

Calendar No. 382

114TH CONGRESS
2^D SESSION**S. 2361****[Report No. 114-222]**

To enhance airport security, and for other purposes.

 IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2015

Mr. THUNE (for himself, Mr. NELSON, Ms. AYOTTE, Ms. CANTWELL, Mr. JOHNSON, Ms. KLOBUCHAR, and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MARCH 7, 2016

Reported by Mr. THUNE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To enhance airport security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Airport Security En-
 5 hancement and Oversight Act”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) A number of recent airport security
4 breaches in the United States have involved the use
5 of Secure Identification Display Area (referred to in
6 this section as “SIDA”) badges, the credentials used
7 by airport and airline workers to access the secure
8 areas of an airport.

9 (2) In December 2014, a Delta ramp agent at
10 Hartsfield-Jackson Atlanta International Airport
11 was charged with using his SIDA badge to bypass
12 airport security checkpoints and facilitate an inter-
13 state gun smuggling operation over a number of
14 months via commercial aircraft.

15 (3) In January 2015, an Atlanta-based Aviation
16 Safety Inspector of the Federal Aviation Administra-
17 tion used his SIDA badge to bypass airport security
18 checkpoints and transport a firearm in his carry-on
19 luggage.

20 (4) In February 2015, a local news investiga-
21 tion found that over 1,000 SIDA badges at
22 Hartsfield-Jackson Atlanta International Airport
23 were lost or missing.

24 (5) In March 2015, and again in May 2015,
25 Transportation Security Administration (referred to
26 in this section as the “Administration”) contractors

1 were indicted for participating in a drug smuggling
2 ring using luggage passed through the secure area
3 of the San Francisco International Airport.

4 (6) The Administration has indicated that it
5 does not maintain a list of lost or missing SIDA
6 badges, and instead relies on airport operators to
7 track airport worker credentials.

8 (7) The Administration rarely uses its enforce-
9 ment authority to fine airport operators that reach
10 a certain threshold of missing SIDA badges.

11 (8) In April 2015, the Aviation Security Advi-
12 sory Committee issued 28 recommendations for im-
13 provements to airport access control.

14 (9) In June 2015, the Inspector General of the
15 Department of Homeland Security reported that the
16 Administration did not have all relevant information
17 regarding 73 airport workers who had records in
18 United States intelligence-related databases because
19 the Administration was not authorized to receive all
20 terrorism-related information under current inter-
21 agency watchlisting policy.

22 (10) The Inspector General also found that the
23 Administration did not have appropriate checks in
24 place to reject incomplete or inaccurate airport
25 worker employment investigations, including crimi-

1 nal history record checks and work authorization
2 verifications, and had limited oversight over the air-
3 port operators that the Administration relies on to
4 perform criminal history and work authorization
5 checks for airport workers.

6 (11) There is growing concern about the poten-
7 tial insider threat at airports in light of recent ter-
8 rorist activities.

9 **SEC. 3. DEFINITIONS.**

10 (a) **ADMINISTRATION.**—The term “Administration”
11 means the Transportation Security Administration.

12 (b) **ADMINISTRATOR.**—The term “Administrator”
13 means the Administrator of the Transportation Security
14 Administration.

15 (c) **APPROPRIATE COMMITTEES OF CONGRESS.**—The
16 term “appropriate committees of Congress” means—

17 (1) the Committee on Commerce, Science, and
18 Transportation of the Senate;

19 (2) the Committee on Homeland Security and
20 Governmental Affairs of the Senate; and

21 (3) the Committee on Homeland Security of the
22 House of Representatives.

23 (d) **ASAC.**—The term “ASAC” means the Aviation
24 Security Advisory Committee established under section
25 44946 of title 49, United States Code.

1 (e) SECRETARY.—The term “Secretary” means the
2 Secretary of Homeland Security.

3 (f) SIDA.—The term “SIDA” means Secure Identi-
4 fication Display Area as defined in section 1540.5 of title
5 49, Code of Federal Regulations, or any successor regula-
6 tion to such section.

7 **SEC. 4. THREAT ASSESSMENT.**

8 (a) INSIDER THREATS.—

9 (1) IN GENERAL.—Not later than 90 days after
10 the date of enactment of this Act, the Administrator
11 shall conduct or update an assessment to determine
12 the level of risk posed to the domestic air transpor-
13 tation system by individuals with unescorted access
14 to a secure area of an airport (as defined in section
15 44903(j)(2)(H)) in light of recent international ter-
16 rorist activity.

17 (2) CONSIDERATIONS.—In conducting or updat-
18 ing the assessment under paragraph (1), the Admin-
19 istrator shall consider—

20 (A) domestic intelligence;

21 (B) international intelligence;

22 (C) the vulnerabilities associated with
23 unescorted access authority granted to domestic
24 airport operators and air carriers, and their em-
25 ployees;

1 (D) the vulnerabilities associated with
2 unescorted access authority granted to foreign
3 airport operators and air carriers, and their em-
4 ployees;

5 (E) the processes and practices designed to
6 mitigate the vulnerabilities associated with
7 unescorted access privileges granted to airport
8 operators and air carriers, and their employees;

9 (F) the recent security breaches at domes-
10 tic and foreign airports; and

11 (G) the recent security improvements at
12 domestic airports, including the implementation
13 of recommendations made by relevant advisory
14 committees.

15 (b) **REPORTS TO CONGRESS.**—The Administrator
16 shall submit to the appropriate committees of Congress—

17 (1) a report on the results of the assessment
18 under subsection (a), including any recommenda-
19 tions for improving aviation security;

20 (2) a report on the implementation status of
21 any recommendations made by the ASAC; and

22 (3) regular updates about the insider threat en-
23 vironment as new information becomes available and
24 as needed.

1 **SEC. 5. OVERSIGHT.**

2 ~~(a) ENHANCED REQUIREMENTS.—~~

3 ~~(1) IN GENERAL.—~~Subject to public notice and
4 comment, and in consultation with airport operators,
5 the Administrator shall update the rules on access
6 controls issued by the Secretary under chapter 449
7 of title 49, United States Code.

8 ~~(2) CONSIDERATIONS.—~~As part of the update
9 under paragraph (1), the Administrator shall con-
10 sider—

11 ~~(A) increased fines and advanced oversight~~
12 ~~for airport operators that report missing more~~
13 ~~than 5 percent of credentials for unescorted ac-~~
14 ~~cess to any SIDA of an airport;~~

15 ~~(B) best practices for Category X airport~~
16 ~~operators that report missing more than 3 per-~~
17 ~~cent of credentials for unescorted access to any~~
18 ~~SIDA of an airport;~~

19 ~~(C) additional audits and status checks for~~
20 ~~airport operators that report missing more than~~
21 ~~3 percent of credentials for unescorted access to~~
22 ~~any SIDA of an airport;~~

23 ~~(D) review and analysis of the prior 5~~
24 ~~years of audits for airport operators that report~~
25 ~~missing more than 3 percent of credentials for~~
26 ~~unescorted access to any SIDA of an airport;~~

1 (~~E~~) increased fines and direct enforcement
2 requirements for both airport workers and their
3 employers that fail to report within 24 hours an
4 employment termination or a missing credential
5 for unescorted access to any SIDA of an air-
6 port; and

7 (~~F~~) a method for termination by the em-
8 ployer of any airport worker that fails to report
9 in a timely manner missing credentials for
10 unescorted access to any SIDA of an airport.

11 (b) TEMPORARY CREDENTIALS.—The Administrator
12 may encourage the issuance by airport and aircraft opera-
13 tors of free one-time, 24-hour temporary credentials for
14 workers who have reported their credentials missing, but
15 not permanently lost, stolen, or destroyed, in a timely
16 manner, until replacement of credentials under section
17 1542.211 of title 49 Code of Federal Regulations is nec-
18 essary.

19 (c) NOTIFICATION AND REPORT TO CONGRESS.—The
20 Administrator shall—

21 (1) notify the appropriate committees of Con-
22 gress each time an airport operator reports that
23 more than 3 percent of credentials for unescorted
24 access to any SIDA at a Category X airport are

1 missing or more than 5 percent of credentials to ac-
2 cess any SIDA at any other airport are missing; and
3 ~~(2) submit to the appropriate committees of~~
4 Congress an annual report on the number of viola-
5 tions and fines related to unescorted access to the
6 SIDA of an airport collected in the preceding fiscal
7 year.

8 **SEC. 6. CREDENTIALS.**

9 ~~(a) LAWFUL STATUS.—Not later than 90 days after~~
10 the date of enactment of this Act, the Administrator shall
11 issue guidance to airport operators regarding placement
12 of an expiration date on each airport credential issued to
13 a non-United States citizen no longer than the period of
14 time during which that non-United States citizen is law-
15 fully authorized to work in the United States.

16 ~~(b) REVIEW OF PROCEDURES.—~~

17 ~~(1) IN GENERAL.—Not later than 90 days after~~
18 the date of enactment of this Act, the Administrator
19 shall—

20 ~~(A) issue guidance for transportation secu-~~
21 rity inspectors to annually review the proce-
22 dures of airport operators and air carriers for
23 applicants seeking unescorted access to any
24 SIDA of an airport; and

1 (B) make available to airport operators
2 and air carriers information on identifying sus-
3 picious or fraudulent identification materials.

4 (2) INCLUSIONS.—The guidance shall require a
5 comprehensive review of background checks and em-
6 ployment authorization documents issued by the
7 Citizenship and Immigration Services during the
8 course of a review of procedures under paragraph
9 (1).

10 **SEC. 7. VETTING.**

11 (a) ELIGIBILITY REQUIREMENTS.—

12 (1) IN GENERAL.—Not later than 180 days
13 after the date of enactment of this Act, and subject
14 to public notice and comment, the Administrator
15 shall revise the regulations issued under section
16 44936 of title 49, United States Code, in accordance
17 with this section and current knowledge of insider
18 threats and intelligence, to enhance the eligibility re-
19 quirements and disqualifying criminal offenses for
20 individuals seeking or having unescorted access to a
21 SIDA of an airport.

22 (2) DISQUALIFYING CRIMINAL OFFENSES.—In
23 revising the regulations under paragraph (1), the
24 Administrator shall consider adding to the list of
25 disqualifying criminal offenses and criteria the of-

1 fenses and criteria listed in section ~~122.183(a)(4)~~ of
2 title 19, Code of Federal Regulations and section
3 ~~1572.103~~ of title 49, Code of Federal Regulations.

4 (3) ~~WAIVERS.~~—In revising the regulations
5 under paragraph (1), the Administrator shall pro-
6 vide an adequate redress process for an aviation
7 worker subjected to an adverse employment decision,
8 including removal or suspension of the aviation
9 worker, due to a disqualifying criminal offense de-
10 scribed in this section.

11 (4) ~~LOOK BACK.~~—In revising the regulations
12 under paragraph (1), the Administrator shall pro-
13 pose that an individual be disqualified if the indi-
14 vidual was convicted, or found not guilty by reason
15 of insanity, of a disqualifying criminal offense within
16 15 years before the date of an individual's applica-
17 tion, or if the individual was incarcerated for that
18 crime and released from incarceration within 5 years
19 before the date of the individual's application.

20 (5) ~~CERTIFICATIONS.~~—The Administrator shall
21 require an airport or aircraft operator, as applicable,
22 to certify for each individual who receives unescorted
23 access to any SIDA of an airport that—

24 (A) a specific need exists for providing that
25 individual with unescorted access authority; and

1 (B) the individual has certified to the air-
2 port or aircraft operator that the individual un-
3 derstands the requirements for possessing a
4 SIDA badge.

5 (6) REPORT TO CONGRESS.—Not later than 90
6 days after the date of enactment, the Administrator
7 shall submit to the appropriate committees of Con-
8 gress a report on the status of the revision to the
9 regulations issued under section 44936 of title 49,
10 United States Code, in accordance with this section.

11 (7) RULE OF CONSTRUCTION.—Nothing in this
12 subsection may be construed to affect existing avia-
13 tion worker vetting fees imposed by the Administra-
14 tion.

15 (b) RECURRENT VETTING.—

16 (1) IN GENERAL.—Not later than 90 days after
17 the date of enactment of this Act, the Administrator
18 and the Director of the Federal Bureau of Investiga-
19 tion shall fully implement the Rap Back service for
20 recurrent vetting of eligible Administration-regulated
21 populations of individuals with unescorted access to
22 any SIDA of an airport.

23 (2) REQUIREMENTS.—As part of the require-
24 ment in paragraph (1), the Administrator shall en-
25 sure that—

1 (A) any status notifications the Adminis-
2 tration receives through the Rap Back service
3 about criminal offenses be limited to only dis-
4 qualifying criminal offenses in accordance with
5 the regulations promulgated by the Administra-
6 tion under section 44903 of title 49, United
7 States Code, or other Federal law; and

8 (B) any information received by the Ad-
9 ministration through the Rap Back service is
10 provided directly and immediately to the rel-
11 evant airport and aircraft operators.

12 (3) REPORT TO CONGRESS.—Not later than 60
13 days after the date of enactment of this Act, the Ad-
14 ministrator shall submit to the appropriate commit-
15 tees of Congress a report on the implementation sta-
16 tus of the Rap Back service.

17 (e) ACCESS TO TERRORISM-RELATED DATA.—Not
18 later than 30 days after the date of enactment of this Act,
19 the Administrator and the Director of National Intel-
20 ligence shall coordinate to ensure that the Administrator
21 is authorized to receive automated, real-time access to ad-
22 ditional Terrorist Identities Datamart Environment
23 (TIDE) data and any other terrorism related category
24 codes to improve the effectiveness of the Administration's

1 credential vetting program for individuals that are seeking
2 or have unescorted access to a SIDA of an airport.

3 (d) ~~ACCESS TO E-VERIFY AND SAVE PROGRAMS.—~~

4 Not later than 90 days after the date of enactment of this
5 Act, the Secretary shall authorize each airport operator
6 to have direct access to the ~~E-Verify~~ program and the Sys-
7 tematic Alien Verification for Entitlements (~~SAVE~~) auto-
8 mated system to determine the eligibility of individuals
9 seeking unescorted access to a SIDA of an airport.

10 **SEC. 8. METRICS.**

11 (a) ~~IN GENERAL.—~~Not later than 1 year after the
12 date of enactment of this Act, the Administrator shall de-
13 velop and implement performance metrics to measure the
14 effectiveness of security for the SIDAs of airports.

15 (b) ~~CONSIDERATIONS.—~~In developing the perform-
16 ance metrics under subsection (a), the Administrator may
17 consider—

18 (1) adherence to access point procedures;

19 (2) proper use of credentials;

20 (3) differences in access point requirements be-
21 tween airport workers performing functions on the
22 airside of an airport and airport workers performing
23 functions in other areas of an airport;

24 (4) differences in access point characteristics
25 and requirements at airports; and

1 (5) any additional factors the Administrator
2 considers necessary to measure performance.

3 **SEC. 9. INSPECTIONS AND ASSESSMENTS.**

4 (a) MODEL AND BEST PRACTICES.—Not later than
5 180 days after the date of enactment of this Act, the Ad-
6 ministrator, in consultation with the ASAC, shall develop
7 a model and best practices for unescorted access security
8 that—

9 (1) use intelligence, scientific algorithms, and
10 risk-based factors;

11 (2) ensure integrity, accountability, and control;

12 (3) subject airport workers to random physical
13 security inspections conducted by Administration
14 representatives in accordance with this section;

15 (4) appropriately manage the number of SIDA
16 access points to improve supervision of and reduce
17 unauthorized access to these areas; and

18 (5) include validation of identification mate-
19 rials, such as with biometrics.

20 (b) INSPECTIONS.—Consistent with a risk-based se-
21 curity approach, the Administrator shall expand the use
22 of transportation security officers and inspectors to con-
23 duct enhanced, random and unpredictable, data-driven,
24 and operationally dynamic physical inspections of airport

1 workers in each SIDA of an airport and at each SIDA
2 access point—

3 (1) to verify the credentials of airport workers;

4 (2) to determine whether airport workers pos-
5 sess prohibited items, except for those that may be
6 necessary for the performance of their duties, as ap-
7 propriate, in any SIDA of an airport; and

8 (3) to verify whether airport workers are fol-
9 lowing appropriate procedures to access a SIDA of
10 an airport.

11 (e) SCREENING REVIEW.—

12 (1) IN GENERAL.—The Administrator shall con-
13 duct a review of airports that have implemented ad-
14 ditional airport worker screening or perimeter secu-
15 rity to improve airport security, including—

16 (A) comprehensive airport worker screen-
17 ing at access points to secure areas;

18 (B) comprehensive perimeter screening, in-
19 cluding vehicles;

20 (C) enhanced fencing or perimeter sensors;
21 and

22 (D) any additional airport worker screen-
23 ing or perimeter security measures the Admin-
24 istrator identifies.

1 (2) **BEST PRACTICES.**—After completing the re-
2 view under paragraph (1), the Administrator shall—

3 (A) identify best practices for additional
4 access control and airport worker security at
5 airports; and

6 (B) disseminate the best practices identi-
7 fied under subparagraph (A) to airport opera-
8 tors.

9 (3) **PILOT PROGRAM.**—The Administrator may
10 conduct a pilot program at 1 or more airports to
11 test and validate best practices for comprehensive
12 airport worker screening or perimeter security under
13 paragraph (2).

14 **SEC. 10. COVERT TESTING.**

15 (a) **IN GENERAL.**—The Administrator shall increase
16 the use of red-team, covert testing of access controls to
17 any secure areas of an airport.

18 (b) **ADDITIONAL COVERT TESTING.**—The Inspector
19 General of the Department of Homeland Security shall
20 conduct red-team, covert testing of airport access controls
21 to the SIDA of airports.

22 (c) **REPORTS TO CONGRESS.**—

23 (1) **ADMINISTRATOR REPORT.**—Not later than
24 90 days after the date of enactment of this Act, the
25 Administrator shall submit to the appropriate com-

1 mittee of Congress a report on the progress to ex-
 2 pand the use of inspections and of red-team, covert
 3 testing under subsection (a).

4 (2) INSPECTOR GENERAL REPORT.—Not later
 5 than 180 days after the date of enactment of this
 6 Act, the Inspector General of the Department of
 7 Homeland Security shall submit to the appropriate
 8 committee of Congress a report on the effectiveness
 9 of airport access controls to the SIDA of airports
 10 based on red-team, covert testing under subsection
 11 (b).

12 **SEC. 11. SECURITY DIRECTIVES.**

13 (a) REVIEW.—Not later than 180 days after the date
 14 of enactment of this Act, and annually thereafter, the Ad-
 15 ministrator, in consultation with the appropriate regulated
 16 entities, shall conduct a comprehensive review of every
 17 current security directive addressed to any regulated enti-
 18 ty—

19 (1) to determine whether the security directive
 20 continues to be relevant;

21 (2) to determine whether the security directives
 22 should be streamlined or consolidated to most effi-
 23 ciently maximize risk reduction; and

24 (3) to update, consolidate, or revoke any secu-
 25 rity directive as necessary.

1 (b) NOTICE.—For each security directive that the
 2 Administrator issues, the Administrator shall submit to
 3 the appropriate committees of Congress notice of the ex-
 4 tent to which the security directive—

5 (1) responds to a specific threat or emergency
 6 situation; and

7 (2) when it is anticipated that it will expire.

8 **SEC. 12. IMPLEMENTATION REPORT.**

9 Not later than 1 year after the date of enactment
 10 of this Act, the Comptroller General shall—

11 (1) assess the progress made by the Adminis-
 12 tration and the effect on aviation security of imple-
 13 menting the requirements under sections 4 through
 14 11 of this Act; and

15 (2) report to the appropriate committees of
 16 Congress on the results of the assessment under
 17 paragraph (1), including any recommendations.

18 **SEC. 13. MISCELLANEOUS AMENDMENTS.**

19 (a) ASAC TERMS OF OFFICE.—Section
 20 44946(e)(2)(A) of title 49, United States Code is amended
 21 to read as follows:

22 “(A) TERMS.—The term of each member
 23 of the Advisory Committee shall be 2 years, but
 24 a member may continue to serve until the As-
 25 sistant Secretary appoints a successor. A mem-

1 ber of the Advisory Committee may be re-
2 appointed.”.

3 (b) **FEEDBACK.**—Section 44946(b)(5) of title 49,
4 United States Code, is amended to read as follows:

5 “(5) **FEEDBACK.**—Not later than 90 days after
6 receiving recommendations transmitted by the Advi-
7 sory Committee under paragraph (2) or paragraph
8 (4), the Assistant Secretary shall respond in writing
9 to the Advisory Committee with feedback on each of
10 the recommendations, an action plan to implement
11 any of the recommendations with which the Assist-
12 ant Secretary concurs, and a justification for why
13 any of the recommendations have been rejected.”.

14 **SECTION 1. SHORT TITLE.**

15 *This Act may be cited as the “Airport Security En-
16 hancement and Oversight Act”.*

17 **SEC. 2. FINDINGS.**

18 *Congress makes the following findings:*

19 (1) *A number of recent airport security breaches
20 in the United States have involved the use of Secure
21 Identification Display Area (referred to in this sec-
22 tion as “SIDA”) badges, the credentials used by air-
23 port and airline workers to access the secure areas of
24 an airport.*

1 (2) *In December 2014, a Delta ramp agent at*
2 *Hartsfield-Jackson Atlanta International Airport was*
3 *charged with using his SIDA badge to bypass airport*
4 *security checkpoints and facilitate an interstate gun*
5 *smuggling operation over a number of months via*
6 *commercial aircraft.*

7 (3) *In January 2015, an Atlanta-based Aviation*
8 *Safety Inspector of the Federal Aviation Administra-*
9 *tion used his SIDA badge to bypass airport security*
10 *checkpoints and transport a firearm in his carry-on*
11 *luggage.*

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13 *found that over 1,000 SIDA badges at Hartsfield-*
14 *Jackson Atlanta International Airport were lost or*
15 *missing.*

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17 *Transportation Security Administration (referred to*
18 *in this section as the “Administration”) contractors*
19 *were indicted for participating in a drug smuggling*
20 *ring using luggage passed through the secure area of*
21 *the San Francisco International Airport.*

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23 *does not maintain a list of lost or missing SIDA*
24 *badges, and instead relies on airport operators to*
25 *track airport worker credentials.*

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2 *ment authority to fine airport operators that reach a*
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5 *sory Committee issued 28 recommendations for im-*
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8 *Department of Homeland Security reported that the*
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16 *Administration did not have appropriate checks in*
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6 *means the Transportation Security Administration.*

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11 *term “appropriate committees of Congress” means—*

12 (1) *the Committee on Commerce, Science, and*
13 *Transportation of the Senate;*

14 (2) *the Committee on Homeland Security and*
15 *Governmental Affairs of the Senate; and*

16 (3) *the Committee on Homeland Security of the*
17 *House of Representatives.*

18 (d) *ASAC.*—*The term “ASAC” means the Aviation Se-*
19 *curity Advisory Committee established under section 44946*
20 *of title 49, United States Code.*

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2 to such section.

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7 shall conduct or update an assessment to determine
8 the level of risk posed to the domestic air transpor-
9 tation system by individuals with unescorted access to
10 a secure area of an airport (as defined in section
11 44903(j)(2)(H)) in light of recent international ter-
12 rorist activity.

13 (2) *CONSIDERATIONS.*—In conducting or updat-
14 ing the assessment under paragraph (1), the Adminis-
15 trator shall consider—

16 (A) domestic intelligence;

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18 (C) the vulnerabilities associated with
19 unescorted access authority granted to domestic
20 airport operators and air carriers, and their em-
21 ployees;

22 (D) the vulnerabilities associated with
23 unescorted access authority granted to foreign
24 airport operators and air carriers, and their em-
25 ployees;

1 (E) the processes and practices designed to
2 mitigate the vulnerabilities associated with
3 unescorted access privileges granted to airport
4 operators and air carriers, and their employees;

5 (F) the recent security breaches at domestic
6 and foreign airports; and

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8 mestic airports, including the implementation of
9 recommendations made by relevant advisory
10 committees.

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16 (2) *a report on the implementation status of any*
17 *recommendations made by the ASAC; and*

18 (3) *regular updates about the insider threat envi-*
19 *ronment as new information becomes available and as*
20 *needed.*

21 **SEC. 5. OVERSIGHT.**

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24 *comment, and in consultation with airport operators,*
25 *the Administrator shall update the rules on access*

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2 *title 49, United States Code.*

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18 (D) *review and analysis of the prior 5 years*
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22 (E) *increased fines and direct enforcement*
23 *requirements for both airport workers and their*
24 *employers that fail to report within 24 hours an*
25 *employment termination or a missing credential*

1 *for unescorted access to any SIDA of an airport;*
2 *and*

3 *(F) a method for termination by the em-*
4 *ployer of any airport worker that fails to report*
5 *in a timely manner missing credentials for*
6 *unescorted access to any SIDA of an airport.*

7 *(b) TEMPORARY CREDENTIALS.—The Administrator*
8 *may encourage the issuance by airport and aircraft opera-*
9 *tors of free one-time, 24-hour temporary credentials for*
10 *workers who have reported their credentials missing, but not*
11 *permanently lost, stolen, or destroyed, in a timely manner,*
12 *until replacement of credentials under section 1542.211 of*
13 *title 49 Code of Federal Regulations is necessary.*

14 *(c) NOTIFICATION AND REPORT TO CONGRESS.—The*
15 *Administrator shall—*

16 *(1) notify the appropriate committees of Con-*
17 *gress each time an airport operator reports that more*
18 *than 3 percent of credentials for unescorted access to*
19 *any SIDA at a Category X airport are missing or*
20 *more than 5 percent of credentials to access any*
21 *SIDA at any other airport are missing; and*

22 *(2) submit to the appropriate committees of Con-*
23 *gress an annual report on the number of violations*
24 *and fines related to unescorted access to the SIDA of*
25 *an airport collected in the preceding fiscal year.*

1 **SEC. 6. CREDENTIALS.**

2 (a) *LAWFUL STATUS.*—Not later than 90 days after
3 the date of enactment of this Act, the Administrator shall
4 issue guidance to airport operators regarding placement of
5 an expiration date on each airport credential issued to a
6 non-United States citizen no longer than the period of time
7 during which that non-United States citizen is lawfully au-
8 thorized to work in the United States.

9 (b) *REVIEW OF PROCEDURES.*—

10 (1) *IN GENERAL.*—Not later than 90 days after
11 the date of enactment of this Act, the Administrator
12 shall—

13 (A) issue guidance for transportation secu-
14 rity inspectors to annually review the procedures
15 of airport operators and air carriers for appli-
16 cants seeking unescorted access to any SIDA of
17 an airport; and

18 (B) make available to airport operators and
19 air carriers information on identifying sus-
20 picious or fraudulent identification materials.

21 (2) *INCLUSIONS.*—The guidance shall require a
22 comprehensive review of background checks and em-
23 ployment authorization documents issued by the Citi-
24 zenship and Immigration Services during the course
25 of a review of procedures under paragraph (1).

1 **SEC. 7. VETTING.**

2 (a) *ELIGIBILITY REQUIREMENTS.*—

3 (1) *IN GENERAL.*—Not later than 180 days after
4 the date of enactment of this Act, and subject to pub-
5 lic notice and comment, the Administrator shall re-
6 vise the regulations issued under section 44936 of title
7 49, United States Code, in accordance with this sec-
8 tion and current knowledge of insider threats and in-
9 telligence, to enhance the eligibility requirements and
10 disqualifying criminal offenses for individuals seeking
11 or having unescorted access to a SIDA of an airport.

12 (2) *DISQUALIFYING CRIMINAL OFFENSES.*—In re-
13 vising the regulations under paragraph (1), the Ad-
14 ministrator shall consider adding to the list of dis-
15 qualifying criminal offenses and criteria the offenses
16 and criteria listed in section 122.183(a)(4) of title 19,
17 Code of Federal Regulations and section 1572.103 of
18 title 49, Code of Federal Regulations.

19 (3) *WAIVER PROCESS FOR DENIED CREDEN-*
20 *TIALS.*—Notwithstanding section 44936(b) of title 49,
21 United States Code, in revising the regulations under
22 paragraph (1) of this subsection, the Administrator
23 shall—

24 (A) ensure there exists or is developed a
25 waiver process for approving the issuance of cre-
26 dentials for unescorted access to the SIDA, for an

1 *individual found to be otherwise ineligible for*
2 *such credentials; and*

3 *(B) consider, as appropriate and prac-*
4 *ticable—*

5 *(i) the circumstances of any disquali-*
6 *fying act or offense, restitution made by the*
7 *individual, Federal and State mitigation*
8 *remedies, and other factors from which it*
9 *may be concluded that the individual does*
10 *not pose a terrorism risk or a risk to avia-*
11 *tion security warranting denial of the cre-*
12 *dential; and*

13 *(ii) the elements of the appeals and*
14 *waiver process established under section*
15 *70105(c) of title 46, United States Code.*

16 (4) *LOOK BACK.—In revising the regulations*
17 *under paragraph (1), the Administrator shall propose*
18 *that an individual be disqualified if the individual*
19 *was convicted, or found not guilty by reason of insan-*
20 *ity, of a disqualifying criminal offense within 15*
21 *years before the date of an individual's application,*
22 *or if the individual was incarcerated for that crime*
23 *and released from incarceration within 5 years before*
24 *the date of the individual's application.*

1 (5) *CERTIFICATIONS.*—*The Administrator shall*
2 *require an airport or aircraft operator, as applicable,*
3 *to certify for each individual who receives unescorted*
4 *access to any SIDA of an airport that—*

5 (A) *a specific need exists for providing that*
6 *individual with unescorted access authority; and*

7 (B) *the individual has certified to the air-*
8 *port or aircraft operator that the individual un-*
9 *derstands the requirements for possessing a*
10 *SIDA badge.*

11 (6) *REPORT TO CONGRESS.*—*Not later than 90*
12 *days after the date of enactment, the Administrator*
13 *shall submit to the appropriate committees of Con-*
14 *gress a report on the status of the revision to the regu-*
15 *lations issued under section 44936 of title 49, United*
16 *States Code, in accordance with this section.*

17 (7) *RULE OF CONSTRUCTION.*—*Nothing in this*
18 *subsection may be construed to affect existing avia-*
19 *tion worker vetting fees imposed by the Administra-*
20 *tion.*

21 (b) *RECURRENT VETTING.*—

22 (1) *IN GENERAL.*—*Not later than 90 days after*
23 *the date of enactment of this Act, the Administrator*
24 *and the Director of the Federal Bureau of Investiga-*
25 *tion shall fully implement the Rap Back service for*

1 *recurrent vetting of eligible Administration-regulated*
2 *populations of individuals with unescorted access to*
3 *any SIDA of an airport.*

4 (2) *REQUIREMENTS.*—*As part of the requirement*
5 *in paragraph (1), the Administrator shall ensure*
6 *that—*

7 (A) *any status notifications the Adminis-*
8 *tration receives through the Rap Back service*
9 *about criminal offenses be limited to only dis-*
10 *qualifying criminal offenses in accordance with*
11 *the regulations promulgated by the Administra-*
12 *tion under section 44903 of title 49, United*
13 *States Code, or other Federal law; and*

14 (B) *any information received by the Ad-*
15 *ministration through the Rap Back service is*
16 *provided directly and immediately to the rel-*
17 *evant airport and aircraft operators.*

18 (3) *REPORT TO CONGRESS.*—*Not later than 60*
19 *days after the date of enactment of this Act, the Ad-*
20 *ministrator shall submit to the appropriate commit-*
21 *tees of Congress a report on the implementation status*
22 *of the Rap Back service.*

23 (c) *ACCESS TO TERRORISM-RELATED DATA.*—*Not*
24 *later than 30 days after the date of enactment of this Act,*
25 *the Administrator and the Director of National Intelligence*

1 *shall coordinate to ensure that the Administrator is author-*
 2 *ized to receive automated, real-time access to additional*
 3 *Terrorist Identities Datamart Environment (TIDE) data*
 4 *and any other terrorism related category codes to improve*
 5 *the effectiveness of the Administration's credential vetting*
 6 *program for individuals that are seeking or have unescorted*
 7 *access to a SIDA of an airport.*

8 (d) *ACCESS TO E-VERIFY AND SAVE PROGRAMS.—*
 9 *Not later than 90 days after the date of enactment of this*
 10 *Act, the Secretary shall authorize each airport operator to*
 11 *have direct access to the E-Verify program and the System-*
 12 *atic Alien Verification for Entitlements (SAVE) automated*
 13 *system to determine the eligibility of individuals seeking*
 14 *unescorted access to a SIDA of an airport.*

15 **SEC. 8. METRICS.**

16 (a) *IN GENERAL.—Not later than 1 year after the date*
 17 *of enactment of this Act, the Administrator shall develop*
 18 *and implement performance metrics to measure the effec-*
 19 *tiveness of security for the SIDAs of airports.*

20 (b) *CONSIDERATIONS.—In developing the performance*
 21 *metrics under subsection (a), the Administrator may con-*
 22 *sider—*

- 23 (1) *adherence to access point procedures;*
 24 (2) *proper use of credentials;*

1 (3) *differences in access point requirements be-*
2 *tween airport workers performing functions on the*
3 *airside of an airport and airport workers performing*
4 *functions in other areas of an airport;*

5 (4) *differences in access point characteristics and*
6 *requirements at airports; and*

7 (5) *any additional factors the Administrator*
8 *considers necessary to measure performance.*

9 **SEC. 9. INSPECTIONS AND ASSESSMENTS.**

10 (a) *MODEL AND BEST PRACTICES.—Not later than*
11 *180 days after the date of enactment of this Act, the Admin-*
12 *istrator, in consultation with the ASAC, shall develop a*
13 *model and best practices for unescorted access security*
14 *that—*

15 (1) *use intelligence, scientific algorithms, and*
16 *risk-based factors;*

17 (2) *ensure integrity, accountability, and control;*

18 (3) *subject airport workers to random physical*
19 *security inspections conducted by Administration rep-*
20 *resentatives in accordance with this section;*

21 (4) *appropriately manage the number of SIDA*
22 *access points to improve supervision of and reduce*
23 *unauthorized access to these areas; and*

24 (5) *include validation of identification mate-*
25 *rials, such as with biometrics.*

1 **(b) INSPECTIONS.**—*Consistent with a risk-based secu-*
2 *rity approach, the Administrator shall expand the use of*
3 *transportation security officers and inspectors to conduct*
4 *enhanced, random and unpredictable, data-driven, and*
5 *operationally dynamic physical inspections of airport*
6 *workers in each SIDA of an airport and at each SIDA ac-*
7 *cess point—*

8 (1) *to verify the credentials of airport workers;*

9 (2) *to determine whether airport workers possess*
10 *prohibited items, except for those that may be nec-*
11 *essary for the performance of their duties, as appro-*
12 *priate, in any SIDA of an airport; and*

13 (3) *to verify whether airport workers are fol-*
14 *lowing appropriate procedures to access a SIDA of an*
15 *airport.*

16 **(c) SCREENING REVIEW.**—

17 (1) **IN GENERAL.**—*The Administrator shall con-*
18 *duct a review of airports that have implemented addi-*
19 *tional airport worker screening or perimeter security*
20 *to improve airport security, including—*

21 (A) *comprehensive airport worker screening*
22 *at access points to secure areas;*

23 (B) *comprehensive perimeter screening, in-*
24 *cluding vehicles;*

1 (C) enhanced fencing or perimeter sensors;
2 and

3 (D) any additional airport worker screen-
4 ing or perimeter security measures the Adminis-
5 trator identifies.

6 (2) *BEST PRACTICES*.—After completing the re-
7 view under paragraph (1), the Administrator shall—

8 (A) identify best practices for additional ac-
9 cess control and airport worker security at air-
10 ports; and

11 (B) disseminate the best practices identified
12 under subparagraph (A) to airport operators.

13 (3) *PILOT PROGRAM*.—The Administrator may
14 conduct a pilot program at 1 or more airports to test
15 and validate best practices for comprehensive airport
16 worker screening or perimeter security under para-
17 graph (2).

18 **SEC. 10. COVERT TESTING.**

19 (a) *IN GENERAL*.—The Administrator shall increase
20 the use of red-team, covert testing of access controls to any
21 secure areas of an airport.

22 (b) *ADDITIONAL COVERT TESTING*.—The Inspector
23 General of the Department of Homeland Security shall con-
24 duct red-team, covert testing of airport access controls to
25 the SIDA of airports.

1 (c) *REPORTS TO CONGRESS.*—

2 (1) *ADMINISTRATOR REPORT.*—Not later than 90
3 days after the date of enactment of this Act, the Ad-
4 ministrators shall submit to the appropriate committee
5 of Congress a report on the progress to expand the use
6 of inspections and of red-team, covert testing under
7 subsection (a).

8 (2) *INSPECTOR GENERAL REPORT.*—Not later
9 than 180 days after the date of enactment of this Act,
10 the Inspector General of the Department of Homeland
11 Security shall submit to the appropriate committee of
12 Congress a report on the effectiveness of airport access
13 controls to the SIDA of airports based on red-team,
14 covert testing under subsection (b).

15 **SEC. 11. SECURITY DIRECTIVES.**

16 (a) *REVIEW.*—Not later than 180 days after the date
17 of enactment of this Act, and annually thereafter, the Ad-
18 ministrators, in consultation with the appropriate regulated
19 entities, shall conduct a comprehensive review of every cur-
20 rent security directive addressed to any regulated entity—

21 (1) to determine whether the security directive
22 continues to be relevant;

23 (2) to determine whether the security directives
24 should be streamlined or consolidated to most effi-
25 ciently maximize risk reduction; and

1 (3) to update, consolidate, or revoke any security
2 directive as necessary.

3 (b) NOTICE.—For each security directive that the Ad-
4 ministrators issues, the Administrator shall submit to the
5 appropriate committees of Congress notice of the extent to
6 which the security directive—

7 (1) responds to a specific threat or emergency
8 situation; and

9 (2) when it is anticipated that it will expire.

10 **SEC. 12. IMPLEMENTATION REPORT.**

11 Not later than 1 year after the date of enactment of
12 this Act, the Comptroller General shall—

13 (1) assess the progress made by the Administra-
14 tion and the effect on aviation security of imple-
15 menting the requirements under sections 4 through 11
16 of this Act; and

17 (2) report to the appropriate committees of Con-
18 gress on the results of the assessment under paragraph
19 (1), including any recommendations.

20 **SEC. 13. MISCELLANEOUS AMENDMENTS.**

21 (a) ASAC TERMS OF OFFICE.—Section
22 44946(c)(2)(A) of title 49, United States Code is amended
23 to read as follows:

24 “(A) TERMS.—The term of each member of
25 the Advisory Committee shall be 2 years, but a

1 *member may continue to serve until the Assist-*
2 *ant Secretary appoints a successor. A member of*
3 *the Advisory Committee may be reappointed.”.*

4 **(b) FEEDBACK.**—Section 44946(b)(5) of title 49,
5 *United States Code, is amended to read as follows:*

6 “(5) **FEEDBACK.**—*Not later than 90 days after*
7 *receiving recommendations transmitted by the Advi-*
8 *sory Committee under paragraph (2) or paragraph*
9 *(4), the Assistant Secretary shall respond in writing*
10 *to the Advisory Committee with feedback on each of*
11 *the recommendations, an action plan to implement*
12 *any of the recommendations with which the Assistant*
13 *Secretary concurs, and a justification for why any of*
14 *the recommendations have been rejected.”.*

Calendar No. 382

114TH CONGRESS
2^D SESSION

S. 2361

[Report No. 114-222]

A BILL

To enhance airport security, and for other purposes.

MARCH 7, 2016

Reported with an amendment