

Calendar No. 485

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
116-237

TRUSTED TRAVELER RECONSIDERATION
AND RESTORATION ACT OF 2019

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 3675

TO REQUIRE A REVIEW OF DEPARTMENT OF HOMELAND
SECURITY TRUSTED TRAVELER PROGRAMS, AND FOR OTHER
PURPOSES



JUNE 25, 2020.—Ordered to be printed

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**TRUSTED TRAVELER RECONSIDERATION AND
RESTORATION ACT OF 2019**

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Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany H.R. 3675]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 3675) to require a review of the Department of Homeland Security trusted traveler programs, and for other purposes, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

H.R. 3675, the Trusted Traveler Reconsideration and Restoration Act of 2019, requires the U.S. Government Accountability Office (GAO) to conduct a review of the Department of Homeland Security’s (DHS or the Department) Trusted Traveler Programs. Specifically, within one year of enactment of this Act, GAO is required to review the extent to which DHS monitors trends in identity matching errors, coordinates with state, local, tribal, and territorial (SLTT) entities to redress disqualifying offenses not covered by the agency’s redress processes, coordinates with SLTT entities to im-

prove disqualified individual's reconsideration procedures, and travelers are informed of reconsideration procedures. The Act also grants an individual extended enrollment equal to the time the individual was removed from a trusted traveler program should their enrollment be revoked in error.

II. BACKGROUND AND THE NEED FOR LEGISLATION

A primary mission of DHS is to provide security at ports of entry throughout the United States, while also ensuring the legitimate flow of people and commerce.¹ To more efficiently achieve this mission, DHS established trusted traveler programs to expedite persons determined to be low-risk after going through an enhanced security vetting process. These programs include: TSA Pre-Check, Global Entry, Secure Electronic Network for Travelers Rapid Inspection (or SENTRI), NEXUS, and Free and Secure Trade (or FAST).² As enrollment in these programs increases, the Transportation Security Administration (TSA) and Customs and Border Protection (CBP)³, the two DHS components tasked with implementing the trusted traveler programs, can focus more attention on screening higher-risk travelers.⁴

A number of factors are considered when determining whether an individual's application for acceptance into DHS's trusted traveler programs will be approved or denied. As part of the initial vetting process, prospective applicants are subject to a criminal background check, review of employment history, residential information, as well as biographical and citizenship information.⁵ More specifically, CBP's Vetting Center reviews the information obtained from an individual's application, and checks the information against criminal and terrorist databases to determine risk.⁶ If the applicant is approved, conditional approval is granted and the individual is required to go through an in-person interview with an officer, as well as provide biometric information such as fingerprints.⁷ After the interview process, a final determination of approval or denial is issued.⁸ In addition to the severity and number of criminal offenses found during the vetting process, there are a number of other reasons an applicant for participation in a trusted traveler program will be denied. These reasons include inadmissibility to the U.S. under immigration laws, violations of U.S. customs laws, providing false information on the application or the application is incomplete or inaccurate, or other reasons found to be ineligible by CBP, such as not satisfying the CBP low-risk profile.⁹

The CBP Ombudsman reviews all redeterminations and reinstatements for the four trusted traveler programs administered by

¹ U.S. Dep't of Homeland Sec., *Mission*, <https://www.dhs.gov/mission>.

² U.S. Dep't of Homeland Sec., *Trusted Traveler Programs*, <https://ttp.dhs.gov/>.

³ CBP manages the Global Entry, SENTRI, NEXUS, and FAST programs while TSA manages the Pre-Check program.

⁴ U.S. Dep't of Homeland Sec., *DHS Unveils Trusted Traveler Comparison Tool*, (Aug. 14, 2018), <https://www.dhs.gov/news/2017/04/21/dhs-unveils-trusted-traveler-comparison-tool>.

⁵ U.S. Gov't Accountability Off., GAO-14-483, *Trusted Travelers: Programs Provide Benefits, but Enrollment Process Could Be Strengthened* (May 2014), available at <https://www.gao.gov/assets/670/663724.pdf>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ U.S. Dep't of Homeland Sec., Office of the Inspector General, *Ensuring the Integrity of CBP's Secure Electronic Network For Travelers Rapid Inspection Program* (Feb. 2014), available at https://www.oig.dhs.gov/sites/default/files/assets/Mgmt/2014/OIG_14-32_Feb14.pdf.

CBP. In recent years, there have been reports of complaints about the redress process, mostly with the Global Entry program, which checks criminal records back to during the applicant's adolescent years and has been criticized for the length of time the redress process takes.¹⁰ In contrast, TSA's Pre-Check program reports that denials and revocations are rarely contested, accounting for less than one percent of total applications.¹¹ Additionally, TSA contacts the individual who was rejected and explains the process to seek reconsideration or redress.¹²

While there have been a number of independent audits and reviews of the overall performance of DHS's trusted traveler programs, reviews of the redress process and reinstatements into trusted traveler programs have been limited. In May 2014, GAO conducted the most recent review that incorporated denials and revocations.¹³ The review found that denial and revocation rates varied by the type of program, and if it was the individual's first time applying or if they were renewing their application.¹⁴ However, GAO found that there were significant variations in denial rates across different enrollment centers and stated this may be due, in part, to a lack of consistency in the interview process across all enrollment centers since denials are partially based on the results of the in-person interviews.¹⁵ GAO recommended two actions that CBP take to remedy potential inconsistencies throughout the interview process, including establishing a mechanism to track interview questions and applicant information to help drive consistency across programs, which remains unaddressed.

H.R. 3675 requires GAO to conduct the first review solely addressing the Department's trusted traveler program redress process, reinstatement and reconsideration procedures, and disqualifying offences, and make recommendations for improvements.

III. LEGISLATIVE HISTORY

Representative John Katko (R-NY-24) introduced H.R. 3675 on July 10, 2019. The bill was referred to the House Committee on Homeland Security. The House Committee on Homeland Security considered H.R. 3675 at a business meeting on July 17, 2019. The House of Representatives passed H.R. 3675 by suspension of the rules on September 26, 2019.

The Act was referred to the Committee on Homeland Security and Governmental Affairs on October 15, 2019. The Committee considered H.R. 3675 at a business meeting on March 11, 2020. During the business meeting, the Act was agreed to without amendment by a voice vote *en bloc*. Senators Johnson, Portman, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Harris, Sinema, and Rosen were present for the vote.

¹⁰Catharine Hamm, *Global Entry Program Turns This Traveler Down, Then Reconsiders—and here's why*, L.A. Times (Feb. 29, 2016), <https://www.latimes.com/travel/deals/la-tr-spot-20160228-story.html>.

¹¹Suzanne Rowan Kelleher, *TSA Check, Fewer Than One Percent of Pre-Check Applicants Get Rejected*, Forbes (June 15, 2019), <https://www.forbes.com/sites/suzannerowanwankelleher/2019/06/15/tsa-check-fewer-than-1-percent-of-precheck-applicants-get-rejected/#6c1a38ef4753>.

¹²*Id.*

¹³U.S. Gov't Accountability Off., GAO-14-483, *Trusted Travelers: Programs Provide Benefits, but Enrollment Process Could Be Strengthened* (May 2014), available at <https://www.gao.gov/assets/670/663724.pdf>.

¹⁴*Id.*

¹⁵*Id.*

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Sec. 1. Short title

This section names the bill as the “Trusted Traveler Reconsideration and Restoration Act of 2019”.

Sec. 2. Comptroller general review

Within a year of enactment of this Act, GAO is required to conduct a review of DHS’ trusted traveler programs. Specifically, GAO is required to report on the extent to which the Department tracks and monitors data and trends, including the causes of errors in matching identities where the adjudication of those cases lead to a reinstatement. GAO is also required to report on the Department’s coordination with SLTT entities, and other Federal agencies, to address offenses not included in the Department’s redress procedures, but impact individuals’ applications in the trusted traveler programs. In addition, the report is to provide information on how DHS can improve the redress process that involves coordination with SLTT entities, and other Federal agencies, and improvements on instructions and access for individuals who wish to have their application reconsidered should there be a disqualifying event. Finally, GAO is required to provide information on the extent to which individuals are informed about the reconsideration procedures regarding enrollment in a trusted traveler program.

Sec. 3. Enrollment redress

This section requires DHS to provide a period of active enrollment equal to the period in which the individual’s enrollment was revoked during the redress process.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 22, 2020.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3675, the Trusted Traveler Reconsideration and Restoration Act of 2019.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 3675, Trusted Traveler Reconsideration and Restoration Act of 2019			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 11, 2020			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	*
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 3675 would require the Government Accountability Office (GAO) to conduct a review of the Department of Homeland Security's (DHS) trusted traveler programs, which expedites the security process at airports. Using information about the cost of other GAO studies, CBO estimates that implementing H.R. 3675 would cost less than \$500,000.

On August 6, 2019, CBO transmitted a cost estimate for H.R. 3675, the Trusted Traveler Reconsideration and Restoration Act of 2019, as ordered reported by the House Committee on Homeland Security on July 17, 2019. The two pieces of legislation are similar, and CBO's estimate of their budgetary effects are the same.

The CBO staff contact for this estimate is Madeleine Fox. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Because this legislation would not repeal or amend any provision of current law, it would not make changes in existing law within the meaning of clauses (a) and (b) of paragraph 12 of rule XXVI of the Standing Rules of the Senate.