

EMERGING TRANSPORTATION SECURITY THREATS ACT
OF 2019

AUGUST 30, 2019.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland
Security, submitted the following

R E P O R T

[To accompany H.R. 3318]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3318) to require the Transportation Security Administration to establish a task force to conduct an analysis of emerging and potential future threats to transportation security, 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 “Emerging Transportation Security Threats Act of 2019”.

SEC. 2. EMERGING AND FUTURE THREATS TASK FORCE.

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration, in consultation with the Director of National Intelligence and the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) and the heads of other Federal agencies, as determined appropriate by the Administrator, shall establish a task force to conduct an analysis of emerging and potential future threats to transportation security.

(b) **MEMBERSHIP.**—The task force established under subsection (a) shall be comprised of employees of the Department of Homeland Security who, in carrying out the analysis required under such subsection, shall consult with the Director of National Intelligence and the intelligence community and the heads of Federal agencies, as determined appropriate by the Administrator.

(c) **DEADLINE.**—Not later than 270 days after the Administrator establishes the task force under subsection (a), the task force shall submit to the Administrator the analysis required under such subsection.

(d) **ELEMENTS.**—The analysis required under subsection (a) shall include emerging and potential future threats posed by the following:

- (1) Evolving tactics by terrorist organizations that may pose a catastrophic risk to an aviation or surface transportation entity.
- (2) Explosive and explosive devices or attacks involving the use of explosives that may cause catastrophic damage to an aviation or surface transportation system.
- (3) Chemical or biological agents being released in either aviation or surface transportation systems.
- (4) Cyberthreat actors seeking to undermine confidence in transportation systems or cause service disruptions that jeopardize transportation security.
- (5) Unmanned aerial systems with the capability of inflicting harm on transportation targets.
- (6) Individuals or groups seeking to attack soft targets, public areas, or crowded spaces of transportation systems, including attacks against Transportation Security Administration employees and other security personnel.
- (7) Foreign actors seeking to exploit vulnerabilities posed by the inconsistent or inadequate security screening protocols at last point of departure airports with direct flights to the United States.
- (8) Information sharing challenges within the Federal Government and among partner governments.
- (9) Information sharing challenges between the Administration or other relevant Federal agencies and transportation stakeholders, including air carriers, airport operators, surface transportation operators, and State and local law enforcement.
- (10) Growth in passenger volume in both the aviation and surface transportation sectors.

(e) **MITIGATION.**—Not later than 120 days after the completion of the analysis required under subsection (a), the Administrator of the Transportation Security Administration shall develop, as appropriate, a threat mitigation strategy for each of the threats examined in such analysis, and—

- (1) assign appropriate resources of the Administration to address such threats, based on calculated risk; or
- (2) provide recommendations through the Department of Homeland Security to the appropriate Federal department or agency responsible for addressing such threats.

(f) **STAKEHOLDER ENGAGEMENT.**—When carrying out the analysis required under subsection (a), the Administrator of the Transportation Security Administration shall engage transportation stakeholders referred to in subsection (b)(9) and account for security concerns of transportation operators by—

- (1) convening not fewer than three industry day events for such transportation stakeholders to hear from relevant public and private sector security partners and provide feedback on threats such transportation stakeholders identify as emerging;
- (2) developing strategies to solicit feedback on a consistent basis from such transportation stakeholders across all modes of transportation and providing consistent responses to stakeholder concerns;

(3) improving the quality, timeliness, and relevancy of information sharing products disseminated by the Administration to such transportation stakeholders, including classified information sharing products;

(4) coordinating security incident response and communications drills, including tabletop exercises, to improve incident preparedness and response capabilities across transportation modes and among transportation systems;

(5) encouraging regular communication between Federal Security Directors, Field Intelligence Officers, Federal Air Marshal Special Agents in Charge, and such transportation stakeholders;

(6) establishing regular opportunities for senior Administration leadership to engage with such transportation stakeholders regarding changes in the threat environment and how the Administration can offer security support to address such changes; and

(7) briefing the Aviation Security Advisory Committee and the Surface Transportation Security Advisory Committee on the efforts of the task force established pursuant to subsection (a).

(g) BRIEFING TO CONGRESS.—The Administrator of the Transportation Security Administration shall brief the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the results of the analysis required under subsection (a) and relevant mitigation strategies developed in accordance with subsection (c).

(h) NON-APPLICABILITY OF FACA AND PRA.—The Federal Advisory Committee Act (5 U.S.C. App.) and the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) shall not apply to the task force established under subsection (a).

SEC. 3. COMPTROLLER GENERAL STUDY.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a review of the feasibility, risks, costs, and potential threat mitigation benefits of the Transportation Security Administration deploying the agency’s passenger and property screening assets to conduct screening in areas or facilities prior to passenger arrival at airport terminals.

(b) STAKEHOLDER ENGAGEMENT.—In conducting the review required under subsection (a), the Comptroller General of the United States shall consult with the Transportation Security Administration, airport operators, air carriers, businesses that operate in airports, labor groups representing the Transportation Security Administration and transportation sector personnel, and other stakeholders.

PURPOSE AND SUMMARY

The purpose of H.R. 3318, the “Emerging Transportation Security Threats Act of 2019” is to require the Transportation Security Administration (TSA) to establish a task force to analyze emerging and potential future threats to transportation security.

BACKGROUND AND NEED FOR LEGISLATION

Terrorists and other nefarious actors are constantly evolving their methods and tactics to attack transportation systems. Government agencies responsible for security must be ever-vigilant, and a complete review of current realities, trends, and threats would help improve security and inform Congress and relevant Federal agencies. Maintenance of effective transportation security programs is not possible without Federal, State, local, and industry security collaboration. Communication and information sharing are paramount to ensuring the security of the transportation sector. H.R. 3318 requires the creation of a Federal task force and charges the task force with conducting analysis of emerging and potential future threats to transportation security.

HEARINGS

For the purpose of section 103(i) of H. Res. 6 of the 116th Congress the following related hearings were held:

On May 17, 2018, a hearing entitled “Assessing the TSA Checkpoint: The PreCheck Program and Airport Wait Times”; on February 26, 2019, a hearing entitled “Securing U.S. Surface Transportation from Cyber Attacks”; and on April 9, 2019, a hearing entitled “Securing America’s Transportation and Maritime Systems: A Review of the Fiscal Year 2020 Budget Requests for the Transportation Security Administration and the U.S. Coast Guard.”

COMMITTEE CONSIDERATION

The Committee met on July 17, 2019, with a quorum being present, to consider H.R. 3318 and ordered the measure to be reported to the House with a favorable recommendation, as amended, by unanimous consent.

The following amendments was offered and agreed to by unanimous consent:

An amendment offered by Mr. Correa.

At page 2, line 9, insert new subsection (b) reading: “(b) MEMBERSHIP.—The task force established under subsection (a) shall be comprised of employees of the Department of Homeland Security who, in carrying out the analysis required under subsection (a), shall consult with the Director of National Intelligence and the intelligence community (as such term is defined in subsection (a)) and the heads of Federal agencies, as determined appropriate by the Administrator.”;

At page 2, line 9, after the new subsection (b), insert new subsection (c) reading: “(c) DEADLINE.—Not later than 270 days after the Administrator established the task force required under subsection (a), the task force shall submit the analysis required under subsection (a) to the Administrator.”;

Re-number subsection (b) as subsection (d), and following subsections appropriately;

At page 3, line 3, after “systems” insert “, including attacks against Transportation Security Administration employees and other security personnel”;

At page 3, line 4, prior to “inconsistent”, insert “Foreign actors seeking to exploit vulnerabilities posed by the . . .”;

At page 3, line 17, strike “Not later than 120 days” and insert “Upon submission of the first budget request”;

At page 4, line 20, after “quality”, insert “, timeliness,”; and At the end of section 2, insert new subsection (f) reading: “(f) NON-APPLICABILITY OF FACIA AND PRA.—The Federal Advisory Committee Act (5 U.S.C. App.) and the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) shall not apply to the task force authorized under this section.”.

An amendment offered by Ms. Jackson Lee.

Add at end the following:

SEC. 3. COMPTROLLER GENERAL STUDY

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. 3318.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE NEW BUDGET AUTHORITY,
ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 28, 2019.

Hon. BENNIE G. THOMPSON,
*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. 3318, the Emerging Transportation Security Threats Act of 2019.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 3318, Emerging Transportation Security Threats Act of 2019			
As ordered reported by the House Committee on Homeland Security on July 17, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	*
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 3318 would require the Transportation Security Administration (TSA) to establish a task force to analyze emerging and potential threats to transportation security. The bill also would require TSA to develop a strategy to mitigate those threats. Finally, H.R. 3318 would require the Government Accountability Office to report on the feasibility of screening airline passengers prior to arriving at airports.

Using information from TSA, CBO estimates that implementing H.R. 3318 would have no significant effect on the federal budget. According to the agency, most of the activities detailed in the bill are consistent with current agency operations.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 3318 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3318 would require the TSA Administrator to establish a task force to analyze emerging and potential future threats to transportation security.

ADVISORY ON EARMARKS

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(d), 9(e), or 9(f) of the rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Sec 2. Emerging and future threats task force

This section requires that within 90 days after enactment of this Act the TSA Administrator, in consultation with the Director of National Intelligence, the intelligence community, and heads of other appropriate Federal agencies, create a task force to conduct analysis of emerging and potential future threats to transportation security.

The task force created shall be comprised of Department of Homeland Security employees who shall consult with the Director of National Intelligence, the intelligence community, and the head of Federal agencies when carrying out the required analysis.

The task force will submit the analysis to the TSA Administrator within 270 days after the creation of the task force.

The analysis shall take into consideration (1) tactics of terrorist organizations that can attack our aviation or surface transportation systems; (2) the use of explosives that can be used to attack aviation or surface transportation systems; (3) chemical or biological elements released in the aviation or surface transportation systems; (4) cyberthreats that risk undermining confidence in transportation systems or disrupting transportation service (the analysis should include security screening equipment developed or manufactured by firms that are owned or closely tied to the governments of countries that are known to pose a cyber threat, to determine if the equipment provides inadequate security, or poses any potential cybersecurity or cyberespionage risks); (5) drones or unmanned aerial systems with the capability of causing harm to transportation targets; (6) groups or individuals who target soft targets, public areas, and crowded spaces of transportation systems, including attacks against TSA employees and other security personnel; (7) foreign actors trying to exploit inconsistent or inadequate security screening protocols at last point of departure airports; (8) challenges to information sharing across the Federal government and with partner governments; (9) challenges to information sharing among Federal agencies and industry partners such as air carriers, airport operators, surface transportation operators, and State and local law enforcement; and (10) the growing volume of passengers in the aviation and surface transportation sectors.

This Act requires that within 120 days after the mandated analysis is completed, the TSA Administrator develops as appropriate a threat mitigation strategy for each of the threats examined by the task force and allot appropriate resources for the Administration to address such threats.

Additionally, as part of completing the analysis required, the TSA Administrator must engage transportation stakeholders by (1) convening at least three industry day events for transportation stakeholders for relevant public and private sector security partners to share information and provide feedback on emerging threats they have identified; (2) developing strategies to solicit consistent feedback from transportation stakeholders across all modes of transportation and consistently respond to stakeholder concerns; (3) improving the quality, timeliness, and relevancy of information disseminated by the Administration to stakeholders, including classified information; (4) coordinating security incident response and communications drills to improve incident preparedness and response capabilities across transportation modes and systems; (5) strengthening communication between Federal Security Directors, Field Intelligence Officers, Federal Air Marshal Special Agents in Charge, and transportation stakeholders; (6) creating regular opportunities for senior Administration leadership to engage with transportation stakeholders regarding changes in the threat environment and what security support the Administration can provide to mitigate the changes; and (7) providing an update to the Aviation Security Advisory Committee and the Surface Transportation Security Advisory Committee on the work of the task force created by this Act.

The TSA Administrator is required to brief the relevant congressional committees on the results of the analysis and mitigation strategies required by this Act.

Finally, the Federal Advisory Committee Act and the Paperwork Reduction Act shall not apply to the task force established under this Act.

Sec 3. Comptroller general study

This section requires that, no later than a year after enactment of this Act, the Government Accountability Office (GAO) review the feasibility, risks, costs, and potential threat mitigation benefits of TSA deploying the agency's passenger and property screening assets to conduct screening in areas or facilities prior to passenger arrival at airport terminals.

In the study required, GAO is required to consult with TSA, airport operators, air carriers, businesses that operate in airports, labor groups representing the TSA and transportation sector personnel, and other stakeholders.