

TRANSPORTATION SECURITY TECHNOLOGY INNOVATION
REFORM ACT OF 2018

JUNE 22, 2018.—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. 5730]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 5730) to require testing and evaluation of advanced transportation security screening technologies related to the mission of the Transportation Security Administration, 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 “Transportation Security Technology Innovation Reform Act of 2018”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **ADMINISTRATION.**—The term “Administration” means the Transportation Security Administration.

(2) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Administration.

(3) **APPROPRIATE CONGRESSIONAL COMMITTEE.**—The term “appropriate congressional committees” means the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(4) **DEPARTMENT.**—The term “Department” means the Department of Homeland Security.

SEC. 3. TRANSPORTATION SYSTEMS INTEGRATION FACILITY.

(a) **IN GENERAL.**—There is established in the Administration a Transportation Security Administration Systems Integration Facility (TSIF) for the purposes of testing and evaluating advanced transportation security screening technologies related to the mission of the Administration. The TSIF shall—

(1) evaluate such technologies to enhance the security of transportation systems through screening and threat mitigation and detection;

(2) conduct testing of such technologies to support identified mission needs of the Administration and to meet requirements for acquisitions and procurement;

(3) to the extent practicable, provide original equipment manufacturers with test plans to minimize requirement interpretation disputes and adhere to provided test plans;

(4) collaborate with other technical laboratories and facilities for purposes of augmenting TSIF’s capabilities;

(5) deliver advanced transportation security screening technologies that enhance the overall security of domestic transportation systems; and

(6) to the extent practicable, provide funding and promote efforts to enable participation by a small business concern (as such term is described under section 3 of the Small Business Act (15 U.S.C. 632)) that has an advanced technology or capability but does not have adequate resources to participate in testing and evaluation processes.

(b) **STAFFING AND RESOURCE ALLOCATION.**—The Administrator shall ensure adequate staffing and resource allocations for the TSIF in a manner which—

(1) prevents unnecessary delays in testing and evaluating advanced transportation security screening technologies for acquisitions and procurement determinations;

(2) ensures the issuance of final paperwork certification does not exceed 45 days after the conclusion of such testing and evaluation; and

(3) collaborates with technology stakeholders to close capabilities gaps in transportation security.

(c) **TIMEFRAME.**—

(1) **IN GENERAL.**—The Administrator shall notify the appropriate congressional committees whenever testing and evaluation by TSIF of an advanced transportation security screening technology under this section exceeds 180 days as determined from the date on which the owner of such technology turned over such technology to the Administration after installation for testing and evaluation purposes, as evidenced by a signed Test Readiness Notification from such owner to the Administration. Such notification shall include—

(A) information relating to the arrival date of such technology;

(B) reasons why the testing and evaluation process has exceeded 180 days; and

(C) an estimated time for completion of such testing and evaluation.

(2) **RETESTING AND EVALUATION.**—Advanced transportation security screening technology that fails testing and evaluation by the TSIF may be retested and evaluated.

(d) **RELATIONSHIP TO OTHER DEPARTMENT ENTITIES AND FEDERAL AGENCIES.**—The authority of the Administrator under this title shall not affect the authorities or responsibilities of any officer of the Department or of any officer of any other department or agency of the United States with respect to research, development, testing, and evaluation, including the authorities and responsibilities of the Undersecretary

for Science and Technology of the Department and the Countering Weapons of Mass Destruction Office of the Department.

SEC. 4. REVIEW OF TECHNOLOGY ACQUISITIONS PROCESS.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Administrator shall, in coordination with relevant officials of the Department, conduct a review of existing advanced transportation security screening technology development, acquisitions, and procurement practices within the Administration. Such review shall include—

(1) identifying process delays and bottlenecks within the Department and the Administration regarding how such technology is identified, developed, acquired, and deployed;

(2) assessing whether the Administration can better leverage existing resources or processes of the Department for the purposes of technology innovation and development;

(3) assessing whether the Administration can further encourage innovation and competition among technology stakeholders, including through increased participation of and funding for small business concerns (as such term is described under section 3 of the Small Business Act (15 U.S.C. 632));

(4) identifying best practices of other Department components or United States Government entities; and

(5) a plan to address problems and challenges identified by such review.

(b) **BRIEFING.**—The Administrator shall provide to the appropriate congressional committees a briefing on the findings of the review required under this section and a plan to address problems and challenges identified by such review.

SEC. 5. ADMINISTRATION ACQUISITIONS AND PROCUREMENT ENHANCEMENT.

The Administrator shall—

(1) engage in outreach, coordination, and collaboration with transportation stakeholders to identify and foster innovation of new advanced transportation security screening technologies;

(2) streamline the overall technology development, testing, evaluation, acquisitions, procurement, and deployment processes of the Administration; and

(3) ensure the effectiveness and efficiency of such processes.

SEC. 6. ASSESSMENT.

The Secretary of Homeland Security, in consultation with the Chief Privacy Officer of the Department of Homeland Security, shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a compliance assessment of the Transportation Security Administration's acquisition process relating to the health and safety risks associated with implementation of screening technologies.

PURPOSE AND SUMMARY

H.R. 5730 authorizes the establishment of the Transportation Systems Integration Facility (TSIF) in the Transportation Security Administration (TSA). This legislation directs the TSIF to test advanced transportation screening technologies and streamline the TSA technology procurement process. Further, the TSA Administrator is to ensure adequate staffing and resource allocation for the TSIF to prevent unnecessary delays in testing and evaluation. TSA must notify Congress of extended delays in testing of new technology, and conduct a review of procurement practices to uncover bottlenecks within the process. In addition, the TSA Administrator will collaborate with stakeholders to promote innovation and the deployment of advanced technologies to meet the agency's mission needs and mitigate threats to transportation security.

BACKGROUND AND NEED FOR LEGISLATION

The TSA continuously struggles to effectively and efficiently test, evaluate, acquire, and deploy new security technologies at domestic airports to keep pace with evolving threats to transportation security. Through recent oversight, the House Committee on Homeland

Security identified significant bureaucratic inefficiencies within TSA's existing processes that prevent technology stakeholders from receiving timely testing and evaluation. Since 2009, the GAO consistently cites the Department of Homeland Security's technology procurement process in their biannual High Risk List. A lack of consistent leadership along with longstanding bureaucratic delays fail to meet transportation security performance objectives and discourage security equipment manufacturers from investing in new screening technologies.

These outdated and under performing procurement processes causes TSA to miss opportunities to improve checkpoint throughput and overall transportation security. Evolving threats to transportation security are not properly mitigated without updated technology. This legislation will authorize key functions of the Transportation Systems Integration Facility (TSIF), enabling the TSA to be more efficient and transparent throughout the development and acquisition of new transportation security technology.

HEARINGS

While no hearings were held on H.R. 5730, the Committee conducted the following oversight hearings which informed the legislation.

114th Congress

On October 8, 2015, the Subcommittee on Transportation Security held a hearing entitled "Reform and Improvement: Assessing the Path Forward for the Transportation Security Administration." The Subcommittee received testimony from The Honorable John Roth, Inspector General, Office of Inspector General, U.S. Department of Homeland Security; and The Honorable Peter Neffenger, Administrator, Transportation Security Administration, U.S. Department of Homeland Security.

115th Congress

On February 2, 2017, the Subcommittee on Transportation and Protective Security held a hearing entitled "The Future of the Transportation Security Administration." The Subcommittee received testimony from Mr. Roger Dow, CEO, U.S. Travel Association; Ms. Nina E. Brooks, Head of Security, Airports Council International; and Mr. J. David Cox, National President, American Federation of Government Employees.

On April 27, 2017, the Subcommittee on Transportation and Protective Security held a hearing entitled "Checkpoint of the Future: Evaluating TSA's Innovation Task Force Initiative" The Subcommittee received testimony from Mr. Steve Karoly, Acting Assistant Administrator, Office of Requirements and Capabilities Analysis, Transportation Security Administration, U.S. Department of Homeland Security; Mr. Roosevelt Council, Jr., General Manager, Hartsfield-Jackson Atlanta International Airport, Department of Aviation, City of Atlanta, Georgia; Ms. Jeanne M. Olivier, A.A.E., Assistant Director, Aviation Security & Technology, Security Operations and Programs Department, The Port Authority of New York and New Jersey.

On November 8, 2017, the Full Committee held a hearing entitled "Preventing the Next Attack: TSA's Role in Keeping Our Transportation Systems Secure." The Committee received testi-

mony from Hon. David P. Pekoske, Administrator, Transportation Security Administration, U.S. Department of Homeland Security.

On January 18, 2018, the Subcommittee on Transportation and Protective Security held a hearing entitled “Innovation at TSA: Examining Threat Mitigation Through Technology Acquisitions Reform.” The Subcommittee received testimony from Hon. David P. Pekoske, Administrator, Transportation Security Administration, U.S. Department of Homeland Security.

COMMITTEE CONSIDERATION

The Committee met on June 6, 2018, to consider H.R. 5730, 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 amendments were offered:

An amendment MR. THOMPSON of Mississippi (#1); was AGREED TO by unanimous consent.

In section 3(a)(4), strike “and” after the semicolon at the end.

In section 3(a)(5), strike the period at the end and insert “; and”.

In section 3(a), add at the end the following: (6) to the extent practicable, provide funding and promote efforts to enable participation by a small business concern (as such term is described under section 3 of the Small Business Act (15 U.S.C. 632)) that has an advanced technology or capability but does not have adequate resources to participate in testing and evaluation processes.

In section 4(a), insert after paragraph (2) the following (and make necessary conforming changes): (3) assessing whether the Administration can further encourage innovation and competition among technology stakeholders, including through increased participation of and funding for small business concerns (as such term is described under section 3 of the Small Business Act (15 U.S.C. 632));

An amendment MS. JACKSON LEE (#2); was AGREED TO by unanimous consent.

Add at the end a new section entitled “Sec. 6. Assessment.”

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. 5730.

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. 5730, the Transportation Security Technology Innovation Reform Act of 2018, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

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. 5730 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

This legislation authorizes the establishment of the Transportation Security Integration Facility (TSIF) to streamline TSA's development, testing, evaluation, acquisitions, procurement, and deployment of new advanced security screening technologies.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 5730 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

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

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. 5730 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 5730 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 “Transportation Security Technology Innovation Reform Act of 2018”.

Sec. 2. Definitions.

This section defines the terms used in this bill including ‘Administration’; ‘Administrator’; ‘appropriate congressional committee’; and ‘Department’.

Sec. 3. Transportation Integration Facility.

This section authorizes the establishment of the Transportation Security Administration Systems Integration Facility (TSIF) to test and evaluate advanced transportation security screening technologies related to TSA’s mission. The TSIF will evaluate such technology to enhance the security of transportation systems through screening and threat mitigation and detection; conduct testing of such technologies to meet requirements for acquisitions and procurement; provide original equipment manufacturers with test plans to minimize requirement interpretation disputes; collaborate with other technical laboratories and facilities to augment capabilities; and deliver advanced security screening technology that enhances overall security of domestic transportation systems. The Administrator of the TSA will ensure adequate staffing and resources for the TSIF to prevent unnecessary delays, ensure that the issuance of final paperwork certification does not exceed 45 days, and collaborate with stakeholders to close capability gaps in transportation security.

The Administrator shall notify the appropriate congressional committees when testing conducted by the TSIF exceeds 180 days from the date the technology was turned over to TSIF by the owner. This notification will include: information relating to the arrival date of such technology, an explanation to clarify the cause of the delay, and an estimated time frame for completion. Additionally, any transportation security technology that fails testing and evaluation by the TSIF may be retested and evaluated.

The authority given to the Administrator will not affect the responsibilities of any other officers within the Department of Homeland Security or other agencies within the United States government in regards to research, development and testing.

Sec. 4. Review of Technology Acquisitions Process.

This section requires the Administrator to conduct a review of existing advanced transportation security screening technology development, acquisitions, and procurement practices within the Administration. This review will identify process delays and bottlenecks within the TSA's procurement process, assess whether the Administrator can allocate resources in a more efficient manner, identify best practices of other U.S. government entities, and include a plan to address the identified problems and challenges.

Sec. 5. Administration Acquisitions and Procurement Enhancement.

This section requires the Administrator to engage in outreach, coordination, and collaboration with transportation stakeholders, streamline the overall technology development, testing, evaluation, acquisitions, procurement and deployment processes, and ensure the effectiveness and efficiency of such processes.

Sec. 6. Assessment.

This section requires the Secretary of the Department of Homeland Security, in consultation with the Chief Privacy Officer of DHS, to submit a compliance assessment of the TSA's acquisition process relating to the health and safety risks associated with implementation of screening technologies to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 5730 makes no changes to existing law.