

TO REQUIRE THE TRANSPORTATION SECURITY ADMINISTRATION TO COMPLY WITH THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

MAY 18, 2012.—Ordered to be printed

Mr. MILLER of Florida, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 3670]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3670) to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for Legislation	2
Hearings	2
Subcommittee Consideration	3
Committee Consideration	3
Committee Votes	3
Committee Oversight Findings	3
Statement of General Performance Goals and Objectives	3
New Budget Authority, Entitlement Authority, and Tax Expenditures	3
Earmarks and Tax and Tariff Benefits	3
Committee Cost Estimate	4
Congressional Budget Office Estimate	4
Federal Mandates Statement	5
Advisory Committee Statement	5
Constitutional Authority Statement	5
Applicability to Legislative Branch	5
Section-by-Section Analysis of the Legislation	5
Changes in Existing Law Made by the Bill as Reported	5

PURPOSE AND SUMMARY

H.R. 3670 was introduced on December 14, 2011, by Representative Timothy J. Walz of Minnesota. H.R. 3670 would require the

U.S. Transportation Security Administration (TSA) to comply with the Uniformed Services Employment and Reemployment Rights Act (USERRA).

BACKGROUND AND NEED FOR LEGISLATION

Soon after the attacks of September 11, 2001, TSA was given USERRA exemption to allow the agency to hire new employees without delay for airport screenings. USERRA is a law that protects the reemployment rights of servicemembers so they are able to keep their job, benefits, and seniority in their civilian job if they are called up to Active Duty. Over the past 10 years, TSA has voluntarily adopted some USERRA provisions for their employees. After a decade, TSA no longer requires special hiring authorities that it required when newly created. With more than 10,000 veterans among the agency's employees, representing 20 percent of the Transportation Security Officer workforce, TSA, like any other federal agency, should be required to comply with the same USERRA rules as other Federal agencies and private employers.

While TSA's goal is to enact security procedures for security checkpoints at our nation's airports, maximizing transportation security, compliance with USERRA is not an impediment to TSA's efforts. In fact, providing USERRA rights to servicemembers employed by TSA should bring a level of stability to that workforce. H.R. 3670 would amend the Aviation and Transportation Security Act (49 U.S.C. 44935 note; Public Law 107-71; 115 Stat. 597) to require the TSA to be fully compliant with USERRA. In testimony submitted for the record on H.R. 3670, TSA stated that its current practice already conforms to the requirements H.R. 3670 would put in statute. Therefore, enactment of H.R. 3670 would ensure existing protections could not be weakened by a change in Administration rules or regulations.

HEARINGS

On March 8, 2012, the Subcommittee on Economic Opportunity conducted a legislative hearing on various bills introduced during the 112th Congress, including H.R. 3670. The following witnesses testified:

Mr. Richard F. Weidman, Executive Director for Policy and Government Affairs of Vietnam Veterans of America; Mr. Ryan M. Gallucci, Deputy Director, National Legislative Service of the Veterans of Foreign Wars of the United States; Mr. Steve L. Gonzalez, Assistant Director, National Economic Commission of The American Legion; Mr. Jason R. Thigpen, Co-Founder and President of Student Veterans Advocacy Group; The Honorable Steve Gunderson, President and CEO for the Association of Private Sector Colleges and Universities (APSCU); Dr. Allen L. Sessoms, President of University of the District of Columbia on behalf of American Association of State Colleges and Universities (AASCU); Mr. Curtis L. Coy, Deputy Under Secretary for Economic Opportunity of the Veterans Benefits Administration, U.S. Department of Veterans Affairs, MG Ronald G. Young USA (Ret.), Director of Family and Employer Program and Policy, U.S. Department of Defense; and Mr. Ismael "Junior" Ortiz, Deputy Assistant Secretary of the Veterans' Employment and Training Service, U.S. Department of Labor.

The following groups or individuals provided statements for the record: The Honorable G. K. Butterfield; The Honorable Mike McIntyre; U.S. Transportation Security Administration; Mr. Terry “T.P.” O’Mahoney, Chairman of the Texas Veterans Commission; Dr. R. Scott Ralls President of the North Carolina Community College System; Iraq and Afghanistan Veterans of America; Disabled American Veterans; and Paralyzed Veterans of America.

SUBCOMMITTEE CONSIDERATION

On March 28, 2012, the Subcommittee on Economic Opportunity met in an open markup session and ordered favorably forwarded to the full Committee H.R. 3670, by voice vote.

COMMITTEE CONSIDERATION

On April 27, 2012, the full Committee met in an open markup session, a quorum being present and ordered reported favorably to the whole House of Representatives H.R. 3670, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report the legislation and amendments thereto. There were no record votes taken on amendments or in connection with ordering H.R. 3670 reported to the House. A motion by Ms. Corrine Brown of Florida to order H.R. 3670 reported favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goals and objectives are reflected in the descriptive portions of 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 adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 3670 does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 3670, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 3670, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

MAY 10, 2012.

Hon. JEFF MILLER,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3670, a bill to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 3670—A bill to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act

Under current law, the Transportation Security Administration (TSA) is not required to comply with certain provisions of federal labor laws, including the Uniformed Services Employment and Reemployment Rights Act (USERRA). That law specifies certain rights for individuals who serve in the uniformed services, including those in the reserves or the National Guard who are called to active duty. In particular, USERRA prohibits employers from discriminating on the basis of military service or obligation and protects covered individuals' rights to be reemployed upon returning from duty.

H.R. 3670 would require TSA to comply with USERRA. According to TSA, the agency's existing policies regarding individuals who leave TSA to undertake uniformed service are already consistent with USERRA. As a result, CBO estimates that H.R. 3670 would not significantly affect the agency's costs. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3670 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 3670, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 3670.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to Article I, section 8 of the United States Constitution, the reported bill is authorized by Congress' power to "provide for the common Defense and general Welfare of the United States."

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. Applicability of the Uniformed Services Employment and Reemployment Right Act to the Transportation Security Administration

This section would amend the Aviation and Transportation Security Act of 2001 (49 U.S.C. 44935) to require the Under Secretary of Transportation for Security to comply with the Uniformed Services Employment and Reemployment Rights Act as set forth in chapter 43, of title 38 United States Code.

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

AVIATION AND TRANSPORTATION SECURITY ACT

* * * * *

TITLE I—AVIATION SECURITY

* * * * *

SEC. 111. TRAINING AND EMPLOYMENT OF SECURITY SCREENING PERSONNEL.

(a) * * *

* * * * *

(d) SCREENER PERSONNEL.—[Notwithstanding]

(1) *GENERAL AUTHORITY.*—*Except as provided in paragraph (2), and notwithstanding any other provision of law, the Under Secretary of Transportation for Security may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of individuals as the Under Secretary determines to be necessary to carry out the screening functions of the Under Secretary under section 44901 of title 49, United States Code. The Under Secretary shall establish levels of compensation and other benefits for individuals so employed.*

(2) *UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT.*—*In carrying out the functions authorized under paragraph (1), the Under Secretary shall be subject to the provisions set forth in chapter 43 of title 38, United States Code.*

* * * * *

