

Calendar No. 637

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 117-253

TRUSTED TRAVELER RECONSIDERATION
AND RESTORATION ACT OF 2021

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 473

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



DECEMBER 13, 2022.—Ordered to be printed

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**TRUSTED TRAVELER RECONSIDERATION AND
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DECEMBER 13, 2022.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 473]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (H.R. 473) to require a review of Department of Homeland Security trusted traveler programs, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	3
IV. Section-by-Section Analysis of the Bill, as Reported	4
V. Evaluation of Regulatory Impact	4
VI. Congressional Budget Office Cost Estimate	5
VII. Changes in Existing Law Made by the Bill, as Reported	6

I. PURPOSE AND SUMMARY

H.R. 473, the *Trusted Traveler Reconsideration and Restoration Act of 2021*, requires the U.S. Government Accountability Office (GAO) to conduct a review of the Department of Homeland Security’s (DHS) Trusted Traveler programs. Specifically, within one year of enactment of this bill, 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 DHS’ redress processes; coordinates with SLTT entities to improve reconsideration procedures for disqualified individuals, and; informs travelers of recon-

sideration procedures. The bill 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.¹

II. BACKGROUND AND NEED FOR THE 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.² 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).³ The Transportation Security Administration (TSA) is charged with managing the PreCheck program, while U.S. Customs and Border Protection (CBP) is tasked with implementing the Global Entry, SENTRI, NEXUS, and FAST programs.⁴ These programs allow TSA and CBP to focus more attention on screening higher-risk travelers.

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 and a review of employment history, residential information, biographical information, and citizenship status.⁵ More specifically, CBP's Vetting Center reviews the information obtained from an individual's application and checks that 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 could 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, providing an incomplete or inaccurate application, or not satisfying the CBP low-risk criteria.⁹

If an individual is denied acceptance into a CBP trusted traveler program, or their participation in the program is revoked, they are

¹ On March 11, 2020, the Committee approved H.R. 3675, the Trusted Traveler Reconsideration and Restoration Act of 2019, without amendment. That bill is substantially similar to H.R. 473. Accordingly, this committee report is in many respects similar to the committee report for H.R. 3675, S. Rept. No. 116-237.

² U.S. Department of Homeland Security, Mission (www.dhs.gov/mission).

³ U.S. Department of Homeland Security, Trusted Traveler Programs (ttp.dhs.gov).

⁴ See Congressional Research Service, *Trusted Traveler Programs* (R46783) (May 5, 2021).

⁵ See *id.* at 2-3, 6, 8-9, 11-12, 13-14.

⁶ Government Accountability Office, *Trusted Travelers: Programs Provide Benefits, but Enrollment Processes Could Be Strengthened* (GAO-14-483) (May 2014).

⁷ See Congressional Research Service, *supra* note 4, at 2-3, 6, 8-9, 11-12, 13-14.

⁸ See *id.*

⁹ U.S. Department of Homeland Security, Office of the Inspector General, *Ensuring the Integrity of CBP's Secure Electronic Network for Travelers Rapid Inspection Program* (OIG-14-32) (Feb. 18, 2014).

notified in writing about the reason for the denial.¹⁰ If the individual who is denied participation in the program believes the decision was based on inaccurate or incomplete information, they may file a reconsideration request through their online application portal, which are referred to the CBP Trusted Traveler Ombudsman to determine if the denial or revocation of participation in program was made in error.¹¹ The CBP Ombudsman reviews all redeterminations and reinstatements for the four trusted traveler programs administered by CBP. In recent years, there have been reports of complaints about the redress process, mostly with the Global Entry program, which has been criticized for the length of time the redress process takes.¹² In contrast, TSA's Pre-Check program reports that denials and revocations are rarely contested, accounting for less than one percent of total applications.¹³ Additionally, TSA contacts the individual who was rejected from TSA Pre-Check enrollment and, similar to an individual being denied or revoked from participation in a CBP trusted traveler program, TSA explains the process to seek reconsideration or redress.¹⁴

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 included denials and revocations from the trusted traveler programs.¹⁵ 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.¹⁶ 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.¹⁷ GAO recommended 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. 437 requires GAO to conduct the first review solely addressing DHS' trusted traveler program redress process, reinstatement and reconsideration procedures, and disqualifying offences, and make recommendations for improvements.

III. LEGISLATIVE HISTORY

Representatives Katko (R-NY-24), Watson Coleman (D-NJ-12), and Slotkin (D-MI-8) introduced H.R. 473 on January 25, 2021. The bill was referred to the House Committee on Homeland Secu-

¹⁰ https://help.cbp.gov/s/article/Article1859?language=en_US.

¹¹ https://help.cbp.gov/s/article/Article1859?language=en_US.

¹² *Global Entry Program Turns This Traveler Down, Then Reconsiders—and Here's Why*, Los Angeles Times (Feb. 29, 2016) (<https://www.latimes.com/travel/deals/la-tr-spot-20160228-story.html>).

¹³ *TSA Check: Fewer Than 1 Percent of PreCheck Applicants Get Rejected*, Forbes (June 15, 2019) (<https://www.forbes.com/sites/suzannerowankelleher/2019/06/15/tsa-check-fewer-than-1-percent-of-precheck-applicants-get-rejected/?sh=3df67c084753>).

¹⁴ *Id.*

¹⁵ Government Accountability Office, *supra* note 6.

¹⁶ *See id.* at 29–34.

¹⁷ *Id.*

rity. The House of Representatives considered H.R. 473 on April 19, 2021, under suspension of the rules, and it passed by voice vote.

The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs on April 20, 2021. The Committee considered H.R. 437 at a business meeting on July 14, 2021. The Committee ordered the bill reported favorably without amendment *en bloc* by voice vote. Senators present for the vote on the bill were: Peters, Hassan, Rosen, Padilla, Ossoff, Portman, Johnson, Lankford, Romney, Scott, and Hawley.

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

Section 1. Short titles

This section names the bill as the “Trusted Traveler Reconsideration and Restoration Act of 2021”.

Section 2. Comptroller general review

This section requires GAO, within a year of enactment of this bill, to conduct a review of DHS’ trusted traveler programs. Specifically, GAO is required to report on the extent to which DHS tracks and monitors data and trends, including the causes of errors in matching identities where the adjudication of those cases led to a reinstatement. GAO is also required to report on DHS’s coordination with SLTT entities and other Federal agencies to address offenses that are not included in DHS’ redress procedures but impact individuals’ applications to the trusted traveler programs. In addition, the report will provide information on how DHS can improve the redress process that involves coordination with SLTT entities and other Federal agencies, and how DHS can improve 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.

Section 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, January 31, 2022.

Hon. GARY PETERS,
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. 473, the Trusted Traveler Reconsideration and Restoration Act of 2021.

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. 473, Trusted Traveler Reconsideration and Restoration Act of 2021			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 14, 2021			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
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 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 473 would require the Government Accountability Office (GAO) to conduct a review of the Department of Homeland Security's (DHS) trusted traveler programs, which expedite security screenings at airports. Also, H.R. 473 would, for cases where membership in a trusted traveler program was revoked in error, direct DHS to extend the period of active enrollment by the period of revocation for people who re-enroll in the program.

Using information from publicly available information, CBO expects that the number of erroneous revocations would be small, and DHS has a system in place to appeal those revocations. Thus, CBO estimates that costs associated with investigating and re-enrolling individuals whose memberships were revoked in error would not be significant.

Using information about the cost of other GAO studies, CBO estimates that the cost of completing the report would be insignificant. CBO estimates that implementing H.R. 473 would cost less than \$500,000 over the 2022–2026 period. Any spending would be subject to the availability of appropriated funds.

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

This legislation would make no change in existing law, within the meaning of clauses (a) and (b) of subparagraph 12 of rule XXVI of the Standing Rules of the Senate, because this legislation would not repeal or amend any provision of current law.

