

IMPROVED SECURITY VETTING FOR AVIATION WORKERS
ACT OF 2015

JULY 27, 2015.—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. 2750]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 2750) to reform programs of the Transportation Security Administration, streamline transportation security regulations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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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 “Improved Security Vetting for Aviation Workers Act of 2015”.

SEC. 2. AVIATION SECURITY.

(a) **IN GENERAL.**—Subtitle A of title XVI of the Homeland Security Act of 2002 (6 U.S.C. 561 et seq.) is amended by adding after section 1601 the following new section:

“SEC. 1602. VETTING OF AVIATION WORKERS.

“(a) **IN GENERAL.**—By not later than December 31, 2015, the Administrator, in coordination with the Assistant Secretary for Policy of the Department, shall request from the Director of National Intelligence access to additional data from the Terrorist Identities Datamart Environment (TIDE) data and any or other terrorism-related information to improve the effectiveness of the Administration’s credential vetting program for individuals with unescorted access to sensitive areas of airports.

“(b) **SECURITY INSPECTION.**—By not later than December 31, 2015, the Administrator shall issue guidance for Transportation Security Inspectors to annually review airport badging office procedures for applicants seeking access to sensitive areas of airports. Such guidance shall include a comprehensive review of applicants’ Criminal History Records Check (CHRC) and work authorization documentation during the course of an inspection.

“(c) **INFORMATION SHARING.**—By not later than December 31, 2015, the Administrator may conduct a pilot program of the Rap Back Service, in coordination with the Director of the Federal Bureau of Investigation, to determine the feasibility of full implementation of a service through which the Administrator would be notified of a change in status of an individual holding a valid credential granting unescorted access to sensitive areas of airports across eligible Administration-regulated populations.

“(d) **PROCEDURES.**—The pilot program under subsection (c) shall evaluate whether information can be narrowly tailored to ensure that the Administrator only receives notification of a change with respect to a disqualifying offense under the credential vetting program under subsection (a), as specified in 49 C.F.R. 1542.209, and in a manner that complies with current regulations for fingerprint-based criminal history records checks. The pilot program shall be carried out in a manner so as to ensure that, in the event that notification is made through the Rap Back Service of a change but a determination of arrest status or conviction is in question, the matter will be handled in a manner that is consistent with current regulations. The pilot program shall also be carried out in a manner that is consistent with current regulations governing an investigation of arrest status, correction of Federal Bureau of Investigation records and notification of disqualification, and corrective action by the individual who is the subject of an inquiry.

“(e) **DETERMINATION AND SUBMISSION.**—If the Administrator determines that full implementation of the Rap Back Service is feasible and can be carried out in a manner that is consistent with current regulations for fingerprint-based criminal history checks, including the rights of individuals seeking credentials, the Administrator shall submit such determination, in writing, to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate, together with information on the costs associated with such implementation, including the costs incurred by the private sector. In preparing this determination, the Administrator shall consult with the Chief Civil Rights and Civil Liberties Officer of the Department to ensure that protocols are in place to align the period of retention of personally identifiable information and biometric information, including fingerprints, in the Rap Back Service with the period in which the individual who is the subject of an inquiry has a valid credential.

“(f) **CREDENTIAL SECURITY.**—By not later than September 30, 2015, the Administrator shall issue guidance to airports mandating that all federalized airport badging authorities place an expiration date on airport credentials commensurate with the period of time during which an individual is lawfully authorized to work in the United States.

“(g) **AVIATION WORKER LAWFUL STATUS.**—By not later than December 31, 2015, the Administrator shall review the denial of credentials due to issues associated with determining an applicant’s lawful status in order to identify airports with specific weaknesses and shall coordinate with such airports to mutually address such weaknesses, as appropriate.

“(h) **REPORTS TO CONGRESS.**—Upon completion of the determinations and reviews required under this section, the Administrator shall brief the Committee on Home-

land Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate on the results of such determinations and reviews.”

(b) CLERICAL AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 1601 the following new item:

“Sec. 1602. Vetting of aviation workers.”

SEC. 3. STATUS UPDATE ON RAP BACK SERVICE PILOT PROGRAM.

Not later than 60 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report on the status of plans to conduct a pilot program in coordination with the Federal Bureau of Investigation of the Rap Back Service in accordance with subsection (c) of section 1602 of the Homeland Security Act of 2002, as added by section 2 of this Act. The report shall include details on the business, technical, and resource requirements for the Transportation Security Administration and pilot program participants, and provide a timeline and goals for the pilot program.

PURPOSE AND SUMMARY

The purpose of H.R. 2750 is to reform programs of the Transportation Security Administration, streamline transportation security regulations, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Department of Homeland Security Inspector General recently released a report entitled “TSA Can Improve Aviation Worker Vetting” (DHS OIG-15-98) which found that 73 aviation workers with access to secure areas in our nation’s airports had links to terrorism. Some of the issues noted by the report included policies that prevented the Transportation Security Administration (TSA) from having access to all the terrorism category codes in the agency’s extract of the Terrorist Screening Database used to vet employees, and limited oversight of airport operators performing criminal history and work authorization checks on the aviation workers. The report made six recommendations to strengthen the vetting of credentialed aviation workers. This legislation codifies several of those recommendations and ensures that TSA has access to the necessary data to properly vet aviation employees, strengthen its criminal background check capabilities, and better-resolve issues of lawful status for credential applicants.

The need for enhanced and robust employee vetting stems from the threat to aviation posed by those with access to sensitive and secure areas at airports. A number of incidents in recent years have highlighted security gaps in the employee vetting process, including gun and drug smuggling operations, as well as instances of radicalization of aviation workers. While there has not yet been a successful instance of terrorism perpetrated by an aviation worker, the Committee seeks to close perceived gaps in vetting and strengthen the overall security of the aviation sector.

HEARINGS

No legislative hearings were held on H.R. 2750, however, the Committee held the following oversight hearings on airport access control:

112th Congress

The Subcommittee on Transportation Security held a hearing on May 16, 2012, entitled “Access Control Point Breaches at Our Nation’s Airports: Anomalies or Systemic Failures?” The Subcommittee received testimony from Mr. John P. Sammon, Assistant Administrator, Office of Security Policy and Industry Engagement, Transportation Security Administration, Department of Homeland Security; Mr. Charles K. Edwards, Acting Inspector General, Department of Homeland Security; Mr. Mark Crosby, Chief of Public Safety and Security, Portland International Airport, *testifying on behalf of the American Association of Airport Executives*; Captain Sean P. Cassidy, First Vice President, Air Line Pilots Association, International; and Mr. William Swift, Chairman, Airport Minority Advisory Council.

114th Congress

On February 3, 2015, the Subcommittee on Transportation Security held a hearing entitled “A Review of Access Control Measures at Our Nation’s Airports.” The Subcommittee received testimony from Mr. Mark Hatfield, Acting Deputy Administrator, Transportation Security Administration, U.S. Department of Homeland Security; Mr. Doug Perdue, Deputy Assistant Director, Counterterrorism Division, Federal Bureau of Investigation, U.S. Department of Justice; Ms. Sharon L. Pinkerton, Senior Vice President, Legislative and Regulatory Policy, Airlines for America; and Mr. Miguel Southwell, General Manager, Hartsfield-Jackson Atlanta International Airport.

The Subcommittee continued its hearing on April 30, 2015, with a hearing entitled “A Review of Access Control Measures at Our Nation’s Airports, Part II.” The Subcommittee received testimony from Mr. Melvin J. Carraway, Acting Administrator, Transportation Security Administration, U.S. Department of Homeland Security; Jeanne M. Olivier, A.A.E., Assistant Director, Aviation Security and Technology, Security Operations and Programs Department, The Port Authority of New York & New Jersey, *testifying on behalf of The American Association of Airport Executives*; and Mr. Steven Grossman, Chief Executive Officer/Executive Director, Jacksonville International Airport, Jacksonville Aviation Authority, *testifying on behalf of The Airports Council International, North America*.

On June 16, 2015, the Subcommittee on Transportation Security held a hearing entitled “How TSA Can Improve Aviation Worker Vetting.” The Subcommittee received testimony from Hon. John Roth, Inspector General, U.S. Department of Homeland Security; Ms. Stacey Fitzmaurice, Deputy Assistant Administrator, Office of Intelligence and Analysis, Transportation Security Administration, U.S. Department of Homeland Security; and Ms. Jennifer Grover, Director, Transportation Security and Coast Guard Issues, Homeland Security and Justice Team, U.S. Government Accountability Office.

COMMITTEE CONSIDERATION

The Committee met on June 23, 2015, to consider H.R. 2750, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MR. KATKO (#1); was AGREED TO by voice vote.

An amendment offered by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1A); was AGREED TO by voice vote.

Page 2, line 15, strike "in criminal or certain civil activity of an individual" and insert "in status of an individual".

Page 2 beginning line 19, insert a new subsections entitled "(d) Procedures." and "(e) Determination and Submission."

The Subcommittee on Transportation Security met on June 16, 2015, to consider H.R. 2750, and ordered the measure reported to the Full Committee with a favorable recommendation, amended, by voice vote. The Subcommittee took the following actions:

The following amendments were offered:

An en bloc amendment offered by MISS RICE of New York (#1); was AGREED TO by voice vote.

Consisting of the following amendments:

An Amendment:

In section 2 of the bill, in the proposed section 1601 of the Homeland Security Act of 2002, amend subsection (a) with a new subsection entitled "(a) In General."

An amendment:

In section 2 of the bill, in the proposed section 1601 of the Homeland Security Act of 2002, amend subsection (c) with a new subsection entitled "(c) Information Sharing."

At the end of the bill, add new section entitled "Sec. 3. Status Update on Rap Back Service Pilot Program."

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. 2750.

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. 2750, the Improved Security Vetting for Aviation Workers Act of 2015, 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, July 24, 2015.

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. 2750, the Improved Security Vetting for Aviation Workers Act of 2015.

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

Sincerely,

ROBERT A. SUNSHINE
(For Keith Hall, Director).

Enclosure.

H.R. 2750—Improved Security Vetting for Aviation Workers Act of 2015

The Transportation Security Administration (TSA) is responsible for ensuring that workers who require unescorted access to secure areas of airports are vetted in accordance with security-related requirements. Such vetting procedures include checks of individuals' criminal backgrounds and immigration status as well as checks against terrorist databases. H.R. 2750 would direct TSA to undertake additional activities to enhance procedures for vetting airport workers, particularly by expanding efforts to share data and terrorist-related information among federal agencies responsible for intelligence and law enforcement.

Based on information from TSA, CBO estimates that implementing H.R. 2750 would have no significant effect on the federal budget. According to the agency, many of the data-sharing activities authorized under H.R. 2750 are already occurring under current law. As a result, CBO estimates that any additional costs incurred under the legislation would not exceed \$500,000 annually; such spending would be subject to the availability of appropriated funds. Enacting H.R. 2750 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2750 would impose an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) on airport authorities that issue badges to people authorized to work at airports. The bill would require those authorities to set the expiration of badges to correspond with a person's authorization to work in the United States. Under current law, badges must expire at least every two years. This bill would require airport authorities to change practices for the issuance of badges. Based on information from TSA and groups representing airport authorities, CBO estimates that the cost to both public and private airports of complying with the mandate would be small and well below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million, respectively in 2015, adjusted annually for inflation).

The CBO staff contacts for this estimate are Megan Carroll (for federal costs), Melissa Merrell (for intergovernmental mandates), and Amy Petz (for private-sector mandates). The estimate was ap-

proved by H. Samuel Papenfuss, Deputy 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. 2750 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

This bill requires that the Administrator of the Transportation Security Administration provide a briefing to the appropriate Congressional committees on the status of the various actions required by the legislation, including requesting additional data from the Director of National Intelligence, issuing additional guidance to Transportation Security Inspectors for reviewing airport badging procedures, determining the feasibility of implementing the Rap Back Service for credentialed aviation workers, and requiring that airport badging officials place expiration dates on airport credentials that are commensurate with an individual's lawful authorization to work in the United States.

Additionally, the bill requires the Administrator to report to the House of Representatives Committee on Homeland Security and the Senate Committee on Commerce, Science, and Transportation on the status of the pilot program of the Federal Bureau of Investigation's Rap Back Service. This report is required to include details on the business, technical, and resource requirements for the TSA and pilot program participants, and provide a timeline for the pilot program.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 2750 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. 2750 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 2750 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 bill may be cited as the “Improved Security Vetting for Aviation Workers Act of 2015”.

Section 2. Aviation Security.

This section amends the Homeland Security Act of 2002 to require the Administrator of the Transportation Security Administration (TSA), in coordination with the Assistant Secretary for Policy of the Department of Homeland Security, to request additional Terrorist Identities Datamart Environment data from the Director of National Intelligence to improve the effectiveness of the Administration’s credential vetting program for individuals with unescorted access to secure areas of airports. The Committee expects the coordination and request to be conducted in a manner which seeks to result in TSA being provided the appropriate data needed to adequately vet TSA-regulated populations.

Additionally, this section directs TSA to issue additional guidance for agency inspectors to review airport badging procedures for workers applying for access to sensitive, secured areas of airports, as well as documentation pertaining to applicants’ Criminal History Records Check and lawful work authorization. The provision further allows TSA to coordinate a pilot program of the Rap Back Service with the Federal Bureau of Investigation among TSA-regulated populations, in order to provide more timely visibility into aviation workers’ criminal history. Such pilot is to be conducted in compliance with existing laws and regulations and should examine the ability of the Rap Back Service to be tailored to the needs of the Administrator in determining disqualifying offense occurrences. The Administrator is also directed to submit to the appropriate Congressional committees estimates on the costs associated with the Rap Back Service’s implementation, including costs incurred by the private sector. The Administrator is also required to consult with the Chief Civil Rights and Civil Liberties Officer of the Department concerning the retention of personally identifiable information and biometric information utilized by Rap Back. The Committee sees the implementation of the Rap Back Service as a posi-

tive step forward in perpetually vetting populations of individuals with access to secure and sterile areas of airports.

In this section, the bill also directs the Administrator of TSA to issue guidance to airports requiring them to place expiration dates on aviation worker credentials that are commensurate with lawful work status in the United States and to identify airports with consistent weaknesses in determining lawful status to address shortfalls. The Administrator is also required to review instances of credential denials based on lawful status and work with airports to address weaknesses in identifying individuals' lawful status. Lastly, the section mandates a briefing to relevant Congressional committees on the reviews required by the legislation, as well as a clerical amendment to the Homeland Security Act.

The Committee takes seriously the insider threat posed to the aviation sector and expects the Administration to work closely with aviation stakeholders to close security vulnerabilities in a cooperative and constructive manner, with an emphasis on closing existing communication and information gaps which prevent the Administration and the aviation sector from adequately vetting individuals applying for access to secure areas of airports.

Section 3. Status Update on Rap Back Service Pilot Program.

This section requires the Administrator to submit a report to the appropriate Congressional committees on the status of the Rap Back Service pilot program. This report is to include details on the business, technical, and resource requirements for the TSA and pilot program participants, along with a timeline and goals for the pilot program.

The Committee sees the implementation of enhanced perpetual vetting for Administration-regulated populations as a key priority in enhancing aviation security and addressing the evolving threat landscape. The Committee expects the Administration to take all practicable steps to develop a robust and comprehensive vetting system that is responsive to the Administration's needs.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

* * * * *

TITLE XVI—TRANSPORTATION SECURITY

Subtitle A—General Provisions

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Sec. 1602. Vetting of aviation workers.
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**TITLE XVI—TRANSPORTATION
 SECURITY**

Subtitle A—General Provisions

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SEC. 1602. VETTING OF AVIATION WORKERS.

(a) *IN GENERAL.*—By not later than December 31, 2015, the Administrator, in coordination with the Assistant Secretary for Policy of the Department, shall request from the Director of National Intelligence access to additional data from the Terrorist Identities Datamart Environment (TIDE) data and any or other terrorism-related information to improve the effectiveness of the Administration’s credential vetting program for individuals with unescorted access to sensitive areas of airports.

(b) *SECURITY INSPECTION.*—By not later than December 31, 2015, the Administrator shall issue guidance for Transportation Security Inspectors to annually review airport badging office procedures for applicants seeking access to sensitive areas of airports. Such guidance shall include a comprehensive review of applicants’ Criminal History Records Check (CHRC) and work authorization documentation during the course of an inspection.

(c) *INFORMATION SHARING.*—By not later than December 31, 2015, the Administrator may conduct a pilot program of the Rap Back Service, in coordination with the Director of the Federal Bureau of Investigation, to determine the feasibility of full implementation of a service through which the Administrator would be notified of a change in status of an individual holding a valid credential granting unescorted access to sensitive areas of airports across eligible Administration-regulated populations.

(d) *PROCEDURES.*—The pilot program under subsection (c) shall evaluate whether information can be narrowly tailored to ensure that the Administrator only receives notification of a change with respect to a disqualifying offense under the credential vetting program under subsection (a), as specified in 49 C.F.R. 1542.209, and in a manner that complies with current regulations for fingerprint-based criminal history records checks. The pilot program shall be carried out in a manner so as to ensure that, in the event that notification is made through the Rap Back Service of a change but a determination of arrest status or conviction is in question, the matter will be handled in a manner that is consistent with current regulations. The pilot program shall also be carried out in a manner that is consistent with current regulations governing an investigation of arrest status, correction of Federal Bureau of Investigation records and notification of disqualification, and corrective action by the individual who is the subject of an inquiry.

(e) *DETERMINATION AND SUBMISSION.*—If the Administrator determines that full implementation of the Rap Back Service is feasible and can be carried out in a manner that is consistent with current regulations for fingerprint-based criminal history checks, including the rights of individuals seeking credentials, the Administrator shall submit such determination, in writing, to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate, together with information on the costs associated with such implementation, including the costs incurred by the private sector. In preparing this determination, the Administrator shall consult with the Chief Civil Rights and Civil Liberties Officer of the Department to ensure that protocols are in place to align the period of retention of personally identifiable information and biometric information, including fingerprints, in the Rap Back Service with the period in which the individual who is the subject of an inquiry has a valid credential.

(f) *CREDENTIAL SECURITY.*—By not later than September 30, 2015, the Administrator shall issue guidance to airports mandating that all federalized airport badging authorities place an expiration date on airport credentials commensurate with the period of time during which an individual is lawfully authorized to work in the United States.

(g) *AVIATION WORKER LAWFUL STATUS.*—By not later than December 31, 2015, the Administrator shall review the denial of credentials due to issues associated with determining an applicant's lawful status in order to identify airports with specific weaknesses and shall coordinate with such airports to mutually address such weaknesses, as appropriate.

(h) *REPORTS TO CONGRESS.*—Upon completion of the determinations and reviews required under this section, the Administrator shall brief the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate on the results of such determinations and reviews.

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