

AVIATION SECURITY STAKEHOLDER PARTICIPATION ACT
OF 2011

NOVEMBER 4, 2011.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. KING of New York, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 1447]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1447) to amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to establish an Aviation Security Advisory Committee, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 1447 is to amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to establish an Aviation Security Advisory Committee, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Federal Aviation Administration (FAA) established the Aviation Security Advisory Committee (ASAC) in 1989 following the bombing of Pan American World Airways Flight 103. When the Transportation Security Administration (TSA) was established, the sponsorship of the ASAC transferred to TSA. Despite significant contributions to TSA policymaking, particularly with respect to air cargo security, and strong support from aviation security stakeholders who participated in the ASAC, TSA allowed the ASAC's charter to expire. Three months after Rep. Bennie G. Thompson introduced this legislation, on July 7, 2011, TSA published an announcement in the *Federal Register* to re-establish the ASAC, providing a setting for the aviation industry to formally provide TSA with their insights into the practical, on-the-ground considerations and impact of aviation security policies.

H.R. 1447 provides for the establishment of an ASAC to assist and make recommendations to the TSA Assistant Secretary on aviation security matters, including the development and implementation of policies, programs, rulemaking, and security directives pertaining to aviation security. The ASAC is directed to meet at least semi-annually and be composed of not more than 27 members including representatives from air carriers, all cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, aircraft manufacturers, airport operators, general aviation, privacy, the travel industry, and the aviation technology security industry, including biometrics.

HEARINGS

Although no hearings were held directly on H.R. 1447, in the 112th Congress, the issue of a standing advisory committee to inform aviation security policy at TSA was discussed at the Subcommittee on Transportation Security hearing entitled "Authorizing the Transportation Security Administration for Fiscal Years 2012 and 2013" on June 2, 2011. The Subcommittee received testimony from Hon. John S. Pistole, Administrator, Transportation Security Administration, Department of Homeland Security.

COMMITTEE CONSIDERATION

The Committee met on September 21, 2011, to consider H.R. 1447, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by voice vote.

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. 1447.

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. 1447, the Aviation Security Stakeholder Participation Act of 2011, 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.

SEPTEMBER 29, 2011.

Hon. PETER T. KING,
*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. 1447, the Aviation Security Stakeholder Participation Act of 2011.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1447—Aviation Security Stakeholder Participation Act of 2011

Under current law, the Transportation Security Administration's (TSA's) Aviation Security Advisory Committee advises the Assistant Secretary of Homeland Security on issues related to aviation security. H.R. 1447 would amend current law to require the Assistant Secretary to establish a variety of working groups within that advisory committee to make recommendations related to the security of air cargo systems, general aviation facilities and operations, and airport perimeters.

Based on information from TSA, CBO estimates that any increase in federal spending to fulfill new requirements under H.R. 1447 would total less than \$500,000 annually, and would be subject to the availability of appropriated funds. H.R. 1447 would not affect direct spending or receipts; therefore, pay-as-you-go procedures do not apply.

H.R. 1447 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by Theresa Gullo, Deputy 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. 1447 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

This legislation requires the Advisory Committee to submit to the TSA Assistant Secretary an annual report containing information on its activities, findings, and recommendations. H.R. 1447 directs the establishment of the following three working groups: (1) the air cargo security working group; (2) the general aviation security working group; and (3) the perimeter security working group. Members of the Advisory Committee with specialized knowledge in these areas are to be appointed to each working group. Additionally, to bring focus to particular aviation security challenges, the working groups are directed to provide information and recommendations to the Advisory Committee for inclusion in the annual report.

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. 1447 does not preempt any State, local, or Tribal law.

ADVISORY COMMITTEE STATEMENT

The Aviation Security Advisory Committee established in H.R. 1447 is exempt from the Federal Advisory Committee Act (FACA).

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 “Aviation Security Stakeholder Participation Act of 2011.”

Section 2. Aviation Security Advisory Committee

This section amends Subchapter II of chapter 449 of title 49, United States Code, as follows:

Subsection (a) establishes the Aviation Security Advisory Committee within the Transportation Security Administration.

Subsection (b) requires the Assistant Secretary (Transportation Security Administration) to consult with the Advisory Committee on aviation security matters and requires the Advisory Committee, at the request of the Assistant Secretary, to develop recommendations to improve aviation security. Additionally, the Advisory Committee shall periodically submit reports to the Assistant Secretary and an annual report on the activities and findings for the preceding year.

Subsection (c) requires the Assistant Secretary to appoint members to the Advisory Committee within 180 days of enactment and include individuals representing not more than 27 member organizations covering a variety of industries. Members may be removed for cause at any time by the Assistant Secretary and may not receive pay from the government for their service. The Advisory Committee must meet at least twice each year.

Subsection (d) establishes a working group within the Advisory Committee for air cargo security and requires the group to meeting quarterly.

Subsection (e) establishes a working group within the Advisory Committee for general aviation security and requires the group to meeting quarterly.

Subsection (f) requires a working group within the Advisory Committee for perimeter security and requires the group to meet quarterly.

Subsection (g) waives the Federal Advisory Committee Act requirements for the Advisory Committee and the working groups.

Subsection (h) defines “advisory committee,” “annual report,” “Assistant Secretary,” and “perimeter security.”

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE VII—AVIATION PROGRAMS

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PART A—AIR COMMERCE AND SAFETY

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SUBPART III—SAFETY

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CHAPTER 449—SECURITY

SUBCHAPTER I—REQUIREMENTS

Sec.

44901. Screening passengers and property.

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SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

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44946. *Aviation Security Advisory Committee.*

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SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

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§ 44946. *Aviation Security Advisory Committee*

(a) *ESTABLISHMENT.*—*The Assistant Secretary shall establish within the Transportation Security Administration an advisory committee to be known as the Aviation Security Advisory Committee.*

(b) *DUTIES.*—

(1) *IN GENERAL.*—*The Advisory Committee shall be consulted by and advise the Assistant Secretary on aviation security matters, including the development and implementation of policies, programs, rulemaking, and security directives pertaining to aviation security.*

(2) *RECOMMENDATIONS.*—

(A) *IN GENERAL.*—*The Advisory Committee shall develop, at the request of the Assistant Secretary, recommendations for improvements to aviation security.*

(B) *RECOMMENDATIONS OF WORKING GROUPS.*—*Recommendations agreed upon by the working groups established under this section shall be approved by the Advisory Committee for transmission to the Assistant Secretary.*

(3) *PERIODIC REPORTS.*—*The Advisory Committee shall periodically submit to the Assistant Secretary—*

(A) *reports on matters identified by the Assistant Secretary; and*

(B) *reports on other matters identified by a majority of the members of the Advisory Committee.*

(4) *ANNUAL REPORT.*—*The Advisory Committee shall submit to the Assistant Secretary an annual report providing information on the activities, findings, and recommendations of the Ad-*

visory Committee, including its working groups, for the preceding year.

(c) **MEMBERSHIP.**—

(1) **APPOINTMENT.**—

(A) **IN GENERAL.**—Not later than 180 days after the date of enactment of this section, the Assistant Secretary shall appoint the members of the Advisory Committee.

(B) **COMPOSITION.**—The membership shall consist of individuals representing not more than 27 member organizations. Each organization shall be represented by one individual (or the individual's designee).

(C) **REPRESENTATION.**—The membership shall include representatives of air carriers, all cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, aircraft manufacturers, airport operators, general aviation, privacy, the travel industry, and the aviation technology security industry, including biometrics.

(2) **REMOVAL.**—The Assistant Secretary may review the participation of a member of the Advisory Committee and remove the member for cause at any time.

(3) **PROHIBITION ON COMPENSATION.**—The members of the Advisory Committee shall not receive pay, allowances, or benefits from the Government by reason of their service on the Advisory Committee.

(4) **MEETINGS.**—The Assistant Secretary shall require the Advisory Committee to meet at least semiannually and may convene additional meetings as necessary.

(d) **AIR CARGO SECURITY WORKING GROUP.**—

(1) **IN GENERAL.**—The Assistant Secretary shall establish within the Advisory Committee an air cargo security working group to provide recommendations on air cargo security issues, including the implementation of the air cargo security programs established by the Transportation Security Administration to screen air cargo on passenger aircraft and all-cargo aircraft in accordance with established cargo screening mandates.

(2) **MEETINGS AND REPORTING.**—The working group shall meet at least quarterly and submit information, including recommendations, regarding air cargo security to the Advisory Committee for inclusion in the annual report. The submissions shall include recommendations to improve the Administration's cargo security initiatives established to meet the requirements of section 44901(g).

(3) **MEMBERSHIP.**—The working group shall—

(A) include members of the Advisory Committee with expertise in air cargo operations; and

(B) be cochaired by a Government and industry official.

(e) **GENERAL AVIATION SECURITY WORKING GROUP.**—

(1) **IN GENERAL.**—The Assistant Secretary shall establish within the Advisory Committee a general aviation working group to provide recommendations on transportation security issues for general aviation facilities, general aviation aircraft, and helicopter operations at general aviation and commercial service airports.

(2) **MEETINGS AND REPORTING.**—The working group shall meet at least quarterly and submit information, including rec-

ommendations, regarding aviation security at general aviation airports to the Advisory Committee for inclusion in the annual report.

(3) MEMBERSHIP.—The working group shall—

(A) include members of the Advisory Committee with expertise in general aviation; and

(B) be cochaired by a Government and industry official.

(f) PERIMETER SECURITY WORKING GROUP.—

(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee an airport perimeter security working group to provide recommendations on airport perimeter security and access control issues.

(2) MEETINGS AND REPORTING.—The working group shall meet at least quarterly and submit information, including recommendations, regarding improving perimeter security and access control procedures at commercial service and general aviation airports to the Advisory Committee for inclusion in the annual report.

(3) MEMBERSHIP.—The working group shall—

(A) include members of the Advisory Committee with expertise in airport perimeter security and access control issues; and

(B) be cochaired by a Government and industry official.

(g) NONAPPLICABILITY OF FACa.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee or its working groups.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the Aviation Security Advisory Committee to be established under subsection (a).

(2) ANNUAL REPORT.—The term “annual report” means the annual report required under subsection (a).

(3) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary of Homeland Security (Transportation Security Administration).

(4) PERIMETER SECURITY.—The term “perimeter security”—

(A) means procedures or systems to monitor, secure, and prevent unauthorized access to an airport, including its airfield and terminal; and

(B) includes the fence area surrounding an airport, access gates, and access controls.

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