

AVIATION EMPLOYEE SCREENING AND SECURITY
 ENHANCEMENT ACT OF 2017

APRIL 25, 2017.—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. 876]

The Committee on Homeland Security, to whom was referred the bill (H.R. 876) to amend the Homeland Security Act of 2002 to reform programs of the Transportation Security Administration, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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The amendments are as follows:
 Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Aviation Employee Screening and Security Enhancement Act of 2017”.

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 Transportation Security Administration.

(3) **AIR CARRIER.**—The term “air carrier” has the meaning given such term in section 40102 of title 49, United States Code.

(4) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means 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.

(5) **FOREIGN AIR CARRIER.**—The term “foreign air carrier” has the meaning given such term in section 40102 of title 49, United States Code.

(6) **INTELLIGENCE COMMUNITY.**—The term “intelligence community” has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(7) **SECURED AREA.**—The term “secured area” has the meaning given such term in section 1540.5 of title 49, Code of Federal Regulations.

(8) **SECURITY IDENTIFICATION DISPLAY AREA.**—The term “Security Identification Display Area” has the meaning given such term in section 1540.5 of title 49, Code of Federal Regulations.

(9) **STERILE AREA.**—The term “sterile area” has the meaning given such term in section 1540.5 of title 49, Code of Federal Regulations.

SEC. 3. COST AND FEASIBILITY STUDY.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Administrator, in consultation with the Aviation Security Advisory Committee (established under section 44946 of title 49, United States Code), shall submit to the appropriate congressional committees and the Comptroller General of the United States a cost and feasibility study of a statistically significant number of Category I, II, III, IV, and X airports assessing the impact if all employee access points from non-secured areas to secured areas of such airports are comprised of the following:

- (1) A secure door utilizing card and pin entry or biometric technology.
- (2) Surveillance video recording, capable of storing video data for at least 30 days.
- (3) Advanced screening technologies, including at least one of the following:
 - (A) Magnetometer (walk-through or hand-held).
 - (B) Explosives detection canines.
 - (C) Explosives trace detection swabbing.
 - (D) Advanced imaging technology.
 - (E) X-ray bag screening technology.

(b) **CONTENTS.**—The study required under subsection (a) shall include information related to the employee screening costs of those category I, II, III, IV, and X airports which have already implemented practices of screening 100 percent of employees accessing secured areas of airports, including the following:

- (1) Costs associated with establishing an operational minimum number of employee entry and exit points.
- (2) A comparison of estimated costs and effectiveness associated with implementing the security features specified in subsection (a) to—
 - (A) the Federal Government; and
 - (B) airports and the aviation community.

(c) **COMPTROLLER GENERAL ASSESSMENT.**—

(1) **IN GENERAL.**—Upon completion of the study required under subsection (a), the Comptroller General of the United States shall review such study to assess the quality and reliability of such study.

(2) **ASSESSMENT.**—Not later than 60 days after the receipt of the study required under subsection (a), the Comptroller General of the United States shall report 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 on the results of the review required under paragraph (1).

SEC. 4. AIRPORT WORKER EDUCATION AND SECURITY AWARENESS.

(a) **COOPERATIVE EFFORTS TO ENHANCE AIRPORT SECURITY AWARENESS.**—Not later than 180 days after the date of the enactment of this Act, the Administrator shall work with air carriers, foreign air carriers, airport operators, labor unions representing credentialed employees, and the Aviation Security Advisory Committee to enhance security awareness of credentialed airport populations regarding insider threats to aviation security and best practices related to airport access controls.

(b) **CREDENTIALING STANDARDS.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Administrator shall, in consultation with air carriers, foreign air carriers, airport operators, labor unions representing credentialed employees, and the Aviation Security Advisory Committee, assess credentialing standards, policies, and practices to ensure that insider threats to aviation security are adequately addressed.

(2) **REPORT.**—Not later than 30 days after completion of the assessment required under paragraph (1), the Administrator shall report to the appropriate congressional committees on the results of such assessment.

(c) **SIDA APPLICATIONS.**—

(1) **SOCIAL SECURITY NUMBERS REQUIRED.**—Not later than 60 days after the date of the enactment of this Act, the Administrator shall require airport operators to submit the social security number of an individual applying for a credential granting access to the Security Identification Display Area to strengthen security vetting effectiveness. An applicant who does not provide such applicant's social security number may be denied such a credential.

(2) **SCREENING NOTICE.**—The Administrator shall issue requirements for airport operators to include in applications for access to a Security Identification Display Area a notice informing applicants that an employee holding a credential granting access to a Security Identification Display Area may be screened at any time while gaining access to, working in, or leaving a Security Identification Display Area.

SEC. 5. SECURING AIRPORT WORKER ACCESS.

(a) **IN GENERAL.**—The Administrator shall work with airport operators and the Aviation Security Advisory Committee to identify advanced technologies, including biometric identification technologies, for securing employee access to the secured areas and sterile areas of airports.

(b) **RAP BACK VETTING.**—Not later than 180 days after the date of the enactment of this Act, the Administrator shall ensure that all credentialed aviation worker populations currently requiring a fingerprint-based criminal record history check are continuously vetted through the Federal Bureau of Investigation's Rap Back Service, in order to more rapidly detect and mitigate insider threats to aviation security.

(c) **INSIDER THREAT EDUCATION AND MITIGATION.**—Not later than 180 days after the date of the enactment of this Act, the Administrator shall identify means of enhancing the Administration's ability to leverage the resources of the Department of Homeland Security and the intelligence community to educate Administration personnel on insider threats to aviation security and how the Administration can better mitigate such insider threats.

(d) **PLAYBOOK OPERATIONS.**—The Administrator shall ensure that Administration-led employee physical inspection efforts of aviation workers, known as Playbook operations, are targeted, strategic, and focused on providing the greatest level of security effectiveness.

(e) **COVERT TESTING.**—

(1) **IN GENERAL.**—The Administrator shall conduct covert testing of Administration-led employee inspection operations at airports and measure existing levels of security effectiveness. The Administrator shall provide—

(A) the results of such testing to the airport operator for the airport that is the subject of any such testing, and, as appropriate, to air carriers and foreign air carriers that operate at the airport that is the subject of such testing; and

(B) recommendations and technical assistance for air carriers, foreign air carriers, and airport operators to conduct their own employee inspections, as needed.

(2) **ANNUAL REPORTING.**—The Administrator shall submit to the appropriate congressional committees an annual report on the frequency, methodology, strategy, and effectiveness of employee screening operations at airports.

(f) **CENTRALIZED DATABASE.**—Not later than 180 days after the date of the enactment of this Act, the Administrator, in consultation with the Aviation Security Advisory Committee, shall—

- (1) establish a national database of individuals who have had either their airport or airport operator-issued badge revoked for failure to comply with aviation security requirements;
- (2) determine the appropriate reporting mechanisms for air carriers, foreign air carriers, and airport operators to—
 - (A) submit to the Administration data regarding individuals described in paragraph (1); and
 - (B) access the database established pursuant to such paragraph; and
- (3) establish a process to allow individuals whose names were mistakenly entered into such database to correct the record and have their names removed from such database.

SEC. 6. INSIDER THREAT COORDINATION EFFORTS.

The Department of Homeland Security is the lead interagency coordinator pertaining to insider threat investigations and mitigation efforts at airports. The Department shall make every practicable effort to coordinate with other relevant Government entities, as well as the security representatives of air carriers, foreign air carriers, and airport operators, as appropriate, when undertaking such investigations and efforts.

SEC. 7. INFORMATION TECHNOLOGY SECURITY.

Not later than 90 days after the date of the enactment of this Act, the Administrator shall submit to the appropriate congressional committees a plan to conduct recurring reviews of the operational, technical, and management security controls for Administration information technology systems at airports.

Amend the title so as to read:

A bill to reform programs of the Transportation Security Administration, and for other purposes.

PURPOSE AND SUMMARY

The purpose of H.R. 876 is to reform programs of the Transportation Security Administration, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

This legislation is the culmination of an investigation by the Subcommittee on Transportation and Protective Security into airport access controls and the insider threat. Over the course of its multi-year investigation, the Subcommittee found numerous lapses in employee security at various airports across the country and issued an investigative report in February 2017 entitled “America’s Airports: The Threat From Within.” The report included a number of proposed solutions to help mitigate the insider threat to aviation security, as well as detailed accounts of examples of insider threats posed to the aviation sector from employees with access to secure and sterile areas of airports. The legislation is needed in order to diminish these threats to aviation security.

HEARINGS

The Committee held no hearings for H.R. 876, but did hold oversight hearings which informed the legislation.

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 at the Transportation Security Administration; Mr. Gary Perdue, Deputy Assistant Director of the Counterterrorism Division at the Federal Bureau of Investigation; Ms. Sharon Pinkerton, Senior Vice President for Legislative and Regulatory Policy at Airlines for America;

and Mr. Miguel Southwell, General Manager of Hartsfield-Jackson Atlanta International Airport.

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 Mr. John Roth, Inspector General at the Department of Homeland Security; Ms. Stacey Fitzmaurice, Deputy Assistant Administrator for the TSA’s Office of Intelligence and Analysis; and Ms. Jenny Grover, Director of the Homeland Security and Justice team at the Government Accountability Office

COMMITTEE CONSIDERATION

The Committee met on March 8, 2017, to consider H.R. 876, and ordered the measure to be reported to the House with a favorable recommendation, 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 by MR. THOMPSON of Mississippi to the Amendment in the Nature of a Substitute (#1A); was AGREED TO by voice vote.

Page 8, beginning line 3, strike “to air carriers, foreign air carriers, and airport operators”.

Page 8, line 5, insert “to the airport operator for the airport that is the subject of any such testing, and, as appropriate, to air carriers and foreign air carriers that operate at the airport that is the subject of such testing” before “the results”

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. 876.

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. 876, the Aviation Employee Screening and Security Enhancement Act of 2017, 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. 876 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The bill requires the Comptroller General of the United States to review the cost and feasibility study required under Section 3 for its reliability and efficiency. This review is directed to be delivered to the appropriate Congressional committees.

The bill also directs the Administrator to report to the appropriate Congressional committees on the results of the required assessment of credentialing standards, policies and practices for aviation workers. Additionally, the Administrator is required to report to the appropriate Congressional committees on the frequency, methodology and strategy of Administration-led employee inspection efforts, as well as a plan to conduct recurring reviews of the operational, technical, and management security controls for Administration information technology systems at airports.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 876 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. 876 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 876 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 “Aviation Employee Screening and Security Enhancement Act of 2017”.

Sec. 2. Definitions.

This section provides definitions for the following terms in correspondence with the act. The term “administration” means the Transportation Security Administration (TSA). The term “administrator” means the Administrator of the Transportation Security Administration. The term “air carrier” has the meaning given such term in section 40102 of title 49, United States Code. “Appropriate Congressional Committees” refers 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. The term “foreign air carrier” has meaning given such term in section 40102 of title 49, United States Code. The term “Intelligence Community,” refers to the meaning given such a term in section 3(4) of the National Security Act of 1974 (50 U.S.C. 3003 (4)). The term “secured area” has the meaning given such term in section 1540.5 of title 49, Code of Federal Regulations. The term “Security Identification Display Area” also referred to as “SIDA” has the meaning given such term in section 1540.5 of title 49, Code of Federal Regulations. The final term, “sterile area” has the meaning given such term in section 1540.5 of title 49, Code of Federal Regulations.

Sec. 3. Cost and Feasibility Study.

This section directs the Administrator, in consultation with the Aviation Security Advisory Committee, to submit to the appropriate congressional committees, a cost and feasibility study of a statistically significant number of category I, II, III, IV, and X airports. The study should concern the cost and feasibility of all employee entry and exit points that lead to secure areas of airports being comprised of a secure door with a card and pin entry or biometric technology, surveillance video that is stored for at least 30 days, and advanced screening technology. The advanced screening technology ought to include one of the following: a magnetometer,

explosive detection canines or trace swabbing, advanced imaging technology, or x-ray bag screening technology. The report will include information related to the employee screening costs of category I, II, III, IV, and X airports that already have such technology implemented, screening 100 percent of employees that enter and exit the secure area. The report shall include costs associated with establishing employee entry and exit operational technology and a cost comparison of the requirements based on whether the requirements were implemented by the Administration or the airports. Once the report is complete, the Comptroller General of the United States shall review the study for its reliability and efficiency and will report to the appropriate Congressional committees.

Sec. 4. Airport Worker Education and Security Awareness.

This section focuses on the security awareness of credentialed airport populations regarding insider threats to aviation security and best practices related to airport access control. These efforts will be enacted with the Administrator and various air carriers, foreign air carriers, airport operators, vendors, and airport concessionaries within 180 days of the enactment. Within 180 days of the enactment of this Act, the Administrator shall consult various air carriers, foreign air carriers, airport operators, vendors, and airport concessionaries in regards to security issues are addressed. These security threats will address credentialing standards, policies, and practices to counter insider threats. The report must be submitted no later than 30 days after the assessment has been completed. Within 60 days of the enactment of this Act, the Administrator must require social security numbers of individuals applying for Security Identification Display Area access.

Sec. 5. Securing Airport Worker Access.

This section requires the Administrator, working with airport operators, to identify advanced technologies that will secure employee access to secure and sterile areas of the airport. The Act will also ensure that all credentialed aviation worker populations are constantly vetted through the Federal Bureau of Investigation's Rap Back Service.

Within 180 days, this Act ensures that the Administrator shall identify means to leverage resources of the Department of Homeland Security and the intelligence community to educate Administration personnel on insider threats. The Administrator shall ensure that Playbook operations- Administration-led employee inspection efforts-are focused on providing the greatest level of security effectiveness. This Act also works to ensure that the Administrator shall increase covert testing of Playbook employee inspections and measure existing security operations. The Administrator shall also provide the results of the testing, and recommendations on how to improve security screening operations. The Administrator, under this Act shall submit to the appropriate congressional committees an annual transparency report on the frequency, methodology, strategy, and effectiveness of employee inspections at airports. The Act also ensures that within 180 days of its enactment, the Administrator, along with the Aviation Security Advisory Committee, shall compile a national database with airport employees who have had their badges revoked for failure to comply with security re-

quirements. They will determine the proper reporting mechanisms for airports, air carriers, and foreign air carriers to submit the data of employees with revoked data, as well as access to such a database. They will reestablish employees who were wrongly added to the list.

Sec. 6. Insider Threat Coordination Efforts.

The Department of Homeland Security, being the lead inter-agency pertaining to insider threat investigations and mitigation efforts at airports, shall make every effort to coordinate with other relevant Government entities, as well as the security representatives of air carriers, foreign air carriers, and airport operators, as appropriate, when involved in such investigations.

Sec. 7. Information Technology Security.

The Administrator shall submit to the appropriate congressional committees a plan to conduct recurring reviews of the operational, technical, and management security controls for Administration information technology systems at airports.

As reported, the title of H.R. 876 is amended so as to read “A bill to reform programs of the Transportation Security Administration, and for other purposes.”

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 876 makes no changes to existing law.

