

SECURING AVIATION FROM FOREIGN ENTRY POINTS AND GUARDING AIR-
PORTS THROUGH ENHANCED SECURITY ACT OF 2016

APRIL 21, 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. 4698]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4698) to enhance aviation by requiring airport security assessments and a security coordination enhancement plan, 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 “Securing Aviation from Foreign Entry Points and Guarding Airports Through Enhanced Security Act of 2016”.

SEC. 2. LAST POINT OF DEPARTURE AIRPORT SECURITY ASSESSMENT.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration shall conduct a comprehensive security risk assessment of all last point of departure airports with nonstop flights to the United States.

(b) **CONTENTS.**—The security risk assessment required under subsection (a) shall include consideration of the following:

(1) The level of coordination and cooperation between the Transportation Security Administration and the foreign government of the country in which the last point of departure airport with nonstop flights to the United States is located.

(2) The intelligence and threat mitigation capabilities of the country in which such airport is located.

(3) The number of known or suspected terrorists annually transiting through such airport.

(4) The passenger security screening practices, capabilities, and capacity of such airport.

(5) The security vetting undergone by aviation workers at such airport.

(6) The access controls utilized by such airport to limit to authorized personnel access to secure and sterile areas of such airports.

SEC. 3. SECURITY COORDINATION ENHANCEMENT PLAN.

(a) **IN GENERAL.**—Not later than 240 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration shall submit to Congress and the Government Accountability Office a plan—

(1) to enhance and bolster security collaboration, coordination, and information sharing relating to securing international-inbound aviation between the United States and domestic and foreign partners, including U.S. Customs and Border Protection, foreign government entities, passenger air carriers, cargo air carriers, and United States Government entities, in order to enhance security capabilities at foreign airports, including airports that may not have nonstop flights to the United States but are nonetheless determined by the Administrator to be high risk; and

(2) that includes an assessment of the ability of the Administration to enter into a mutual agreement with a foreign government entity that permits Administration representatives to conduct without prior notice inspections of foreign airports.

(b) **GAO REVIEW.**—Not later than 180 days after the submission of the plan required under subsection (a), the Comptroller General of the United States shall review the efforts, capabilities, and effectiveness of the Transportation Security Administration to enhance security capabilities at foreign airports and determine if the implementation of such efforts and capabilities effectively secures international-inbound aviation.

SEC. 4. WORKFORCE ASSESSMENT.

Not later than 270 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration shall submit to Congress a comprehensive workforce assessment of all Administration personnel within the Office of Global Strategies of the Administration or whose primary professional duties contribute to the Administration’s global efforts to secure transportation security, including a review of whether such personnel are assigned in a risk-based, intelligence-driven manner.

SEC. 5. DONATION OF SCREENING EQUIPMENT TO PROTECT THE UNITED STATES.

(a) **IN GENERAL.**—The Administrator of the Transportation Security Administration is authorized to donate security screening equipment to a foreign last point of departure airport operator if such equipment can be reasonably expected to mitigate a specific vulnerability to the security of the United States or United States citizens.

(b) **REPORT.**—Not later than 30 days before any donation of security screening equipment pursuant to subsection (a), the Administrator of the Transportation Security Administration shall provide 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 detailed written explanation of the following:

(1) The specific vulnerability to the United States or United States citizens that will be mitigated by such donation.

- (2) An explanation as to why the recipient of such donation is unable or unwilling to purchase security screening equipment to mitigate such vulnerability.
- (3) An evacuation plan for sensitive technologies in case of emergency or instability in the country to which such donation is being made.
- (4) How the Administrator will ensure the security screening equipment that is being donated is used and maintained over the course of its life by the recipient.
- (5) The total dollar value of such donation.

SEC. 6. NATIONAL CARGO SECURITY PROGRAM.

(a) IN GENERAL.—The Administrator of the Transportation Security Administration may evaluate foreign countries' air cargo security programs to determine whether such programs provide a level of security commensurate with the level of security required by United States air cargo security programs.

(b) APPROVAL AND RECOGNITION.—

(1) IN GENERAL.—If the Administrator of the Transportation Security Administration determines that a foreign country's air cargo security program evaluated under subsection (a) provides a level of security commensurate with the level of security required by United States air cargo security programs, the Administrator shall approve and officially recognize such foreign country's air cargo security program.

(2) EFFECT OF APPROVAL AND RECOGNITION.—If the Administrator of the Transportation Security Administration approves and officially recognizes pursuant to paragraph (1) a foreign country's air cargo security program, cargo aircraft of such foreign country shall not be required to adhere to United States air cargo security programs that would otherwise be applicable.

(c) REVOCATION AND SUSPENSION.—

(1) IN GENERAL.—If the Administrator of the Transportation Security Administration determines at any time that a foreign country's air cargo security program approved and officially recognized under subsection (b) no longer provides a level of security commensurate with the level of security required by United States air cargo security programs, the Administrator may revoke or temporarily suspend such approval and official recognition until such time as the Administrator determines that such foreign country's cargo security programs provide a level of security commensurate with the level of security required by such United States air cargo security programs.

(2) NOTIFICATION.—If the Administrator of the Transportation Security Administration revokes or suspends pursuant to paragraph (1) a foreign country's air cargo security program, the Administrator shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 30 days after such revocation or suspension.

PURPOSE AND SUMMARY

The purpose of H.R. 4698 is to enhance aviation by requiring airport security assessments and a security coordination enhancement plan, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

In response to the persistent threats to international-inbound aviation from last point of departure airports with direct flights to the United States, this legislation provides critical impetus for the Transportation Security Administration (TSA) to comprehensively assess the risk foreign airports pose to U.S. citizens and passenger air carriers. The ability for the TSA's Office of Global Strategies to effectively implement security protocols and inspections at last point of departure airports is necessary to securing the international-inbound aviation sector. With consistent attacks on passenger aircraft and airports around the world, such as in Egypt, Somalia, and Belgium, the legislation also grants TSA the authority to donate security screening equipment to high-risk airports overseas, in order to help build needed screening capacity among foreign partners. Determined adversaries are intent on attacking

U.S. interests, with a particular emphasis on aviation, and the troubling increase in foreign fighters associated with radical violent extremists require the oversight and security enhancements included in this legislation.

HEARINGS

114th Congress

No hearings were held on H.R. 4698, however, the Subcommittee on Transportation Security held a hearing on December 8, 2015, entitled “Examining TSA’s Global Efforts to Protect the Homeland from Aviation Threats and Enhance Security at Last Point of Departure Airports.” The Subcommittee received testimony from Mr. Joseph Terrell, Deputy Assistant Administrator, Office of Global Strategies, Transportation Security Administration, U.S. Department of Homeland Security.

112th Congress

The Subcommittee on Transportation Security held a hearing on May 8, 2012, entitled “Building Secure Partnerships in Travel, Commerce, and Trade with the Asia-Pacific Region.” The Subcommittee received testimony from Mr. John Halinski, Assistant Administrator, Office of Global Strategies, Transportation Security Administration, Department of Homeland Security; Mr. Mark Koumans, Deputy Assistant Secretary, Office of International Affairs, Department of Homeland Security; Hon. Hans G. Klemm, Economic Coordinator, U.S. Senior Official for Asia-Pacific Economic Cooperation, Bureau of East Asian and Pacific Affairs, U.S. Department of State; Mr. Gary E. Wade, Vice President Security, Atlas Air Worldwide Holdings, Inc., *testifying on behalf of the Cargo Airline Association*; Ms. Dorothy Reimold, Assistant Director, Security and Travel Facilitation, International Air Transport Association; Mr. Roger Dow, President and Chief Executive Officer, U.S. Travel Association; and Mr. Michael C. Mullen, Executive Director, Express Association of America.

COMMITTEE CONSIDERATION

The Committee met on March 23, 2016, to consider H.R. 4698, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by unanimous consent. The Committee took the following actions:

The following amendment was offered:

An amendment by MS. JACKSON LEE (#1); was AGREED TO by unanimous consent.

In section 3(b), strike “secure” and insert “determine if the implementation of such efforts and capabilities effectively secures”.

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. 4698.

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. 4698, the Securing Aviation from Foreign Entry Points and Guarding Airports Through Enhanced Security 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, April 12, 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. 4698, the Securing Aviation from Foreign Entry Points and Guarding Airports Through Enhanced Security Act of 2016.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 4698—Securing Aviation from Foreign Entry Points and Guarding Airports Through Enhanced Security Act of 2016

H.R. 4698 would require the Administrator of the Transportation Security Administration (TSA) to undertake a comprehensive risk assessment of security procedures at foreign airports where non-stop flights to the United States originate and authorize the agency to donate security screening equipment to such airports. The bill also would direct TSA and the Government Accountability Office (GAO) to develop a plan to enhance security-related collaboration between the United States and foreign partners, require TSA to complete an assessment of TSA personnel primarily devoted to international transportation security, and authorize TSA to evaluate foreign countries' cargo security programs.

According to TSA, many of the requirements specified in H.R. 4698 are largely consistent with current administrative policy. As a result, CBO estimates that any increased spending by TSA and GAO to meet the bill's requirements would total less than \$500,000

annually; any such spending would be subject to the availability of appropriated funds.

Enacting H.R. 4698 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 4698 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 4698 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved 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. 4698 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

H.R. 4698 requires the Administrator of the Transportation Security Administration to submit, not later than 240 days after enactment of the legislation, to both Congress and the Government Accountability Office, a plan to enhance and bolster security collaboration, coordination, and information sharing relating to securing international-inbound aviation among domestic and foreign partners. Subsequently, not later than 180 days after the submission of the plan, the Government Accountability Office is required to conduct a review pertaining to the efforts, capabilities, and effectiveness of the Transportation Security Administration's efforts to enhance security capabilities and secure international-inbound aviation.

Additionally, the Administrator of the Transportation Security Administration is required to assess those personnel in the Administration's workforce operating within the Office of Global Strategies or whose primary professional duties contribute to the Administration's global efforts to secure transportation security, not later than 270 days after enactment.

The legislation also includes justification and notification requirements to Congress for any donation of security screening equipment to a foreign airport or the revocation or suspension pertaining to a foreign country's air cargo security program.

DUPPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 4698 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. 4698 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 4698 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 “Securing Aviation from Foreign Entry Points and Guarding Airports Through Enhanced Security Act of 2016”.

Sec. 2. Last Point of Departure Airport Security Assessment.

This section requires the Administrator of the Transportation Security Administration (TSA) to conduct a comprehensive security risk assessment of all last point of departure (LPD) airports that have nonstop flights to the United States. This assessment must be completed no later than 180 days after the date of enactment. The information that shall be considered by the security risk assessment includes: (1) The amount of cooperation and coordination between the TSA and foreign government of the country where the LPD airport, with nonstop service to the U.S., is located; (2) threat mitigation and intelligence capabilities of the country where the airport is located; (3) the total number of suspected or known terrorists annually transiting through the airport; (4) The practices, capabilities, and capacity of passenger security screening at each airport (5) any and all security vetting conducted on airline and airport workers at each airport; and (5) how each airport’s access controls will limit authorized personnel access to sterile and secure areas.

Sec. 3. Security Coordination Enhancement Plan.

This section requires the TSA Administrator to submit to Congress and the Government Accountability Office a plan that includes two provisions no later than 240 days after enactment. These provisions include: (1) The bolstering and enhancement of security collaboration, information sharing, and coordination between the U.S. and domestic/foreign partners, including foreign government entities, passenger air carriers, cargo air carriers, U.S. government entities and the U.S. Customs and Border Protection; and (2) an assessment of the Administration's ability to enter into a mutual agreement with a foreign government entity that allows representatives of the administration to conduct inspections of foreign airports without prior notice.

Additionally, the Comptroller General of the United States is required to conduct a review of the capabilities, efforts, and effectiveness of the TSA to improve security capabilities at foreign airports and secure international in-bound aviation. This review shall be conducted no more than 180 days after the submission of the plan outlined in subsection (a).

Sec. 4. Workforce Assessment.

This section requires the TSA Administrator submit a workforce assessment of all Administration personnel within the Office of Global Strategies or those who have primarily professional duties relevant to the Administration's global efforts of ensuring transportation security. This assessment shall also include a review of whether these personnel are assigned in a risk-based, intelligence-driven manner. Additionally, this assessment shall be submitted to Congress no more than 270 days after the date of the Act's enactment.

Sec. 5. Donation of Screening Equipment to Protect the United States.

This section allows the TSA Administrator to donate security screening equipment to a foreign LPD airport operator if the equipment can be expected to reduce specific vulnerabilities to the security of the U.S. or U.S. citizens. In addition, the Administrator of the TSA will be required to provide, no more than 30 days after any security screening equipment donated, to the House of Representatives Committee on Homeland Security, U.S. Senate Committee on Homeland Security and Governmental Affairs, and the U.S. Senate Committee on Commerce, Science and Transportation, a report outlining the following: (1) The specific vulnerability to the United States or United States' citizens that will be reduced by the donation of security screening equipment; (2) an explanation as to why the donation's recipient is unwilling or unable to purchase security screening equipment to reduce security vulnerabilities; (3) an evacuation plan for sensitive technologies should an emergency arise or the country experience instability where the donation is occurring; (4) how the Administrator plans to ensure the security screening equipment that is being donated is maintained and used for the duration of its lifespan; and (5) the total dollar value for such a donation.

Sec. 6. National Cargo Security Program.

The section authorizes the TSA Administrator to evaluate the air cargo security programs at foreign airports in order to determine if the programs provide security levels commensurate with levels of security required within the U.S. air cargo security programs. The Administrator shall approve and recognize a foreign country's air cargo security program if the Administrator finds the program from subsection (a) provides a level of security required by the U.S. air cargo security programs. Additionally, if the TSA Administrator approves and recognizes a foreign country's air cargo security program, cargo aircraft of the foreign country shall not be required to follow U.S. air cargo security programs that would otherwise be applicable.

If the TSA Administrator determines that a foreign country's air cargo security program approved and recognized in subsection (b) does not provide levels of security commensurate with U.S.-mandated air cargo security programs, the Administrator has the authority to revoke or suspend temporarily approval and recognition. Reinstatement will not occur until the Administrator determines the foreign country's cargo security programs provide a security level equal to that found in the U.S.' air cargo security programs.

Finally, should the Administrator suspend or revoke a foreign country's air cargo security program, the Administrator is required to notify the U.S. House of Representatives Committee on Homeland Security and the U.S. Senate Committee on Commerce, Science, and Transportation. This notification must occur no more than 30 days after the suspension or revocation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 4698 makes no changes to existing law.

