in*
21 *paragraph (1).*

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