

TSA PRECHECK EXPANSION ACT

JULY 22, 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

[To accompany H.R. 2843]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 2843) to require certain improvements in the Transportation Security Administration’s PreCheck expedited screening program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	3
Background and Need for Legislation	3
Hearings	3
Committee Consideration	4
Committee Votes	5
Committee Oversight Findings	5
New Budget Authority, Entitlement Authority, and Tax Expenditures	5
Congressional Budget Office Estimate	5
Statement of General Performance Goals and Objectives	6
Duplicative Federal Programs	6
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	6
Federal Mandates Statement	6
Preemption Clarification	6
Disclosure of Directed Rule Makings	7
Advisory Committee Statement	7
Applicability to Legislative Branch	7
Section-by-Section Analysis of the Legislation	7
Changes in Existing Law Made by the Bill, as Reported	8

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 “TSA PreCheck Expansion Act”.

SEC. 2. DEFINITIONS.

In this Act:

- (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Transportation Security Administration.
- (2) DEPARTMENT.—The term “Department” means the Department of Homeland Security.
- (3) TSA.—The term “TSA” means the Transportation Security Administration.

SEC. 3. ENROLLMENT EXPANSION.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall publish PreCheck application enrollment standards to add multiple private sector application capabilities for the TSA PreCheck program to increase the public’s enrollment access to such program, including standards that allow the use of secure technologies, including online enrollment, kiosks, tablets, or staffed laptop stations at which individuals can apply for entry into such program.

(b) REQUIREMENTS.—Upon publication of the PreCheck program application enrollment standards pursuant to subsection (a), the Administrator shall—

- (1) coordinate with interested parties to deploy TSA-approved ready-to-market private sector solutions that meet the TSA PreCheck application enrollment standards described in paragraph (1), make available additional PreCheck enrollment capabilities, and offer secure online and mobile enrollment opportunities;
- (2) partner with the private sector to collect biographic and biometric identification information via kiosks, mobile devices, or other mobile enrollment platforms to reduce the number of instances in which passengers need to travel to enrollment centers;
- (3) ensure that the kiosks, mobile devices, or other mobile enrollment platforms referred to in paragraph (3) are certified as secure and not vulnerable to data breaches;
- (4) ensure that any biometric and biographic information is collected in a manner which ensures privacy and data security protections, including that applicants’ personally identifiable information is handled only by individuals who have been properly vetted;
- (5) ensure that an individual who wants to enroll in the PreCheck program and has started an application with a single identification verification at one location will be able to save such individual’s application on any kiosk, personal computer, mobile device, or other mobile enrollment platform and be able to return within a reasonable time to submit a second identification verification; and
- (6) ensure that any enrollment expansion using a private sector risk assessment instead of a fingerprint-based criminal history records check is determined, by the Administrator, to be equivalent to a fingerprint-based criminal history records check conducted through the Federal Bureau of Investigation.

(c) MARKETING OF PRECHECK PROGRAM.—Upon publication of PreCheck program application enrollment standards pursuant to subsection (a), the Administrator shall—

- (1) in accordance with the standards described in paragraph (1) of subsection (a), develop and implement—
 - (A) a process, including an associated timeframe, for approving private sector marketing of the TSA PreCheck program; and
 - (B) a strategy for partnering with the private sector to encourage enrollment in such program; and
- (2) submit to Congress a report on any PreCheck fees collected in excess of the costs of administering such program, including recommendations for using such amounts to support marketing of such program under this subsection.

(d) IDENTITY VERIFICATION ENHANCEMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall—

- (1) coordinate with the heads of appropriate components of the Department to leverage Department-held data and technologies to verify the citizenship of individuals enrolling in the TSA PreCheck program; and
- (2) partner with the private sector to use advanced biometrics and NIST 800–63–2 identity proofing standards to facilitate enrollment in such program.

(e) PRECHECK LANE OPERATION.—The Administrator shall—

- (1) ensure that TSA PreCheck screening lanes are open and available during peak and high-volume travel times at airports to individuals enrolled in the PreCheck program; and

(2) make every practicable effort to provide expedited screening at standard screening lanes during times when PreCheck screening lanes are closed to individuals enrolled in such program in order to maintain operational efficiency.

(f) VETTING FOR PRECHECK PARTICIPANTS.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall initiate an assessment of the security vulnerabilities in the vetting process for the PreCheck program that includes an evaluation of whether subjecting PreCheck participants to recurrent fingerprint-based criminal history records checks, in addition to recurrent checks against the terrorist watchlist, could be done in a cost-effective manner to strengthen the security of the PreCheck program.

PURPOSE AND SUMMARY

The purpose of H.R. 2843 is to require certain improvements in the Transportation Security Administration's PreCheck expedited screening program, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Since the program's inception in 2011, TSA PreCheck has seen rapid growth in popularity and utilization, and has been the cornerstone of TSA's risk-based security efforts. While the program has helped TSA achieve a number of cost and operational efficiencies, TSA has relied too heavily on alternate forms of granting passengers expedited PreCheck screening. These alternate methods, known as Managed Inclusion and Risk Assessment, have caused confusion among travelers and have come at the expense of comprehensive efforts by TSA to focus on expanding full enrollment and converting "unknown" passengers into "known" travelers.

The "TSA PreCheck Expansion Act" forces TSA to concentrate on enrolling more people in the program by coordinating and leveraging the capabilities and resources of the private sector in a secure, responsible manner. The bill also requires TSA to take steps to effectively and robustly market the program and leverage existing Department of Homeland Security data for identification purposes, all while working to enhance recurrent vetting capabilities for those enrolled in the program, in order to maintain the program's security and integrity. The bill is based on the Committee's priorities for enhancing risk-based security at TSA, as well as industry stakeholder feedback.

HEARINGS

113th Congress

On March 14, 2013, the Subcommittee on Transportation Security held a hearing entitled "TSA's Efforts to Advance Risk-Based Security." The Subcommittee received testimony from Hon. John S. Pistole, Administrator, Transportation Security Administration, Department of Homeland Security.

The Subcommittee on Transportation Security held a second hearing on April 11, 2013, entitled "TSA's Efforts to Advance Risk-Based Security: Stakeholder Perspectives." The Subcommittee received testimony from Mr. Ken Dunlap, Global Director, Security & Travel Facilitation, International Air Transport Association; Ms. Sharon L. Pinkerton, Senior Vice President, Legislative and Regulatory Policy, Airlines for America; Mr. Geoff Freeman, Chief Operating Officer and Executive Vice President, U.S. Travel Association; Mr. Michael C. Mullen, Executive Director, Express Association of America; Mr. Christopher U. Browne, Airport Manager,

Washington Dulles International Airport, *testifying on behalf of the American Association of Airport Executives*; and Mr. David A. Borer, General Counsel, American Federation of Government Employees. This hearing was the second in a two-part

114th Congress

On March 25, 2015, the Subcommittee on Transportation Security held a hearing entitled “Risk-Based Security: Assessing the Path Forward for TSA Pre✓™.” The Subcommittee received testimony from Hon. John Roth, Inspector General, U.S. Department of Homeland Security; Mr. Kenneth Fletcher, Chief Risk Officer, Transportation Security Administration, U.S. Department of Homeland Security; and Ms. Jennifer Grover, Director, Homeland Security and Justice, U.S. Government Accountability Office.

COMMITTEE CONSIDERATION

The Committee met on June 23, 2015, to consider H.R. 2843, 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 by MR. THOMPSON of Mississippi (#1); was AGREED TO by voice vote.

Page 2, line 11, strike “shall-” and all that follows through “establish” on line 12 and insert the following (and conform the margins appropriately): “shall publish”.

Page 2, line 19, strike the semicolon and insert a period.

Page 2, beginning line 20, insert the following (and redesignate subsequent subsections accordingly): “(b) requirements.”

Page 2, beginning line 20, redesignate paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

Page 3, beginning line 19, strike “Not later than 90 days after the date of enactment of this Act,” and insert “Upon publication of PreCheck program application enrollment standards pursuant to subsection (a),”

Page 4, line 18, strike “who want to enroll” and insert “enrolling”.

Page 5, line 10, amend subsection (f) (as so redesignated) with a new subsection entitled “(f) Vetting for Precheck Participants.”

An en bloc amendment by MR. THOMPSON of Mississippi (#2); was AGREED TO by voice vote.

Consisting of the following amendments:

An amendment by MS. LORETTA SANCHEZ of California:

Page 3, line 12, strike “and” at the end.

Page 3, line 18, strike the period and insert “; and”.

Page 3, beginning line 19, insert the following: Page 3, beginning line 19, insert the following:

(6) ensure that an individual who wants to enroll in the PreCheck program and has started an application with a single identification verification at one location will be able to save such individual’s application on any kiosk, personal computer, mobile device, or other mobile enrollment platform and be able to return within a reasonable time to submit a second identification verification.

An amendment by MS. LORETTA SANCHEZ of California:

Page 3, line 12, strike “and” at the end.

Page 3, line 18, strike the period and insert “; and”.

Page 3, beginning line 19, insert the following:

(6) ensure that any enrollment expansion using a private sector risk assessment instead of a fingerprint-based criminal history records check is determined, by the Administrator, to be equivalent to a fingerprint-based criminal history records check conducted through the Federal Bureau of Investigation.;

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. 2843.

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. 2843, the TSA PreCheck Expansion Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 17, 2015.

Hon. MICHAEL MCCAUL,
*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. 2843, the TSA PreCheck Expansion Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll, who can be reached at 226-2860.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2843—TSA PreCheck Expansion Act

H.R. 2843 would require the Transportation Security Administration (TSA) to undertake efforts to expand enrollment in the PreCheck program. Through that program, air travelers voluntarily apply to be prescreened using biographic and biometric information to determine whether they qualify for expedited screening at airport security checkpoints. The bill would direct TSA to publish standards to allow private-sector entities to provide certain services to support increased enrollment and to specify other requirements for the program's expansion.

Based on information from TSA, CBO estimates that implementing H.R. 2843 would have no significant impact on the federal budget. According to the agency, many of the activities required by

the bill are consistent with efforts the agency plans to undertake, under current law, to expand the PreCheck program. Further, because the agency can keep and spend fees that applicants pay for prescreening services (subject to provisions in annual appropriation acts), CBO estimates that any net change in TSA's spending for increased credentialing activities under H.R. 2843 would not be significant in any year. We also estimate that implementing H.R. 2843 would not significantly affect TSA's overall costs to provide screening at airport checkpoints.

Enacting H.R. 2843 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. H.R. 2843 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, Assistant Director for Budget Analysis.

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. 2843 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

This bill requires the Administrator of TSA to submit a report to Congress on any PreCheck fees collected in excess of the costs of administering such program, including recommendations for using such amount to support marketing of such program under this subsection.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 2843 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

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

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. 2843 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 2843 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 bill may be cited as the “TSA PreCheck Expansion Act”.

Section 2. Definitions

This section lays out definitions for the terms “Administrator,” “Department,” and “TSA.”

Section 3. Enrollment expansion

This section directs the Administrator within 90 days of enactment to publish PreCheck application enrollment standards to add and deploy multiple private sector application capabilities (including standards that allow the use of secure technologies such as kiosks or tablets), and upon publication of such standards to coordinate with interested parties to deploy TSA-approved ready-to-market private sector solutions that meet TSA enrollment standards, and collect biographic and biometric identification information. Additionally, this section requires that TSA ensure that the devices used to collect this information are not vulnerable to data breaches and that the information is collected in a manner which ensures privacy and data security protections. The Committee does not expect the Department or the Administration to develop an unnecessary certification process for ensuring data protections, but that the Administration will implement best practices and make every reasonable effort to ensure that mobile enrollment platforms are able to securely process data.

This section additionally requires that any individual who wants to enroll in the PreCheck program and has started an application with a single identification verification at one location will be able to save their application on any kiosk, personal computer, mobile device or other enrollment platform and return within a reasonable time frame to submit a second identification verification. Finally, this section requires the Administrator to ensure that any enrollment expansion using a private sector risk assessment instead of a fingerprint-based criminal history records check is determined to be equivalent to a fingerprint-based criminal history records check conducted through the FBI.

This section also directs the Administrator within 90 days of enactment to develop a process and timeframe for approving private sector marketing of the TSA PreCheck program and a strategy for partnering with the private sector to encourage enrollment. This section also requires the Administrator to submit a report to Congress on any TSA PreCheck fees in excess of administration costs and recommendations on how those fees can be used to support marketing efforts for the program.

This section requires the Administrator to coordinate with the heads of appropriate components of the Department of Homeland Security to leverage Department-held data and technologies to verify the citizenship of individuals who want to enroll in the TSA PreCheck program and partner with the private sector to use advanced biometric and identity proofing standards to facilitate enrollment in such program.

This section requires the Administrator to ensure that TSA PreCheck screening lanes are open and available during peak and high-volume travel times at airports and to make every practicable effort to provide expedited screening at standard screening lanes during times when PreCheck lanes are closed for those individuals who are enrolled in the program. The Committee recognizes that standards labeling and metrics for the National Institutes for Standards and Technology periodically change and expects TSA to conform and enhance standards in accordance with NIST standards.

This section requires the Administrator within 90 days of enactment to initiate an assessment of the security vulnerabilities in the vetting process for the PreCheck program that includes an evaluation of whether subjecting PreCheck participants to recurrent fingerprint-based criminal history records checks, in addition to recurrent checks against the terrorist screening database, could be done in a cost effective manner.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 2843 makes no changes to existing law.

