

AIRPORT ACCESS CONTROL SECURITY IMPROVEMENT  
ACT OF 2015

OCTOBER 6, 2015.—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

together with

ADDITIONAL VIEWS

[To accompany H.R. 3102]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3102) to amend the Homeland Security Act of 2002 to reform programs of the Transportation Security Administration, streamline transportation security regulations, 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 “Airport Access Control Security Improvement Act of 2015”.

**SEC. 2. AVIATION SECURITY.**

(a) IN GENERAL.—Subtitle A of title XVI of the Homeland Security Act of 2002 is amended by adding at the end the following new section:

**“SEC. 1602. RISK-BASED SCREENING OF EMPLOYEES AT AIRPORTS.**

“(a) SCREENING MODEL.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Administrator shall establish a risk-based, intelligence-driven model for the screening of employees at airports based on level of access and employment positions at domestic airports. Such screening model shall—

“(A) ensure that only those individuals authorized to have access to the secure areas of a domestic airport are permitted such access;

“(B) ensure that an individual is immediately denied entry to a secure area when such individual’s access authorization for such secure area is withdrawn; and

“(C) provide a means to differentiate between individuals authorized to have access to an entire secure area and individuals authorized access to only a particular portion of a secure area.

“(2) FACTORS.—The Administrator shall consider the following factors when establishing the screening model described in paragraph (1):

“(A) Whether and how often employees at airports require employment-related access to Secure Identification Display Areas, Airport Operations Areas, or secure areas.

“(B) The ability of each airport operator to reduce employee entry and exit points to a mutually agreed upon minimum number of such entry and exit points necessary to maintain airport operations.

“(C) In consultation with airport operators, the ability of the Administration to create a randomization plan for screening at the defined operational minimum entry and exit points at airports which maximizes the deterrent effect of screening efforts.

“(b) DISQUALIFYING OFFENSES.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Administrator, in consultation with the Director of the Federal Bureau of Investigation, labor organizations representing aviation, ground, and cabin crew workers, and the Aviation Security Advisory Committee, shall conduct an aviation security risk-based review of the disqualifying criminal offenses codified in sections 1542.209 and 1544.229 of title 49, Code of Federal Regulations, to determine the appropriateness of such offenses as a basis for denying to an employee a credential that allows unescorted access to Secure Identification Display Areas of airports. Such review shall consider the following:

“(A) The adequacy of codified disqualifying offenses to address the current aviation security threat environment, particularly the terrorism insider threat.

“(B) If such codified disqualifying offenses should be tailored to address the current aviation security threat environment, particularly the terrorism insider threat, by excluding or including other offenses.

“(C) The potential security benefits, drawbacks, and challenges associated with identifying patterns of misdemeanors or of other non-disqualifying offenses that could jeopardize aviation security.

“(D) The feasibility of integrating similar departmental eligibility requirements for access to Secure Identification Display Areas of airports.

“(E) If the ten year look-back period for disqualifying offenses is appropriate, in light of the current aviation security threat environment, particularly the terrorism insider threat.

“(2) WAIVER.—Not later than 180 days after the date of the enactment of this section, the Administrator shall provide an adequate redress process for an employee who is subject to an adverse employment decision, including removal or suspension of such employee, due to a disqualifying offense referred to in paragraph (1), that is consistent with the appeals and waiver process established for applicants for commercial motor vehicle hazardous materials endorsements and transportation workers at ports under section 70105(c) of title 46, United States Code.

“(3) NOTICE.—Any changes to the Secure Identification Display area badge program, such as changes considered pursuant to subparagraphs (B), (C), (D), and (E) of paragraph (1) shall be subject to notice of proposed rulemaking.

“(4) BRIEFING TO CONGRESS.—Upon completion of the aviation security risk-based review required under paragraph (1), the Administrator shall brief 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 such review.

“(c) CREDENTIALING.—Not later than 120 days after the date of the enactment of this section, the Administrator, in consultation with the Aviation Security Advisory Committee, shall review the auditing procedures for all airport-issued identification media. Such review shall determine the following:

“(1) The efficacy of the auditing program requirements at domestic airports to ensure the integrity, accountability, and control of airport-issued identification media.

“(2) The feasibility of including biometrics standards for all airport-issued identification media used for identity verification and badge verification.

“(3) The feasibility of integrating other departmental programs’ eligibility requirements for access to secure areas of airports.

“(d) VETTING.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Administrator shall—

“(A) establish a program to allow airport badging offices to utilize the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note; commonly referred to as ‘E-Verify’) to determine the eligibility to work in the United States of all applicants seeking access to secure areas of airports;

“(B) establish a process to transmit applicants’ biometric fingerprint data to the Office of Biometric Identity Management’s (OBIM’s) Automated Biometrics Identification System (IDENT) for vetting; and

“(C) conduct a data quality assessment to ensure that credential application data elements received by the Administration are complete and match the data submitted by the airport operators.

“(2) BRIEFING TO CONGRESS.—Upon completion of the responsibilities specified in paragraph (1), the Administrator shall brief 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 such completion.

“(e) REPORTING OF VIOLATIONS.—Not later than 180 days after the date of the enactment of this section, the Administrator shall establish a nationwide program for the anonymous reporting of violations of airport security.

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

“(1) establish a national database of employees who have had either their airport or aircraft operator-issued badge revoked for failure to comply with aviation security requirements;

“(2) determine the appropriate reporting mechanisms for airports and airlines to submit data regarding employees described in paragraph (1) and to access the database established pursuant to such paragraph; and

“(3) establish a process that allows individuals whose names were mistakenly entered into such database to have their names removed and have their credentialing restored.

“(g) UPDATED REVIEW.—Not later than April 8, 2016, the Administrator, in consultation with the Aviation Security Advisory Committee, shall conduct an updated and thorough review of airport access controls.

“(h) EMPLOYEE SCREENING STUDY.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Administrator, in consultation with the Aviation Security Advisory Committee, shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate, and the Comptroller General of the United States a cost and feasibility study of a statistically significant number of Category I, II, and X airports, that ensures that all employee entry and exit points that lead to secure areas of such airports are comprised of the following:

“(A) A secure door utilizing card and pin entry or biometric technology.

“(B) Surveillance video recording, capable of storing video data for at least 30 days.

“(C) Advanced screening technologies, including at least one of the following:

- “(i) Magnetometer (walk-through or hand-held).
- “(ii) Explosives detection canines.
- “(iii) Explosives trace detection swabbing.
- “(iv) Advanced imaging technology.
- “(v) X-ray bag screening technology.

“(2) CONTENTS.—The study required under paragraph (1) shall include information related to the employee screening costs of those airports which have already implemented practices of screening one-hundred percent of employees entering secure areas of airports, including the following:

“(A) Costs associated with establishing an operational minimum number of employee entry and exit points.

“(B) A comparison of costs associated with implementing the requirements specified in paragraph (1), based on whether such implementation was carried out by the Administration or airports.

“(3) COMPTROLLER GENERAL ASSESSMENT.—

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

“(B) ASSESSMENT.—Not later than 60 days after the receipt of the study required under paragraph (1), 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 subparagraph (A).”.

(b) CLERICAL AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 1601 the following new item:

“Sec. 1602. Risk-based screening of employees at airports.”.

## PURPOSE AND SUMMARY

The purpose of H.R. 3102 is to amend the Homeland Security Act of 2002 to reform programs of the Transportation Security Administration, streamline transportation security regulations, and for other purposes.

## BACKGROUND AND NEED FOR LEGISLATION

This legislation is the culmination of multiple Subcommittee hearings and briefings on the issue of airport access controls, as well as a review of the recommendations issued by the Aviation Security Advisory Committee (ASAC). The Subcommittee’s oversight, as well as the ASAC’s review, was an outgrowth of the number of recent arrests of airport workers. An estimated 950,000 employees of airlines, airports, vendors, and officials have access to sterile areas of airports nationwide, at approximately 18,000 access points.<sup>1</sup> Recent incidents such as a gun smuggling case at the Atlanta airport; a Federal Aviation Administrator (FAA) inspector who flew with a gun in his carry-on bag; an airline employee misusing his badge to avoid screening before boarding a flight, and drug smuggling cases at the Dallas and Oakland airports highlight security weaknesses that could be further exploited in the future if left unchecked.

Between May and December 2014, a Delta Air Lines employee allegedly smuggled 153 firearms, including AK-47 assault weap-

<sup>1</sup> Carey, Susan. “Closing an Airport Security Gap: Employee Screening.” *The Wall Street Journal*. 27 January 2015. <http://www.wsj.com/articles/closing-an-airport-security-gap-employee-screening-1422396346>.

ons, on 17 Delta flights between Atlanta and New York. Authorities say that the Delta employee would go through standard security screening and then receive the guns from a Delta baggage handler, who was not subjected to standard security screening, on the sterile side the airport, before boarding flights to New York's John F. Kennedy International Airport. The investigation was a months-long collaborative effort between authorities in New York and Atlanta, as well the Transportation Security Administration (TSA), the Federal Bureau of Investigation (FBI), and Delta Air Lines.<sup>2</sup> In the wake of the gun smuggling case, Secretary of Homeland Security Jeh Johnson visited Atlanta to review airport security. While there, he announced enhanced security measures by TSA at airports across the country, including stepped up countermeasures to mitigate the insider threat from those with access to sterile areas of airports. These countermeasures include increased screening of airport and airline personnel at employee access points and an immediate review of existing security protocols and potential security solutions by the Aviation Security Advisory Committee.

The ASAC airport access control working group—consisting of a broad cross-section of industry experts and government entities—was asked to analyze the adequacy of existing security measures and providing recommendations to address security loopholes. TSA has already implemented five short-term initiatives to address some of the problems that were identified in the ASAC report. Overall, the final report included 28 separate recommendations in the following five main areas:

- Security Screening and Inspection;
- Vetting of Employees and Security Threat Assessment;
- Internal Controls and Auditing of Airport-Issued Credentials;
- Risk-Based Security for Higher Risk Populations and Intelligence; and
- Security Awareness and Vigilance.

This bill codifies many of those recommendations such as reviewing the list of Security Identification Display Area (SIDA) badge disqualifying criminal offenses and extending the look-back period, and creating and maintaining a national database of airport employees with revoked credentials.

Additionally, on January 16, 2015, an inspector for the FAA was arrested at New York's LaGuardia Airport after a TSA screener detected a firearm in his carry-on luggage. This discovery was only after the inspector traveled to New York from Atlanta, where he used his SIDA badge to bypass security screening. The individual flew in the cockpit of the aircraft from Atlanta to New York. The FAA has since suspended its program allowing personnel to bypass airport security until it can implement mandatory retraining to prevent further such incidents.<sup>3</sup> Lastly, TSA has informed the Committee that on Saturday, January 24th, an airline employee in Atlanta used his SIDA badge to gain entry to the sterile area of

<sup>2</sup> Sharkey, Joe. "Gun Smuggling on Plane Reveals Security Oversight." *The New York Times*. 29 December 2014. [http://www.nytimes.com/2014/12/30/business/gun-smuggling-on-plane-reveals-security-oversight.html?\\_r=0](http://www.nytimes.com/2014/12/30/business/gun-smuggling-on-plane-reveals-security-oversight.html?_r=0).

<sup>3</sup> Schabner, Dean. "Federal Safety Inspector Arrested After Allegedly Flying with Gun in Bag." *ABC News*. 17 January 2015. <http://abcnews.go.com/US/federal-agent-arrested-allegedly-flying-gun-bag/story?id=28295458>.

the airport and bypass screening, before boarding a flight to Paris, France.

#### HEARINGS

No legislative hearings were held on H.R. 3102, however the Committee held the following oversight hearings:

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, Transportation Security Administration, U.S. Department of Homeland Security; Mr. Doug Perdue, Deputy Assistant Director, Counterterrorism Division, Federal Bureau of Investigation, U.S. Department of Justice; Ms. Sharon L. Pinkerton, Senior Vice President, Legislative and Regulatory Policy, Airlines for America; and Mr. Miguel Southwell, General Manager, Hartsfield-Jackson Atlanta International Airport.

The Subcommittee on Transportation Security continued its hearing on April 30, 2015, with a hearing entitled “A Review of Access Control Measures at Our Nation’s Airports, Part II.” The Subcommittee received testimony from Mr. Melvin J. Carraway, Acting Administrator, Transportation Security Administration, U.S. Department of Homeland Security; Jeanne M. Olivier, A.A.E., Assistant Director, Aviation Security and Technology, Security Operations and Programs Department, The Port Authority of New York & New Jersey, *testifying on behalf of The American Association of Airport Executives*; and Mr. Steven Grossman, Chief Executive Officer/Executive Director, Jacksonville International Airport, Jacksonville Aviation Authority, *testifying on behalf of The Airports Council International, North America*.

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 Hon. John Roth, Inspector General, U.S. Department of Homeland Security; Ms. Stacey Fitzmaurice, Deputy Assistant Administrator, Office of Intelligence and Analysis, Transportation Security Administration, U.S. Department of Homeland Security; and Ms. Jennifer Grover, Director, Transportation Security and Coast Guard Issues, Homeland Security and Justice Team, U.S. Government Accountability Office.

#### *112th Congress*

On May 16, 2012, the Subcommittee on Transportation Security held a hearing entitled “Access Control Point Breaches at Our Nation’s Airports: Anomalies or Systemic Failures?” The Subcommittee received testimony from Mr. John P. Sammon, Assistant Administrator, Office of Security Policy and Industry Engagement, Transportation Security Administration, Department of Homeland Security; Mr. Charles K. Edwards, Acting Inspector General, Department of Homeland Security; Mr. Mark Crosby, Chief of Public Safety & Security, Portland International Airport, *testifying on behalf of the American Association of Airport Executives*; Captain Sean P. Cassidy, First Vice President, Air Line Pilots Association, International; and Mr. William Swift, Chairman, Airport Minority Advisory Council.

## COMMITTEE CONSIDERATION

The Committee met on September 30, 2015, to consider H.R. 3102, 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, as amended, by voice vote.

A Substitute for the Amendment in the Nature of a Substitute offered by MR. THOMPSON of Mississippi (#2); was WITHDRAWN by unanimous consent.

An amendment to the Amendment in the Nature of a Substitute to H.R. 3102 offered by MR. KATKO (#1A); was AGREED TO by voice vote.

Page 3, strike ,line 7 though page 5, line 5, and insert a new subsection entitled “(b) Disqualifying Offenses.”

The Subcommittee on Transportation Security met on July 23, 2015, to consider H.R. 3102 and reported the measure to the Full Committee with a favorable recommendation, as amended, by voice vote.

The following amendment was offered:

An Amendment by MR. KATKO (#1); was AGREED TO by voice vote.

Page 3, line 15, strike “mutually agreed upon”.

Page 4, line 22, strike “(2)” and insert “(3)”.

Page 4, beginning line 22, insert the following:

“(2) “Waiver.-Not later than 180 days after 2 the date of the enactment of this section, the Administrator shall provide an adequate redress process for an employee who is subject to an adverse employment decision, including removal or suspension of such employee, due to a disqualifying offense referred to in paragraph (1), that is consistent with the appeals and waiver process established for applicants for commercial motor vehicle hazardous materials endorsements and transportation workers at ports under section 70105(c) of title 46, United States Code.”

Page 7, line 13, strike “for cause” and insert “for failure to comply with aviation security requirements”.

Page 7, line 13, strike “and”.

Page 7, line 18, strike the period and insert “; and”.

Page 7, beginning line 19, insert the following:

“(3) establish a process that allows individuals whose names were mistakenly entered into such database to have their names removed and have their credentialing restored.”.

Page 7, line 20, insert “the Administrator, in consultation with the” before “the Aviation Security”.

Page 7, line 20, after “Committee” insert a comma.

## 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. 3102.

### 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. 3102, the Airport Access Control Security Improvement Act of 2015, 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. 3102 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

H.R. 3102 requires the Administrator of the Transportation Security Administration to provide a briefing to the relevant Congressional committees on the results of an aviation security risk-based review of the disqualifying criminal offenses that are a basis for denying a credential to access Secure Identification Display Areas of airports. The Administrator is also required to brief relevant Congressional committees on the establishment of a program that allows airport badging offices to utilize the E-Verify system, the establishment of a process to transmit applicants' biometric fingerprint data to the Office of Biometric Identity Management for vetting, and the results of a data quality assessment to ensure that credential application data elements received by the Administration are complete and match data submitted by airport operators.

This legislation also requires the Administrator to submit a cost and feasibility report of a statistically significant number of airports ensuring that all employee entry and exit points that lead to secure areas of airports meet certain requirements specified in the legislation to the relevant Congressional committees and the Comptroller General of the United States. Furthermore, the Comptroller General of the United States must assess the quality and reliability of the Administrator's aforementioned study and report the results of the assessment to the relevant Congressional committees within 60 days of receipt of the study.

#### DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 3102 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. 3102 does not preempt any State, local, or Tribal law.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 3102 would require no directed rule makings. However the bill does allow the Administrator to engage in the rule making process if determined to be necessary upon completion of the review required under section 2.

#### 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 bill may be cited as the “Airport Access Control Security Improvement Act of 2015”.

## *Section 2. Aviation security*

This section requires the Administrator of the Transportation Security Administration to, within 180 days, create a risk-based model for the screening of employees that will ensure that only authorized individuals have access to the secure area, ensure that an individual is denied entry to a secured area when a person's access authority is withdrawn and provide a means to differentiate between individuals authorized to have access to an entire secured area and individuals with authorized access to only a particular portion of a secure area. This section also requires the Administrator to consider the following factors when establishing this risk-based screening model: whether and how often an employee requires access to specific areas, the ability of an airport to reduce access points to a mutually agreed upon operational minimum, and the ability to create a randomization plan.

This section also requires the Administrator, in consultation with the Director of the FBI, labor organizations representing aviation, ground and cabin crew workers, and the Aviation Security Advisory Committee, to conduct a review of the disqualifying offenses to determine the appropriateness of such offenses as a basis for denying employee credentials within 180 days of enactment. Such review shall consider the following: The adequacy of codified disqualifying offenses to address the current aviation security threat environment; if such codified disqualifying offenses should be tailored to address the current aviation security threat environment by including or excluding other offenses, potential security benefits, drawbacks and challenges associated with identifying patterns of misdemeanors or of other non-disqualifying offenses that could jeopardize aviation security; the feasibility of integrating similar departmental eligibility requirements for access to secure areas; and a determination as to whether the look-back period for disqualifying offenses should be extended or modified.

The Administrator is also required to provide an adequate redress process for an employee who is subject to an adverse employment decision, including termination or suspension, due to a disqualifying offense as defined above within 180 days of enactment. The process must be consistent with the appeals and waiver process established for applicants for commercial motor vehicle hazardous materials endorsements and transportation workers at ports.

A notice of proposed rulemaking for any changes made to the Secure Identification Display area badge program as a result of the review is required pursuant to this section. This section also requires the Administrator to brief the relevant Congressional committees on the results of this review.

This section requires the Administrator, in consultation with the Aviation Security Advisory Committee, to review the auditing procedures for all airport-issued identification media within 120 days of enactment. The review shall determine the efficacy of the auditing program requirements, the feasibility of including biometric standards for airport issued identification media, and the feasibility of integrating other DHS eligibility requirements for access.

Section 2 would require the Administrator within 180 days of enactment to establish a program to allow airport badging offices to utilize E-Verify to determine the eligibility to work in the U.S., to

establish a process to transmit applicants biometric fingerprint data into the Office of Biometric Identity Management's Automated Biometric Identification System (IDENT) for vetting and to conduct a data quality assessment to ensure that credential application data elements are complete and match data that was submitted by airport operators. Upon completion of these responsibilities, the Administrator is required to brief the relevant Congressional committees on the results.

This section requires the Administrator within 180 days of enactment to establish a Nationwide program for the anonymous reporting of violations of airport security protocols.

It also requires the Administrator within 180 days of enactment, in consultation with the Aviation Security Advisory Committee, to establish a national database of employees who have had either their airport or aircraft operator-issued badge revoked for failure to comply with aviation security requirements and to determine the appropriate reporting mechanisms for airports and airlines to submit data and to access the database. Additionally, this section requires the establishment of a process that allows individuals whose names were mistakenly entered into such a database to be removed and have their credentialing restored.

This section also requires the Administrator in consultation with the Aviation Security Advisory Committee to conduct an updated and thorough review of airport access controls by April 2016. In addition, this section would require the Administrator within 180 days of enactment, in consultation with the Aviation Security Advisory Committee to conduct a cost and feasibility study of a statistically significant number of Category X, I and II airports, that ensures that all airport employee access points that lead to secure areas of those airports are comprised of a secure door utilizing card and pin entry or biometric technology, surveillance video recording capable of storing video for at least thirty days, advanced screening technologies, including, but not limited to, a magnetometer (walk-thru or hand-held), explosive detection canines, explosive trace detection swabbing, advanced imaging technology or x-ray bag screening technology.

Finally, section 2 also requires that the study shall include information related to the employee screening costs of those airports which have already implemented practices of screening one-hundred percent of employees entering secure areas of airports, and costs associated with establishing an operational minimum number of employee access points, and a comparison of costs associated with implementing the requirements outlined earlier, based on whether the implementation was carried out by TSA or the airports.

Upon completion of the study, this section requires the Comptroller General of the United States to review and evaluate its quality and reliability and report to the relevant Congressional committees within 60 days.

#### 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 (new matter is printed in italic)

and existing law in which no change is proposed is shown in roman):

## HOMELAND SECURITY ACT OF 2002

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

|                                                                  |   |   |   |   |   |   |
|------------------------------------------------------------------|---|---|---|---|---|---|
| *                                                                | * | * | * | * | * | * |
| TITLE XVI—TRANSPORTATION SECURITY                                |   |   |   |   |   |   |
| Subtitle A—General Provisions                                    |   |   |   |   |   |   |
| *                                                                | * | * | * | * | * | * |
| Sec. 1602. <i>Risk-based screening of employees at airports.</i> |   |   |   |   |   |   |
| *                                                                | * | * | * | * | * | * |

## TITLE XVI—TRANSPORTATION SECURITY

### Subtitle A—General Provisions

|                                                                  |   |   |   |   |   |   |
|------------------------------------------------------------------|---|---|---|---|---|---|
| *                                                                | * | * | * | * | * | * |
| SEC. 1602. <b>RISK-BASED SCREENING OF EMPLOYEES AT AIRPORTS.</b> |   |   |   |   |   |   |
| (a) <b>SCREENING MODEL.</b> —                                    |   |   |   |   |   |   |

(1) *IN GENERAL.*—Not later than 180 days after the date of the enactment of this section, the Administrator shall establish a risk-based, intelligence-driven model for the screening of employees at airports based on level of access and employment positions at domestic airports. Such screening model shall—

(A) ensure that only those individuals authorized to have access to the secure areas of a domestic airport are permitted such access;

(B) ensure that an individual is immediately denied entry to a secure area when such individual’s access authorization for such secure area is withdrawn; and

(C) provide a means to differentiate between individuals authorized to have access to an entire secure area and individuals authorized access to only a particular portion of a secure area.

(2) *FACTORS.*—The Administrator shall consider the following factors when establishing the screening model described in paragraph (1):

(A) Whether and how often employees at airports require employment-related access to Secure Identification Display Areas, Airport Operations Areas, or secure areas.

(B) The ability of each airport operator to reduce employee entry and exit points to a mutually agreed upon minimum number of such entry and exit points necessary to maintain airport operations.

(C) *In consultation with airport operators, the ability of the Administration to create a randomization plan for screening at the defined operational minimum entry and exit points at airports which maximizes the deterrent effect of screening efforts.*

(b) **DISQUALIFYING OFFENSES.**—

(1) **IN GENERAL.**—*Not later than 180 days after the date of the enactment of this section, the Administrator, in consultation with the Director of the Federal Bureau of Investigation, labor organizations representing aviation, ground, and cabin crew workers, and the Aviation Security Advisory Committee, shall conduct an aviation security risk-based review of the disqualifying criminal offenses codified in sections 1542.209 and 1544.229 of title 49, Code of Federal Regulations, to determine the appropriateness of such offenses as a basis for denying to an employee a credential that allows unescorted access to Secure Identification Display Areas of airports. Such review shall consider the following:*

(A) *The adequacy of codified disqualifying offenses to address the current aviation security threat environment, particularly the terrorism insider threat.*

(B) *If such codified disqualifying offenses should be tailored to address the current aviation security threat environment, particularly the terrorism insider threat, by excluding or including other offenses.*

(C) *The potential security benefits, drawbacks, and challenges associated with identifying patterns of misdemeanors or of other non-disqualifying offenses that could jeopardize aviation security.*

(D) *The feasibility of integrating similar departmental eligibility requirements for access to Secure Identification Display Areas of airports.*

(E) *If the ten year look-back period for disqualifying offenses is appropriate, in light of the current aviation security threat environment, particularly the terrorism insider threat.*

(2) **WAIVER.**—*Not later than 180 days after the date of the enactment of this section, the Administrator shall provide an adequate redress process for an employee who is subject to an adverse employment decision, including removal or suspension of such employee, due to a disqualifying offense referred to in paragraph (1), that is consistent with the appeals and waiver process established for applicants for commercial motor vehicle hazardous materials endorsements and transportation workers at ports under section 70105(c) of title 46, United States Code.*

(3) **NOTICE.**—*Any changes to the Secure Identification Display area badge program, such as changes considered pursuant to subparagraphs (B), (C), (D), and (E) of paragraph (1) shall be subject to notice of proposed rulemaking.*

(4) **BRIEFING TO CONGRESS.**—*Upon completion of the aviation security risk-based review required under paragraph (1), the Administrator shall brief 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 such review.*

(c) *CREDENTIALING.*—Not later than 120 days after the date of the enactment of this section, the Administrator, in consultation with the Aviation Security Advisory Committee, shall review the auditing procedures for all airport-issued identification media. Such review shall determine the following:

(1) *The efficacy of the auditing program requirements at domestic airports to ensure the integrity, accountability, and control of airport-issued identification media.*

(2) *The feasibility of including biometrics standards for all airport-issued identification media used for identity verification and badge verification.*

(3) *The feasibility of integrating other departmental programs' eligibility requirements for access to secure areas of airports.*

(d) *VETTING.*—

(1) *IN GENERAL.*—Not later than 180 days after the date of the enactment of this section, the Administrator shall—

(A) *establish a program to allow airport badging offices to utilize the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note; commonly referred to as “E-Verify”) to determine the eligibility to work in the United States of all applicants seeking access to secure areas of airports;*

(B) *establish a process to transmit applicants' biometric fingerprint data to the Office of Biometric Identity Management's (OBIM's) Automated Biometrics Identification System (IDENT) for vetting; and*

(C) *conduct a data quality assessment to ensure that credential application data elements received by the Administration are complete and match the data submitted by the airport operators.*

(2) *BRIEFING TO CONGRESS.*—Upon completion of the responsibilities specified in paragraph (1), the Administrator shall brief 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 such completion.

(e) *REPORTING OF VIOLATIONS.*—Not later than 180 days after the date of the enactment of this section, the Administrator shall establish a nationwide program for the anonymous reporting of violations of airport security.

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

(1) *establish a national database of employees who have had either their airport or aircraft operator-issued badge revoked for failure to comply with aviation security requirements;*

(2) *determine the appropriate reporting mechanisms for airports and airlines to submit data regarding employees described in paragraph (1) and to access the database established pursuant to such paragraph; and*

(3) *establish a process that allows individuals whose names were mistakenly entered into such database to have their names removed and have their credentialing restored.*

(g) *UPDATED REVIEW.—Not later than April 8, 2016, the Administrator, in consultation with the Aviation Security Advisory Committee, shall conduct an updated and thorough review of airport access controls.*

(h) *EMPLOYEE SCREENING STUDY.—*

(1) *IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Administrator, in consultation with the Aviation Security Advisory Committee, shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate, and the Comptroller General of the United States a cost and feasibility study of a statistically significant number of Category I, II, and X airports, that ensures that all employee entry and exit points that lead to secure areas of such airports are comprised of the following:*

(A) *A secure door utilizing card and pin entry or biometric technology.*

(B) *Surveillance video recording, capable of storing video data for at least 30 days.*

(C) *Advanced screening technologies, including at least one of the following:*

(i) *Magnetometer (walk-through or hand-held).*

(ii) *Explosives detection canines.*

(iii) *Explosives trace detection swabbing.*

(iv) *Advanced imaging technology.*

(v) *X-ray bag screening technology.*

(2) *CONTENTS.—The study required under paragraph (1) shall include information related to the employee screening costs of those airports which have already implemented practices of screening one-hundred percent of employees entering secure areas of airports, including the following:*

(A) *Costs associated with establishing an operational minimum number of employee entry and exit points.*

(B) *A comparison of costs associated with implementing the requirements specified in paragraph (1), based on whether such implementation was carried out by the Administration or airports.*

(3) *COMPTROLLER GENERAL ASSESSMENT.—*

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

(B) *ASSESSMENT.—Not later than 60 days after the receipt of the study required under paragraph (1), 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 subparagraph (A).*

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## ADDITIONAL VIEWS

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### ADDITIONAL VIEWS OF RANKING MEMBER BENNIE G. THOMPSON

I support enhancing access controls at our Nation's airports. That was why I was pleased that then-TSA Acting Administrator Melvin Carraway, on January 8th, 2015, requested that the Aviation Security Advisory Committee (ASAC), comprised of aviation security stakeholders in the private sector, assist TSA with efforts to evaluate airport employee screening and identify gaps in airport security associated with access control. As sponsor of legislation to authorize the ASAC (P.L. 113-238), I was pleased that the members of the ASAC's working group on airport access control gave timely and thoughtful attention to this homeland security challenge. On April 8th, 2015, the ASAC issued its report entitled the "Final Report of the Aviation Security Advisory Committee's Working Group on Airport Access Control" which recommended that TSA consider 28 actions to enhance security. Since the issuance of that report, I understand that TSA has been making steady progress on addressing the recommendations. Given the multifaceted and complicated nature of the issue, implementation of reforms has broad implications on airport operations, including ground services and airport retail operations. While I do not embrace all the provisions in H.R. 3102, I do see the value in advancing it, insofar as it sends a message to TSA and stakeholders about Congress' ongoing interest in raising the level of security at our Nation's airports.

Finally, I would note that in advance of consideration of H.R. 3102 by the Full Committee, I developed a substitute amendment that made a number of changes to the bill. Ultimately, I chose to withdraw my amendment when the bill's sponsor, Mr. Katko, agreed to incorporate key language I authored to ensure that the review of disqualifying offenses under the SIDA program are reviewed, as required under the bill, is carried out in a fair way and is focused on the aviation security threat picture.

BENNIE G. THOMPSON.

