118TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
118–636

TSA COMMUTING FAIRNESS ACT

AUGUST 30, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GREEN of Tennessee, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 8662]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 8662) to reduce commuting burdens on Transportation Security Administration employees, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

PURPOSE AND SUMMARY

H.R. 8662, the "TSA Commuting Fairness Act," would require the Transportation Security Administration (TSA) Administrator to conduct a study on the feasibility of classifying the time TSA employees at airports spend transiting between their duty stations and airport parking lots, bus stops, and other transit stops as duty

49–006

time. In addition to the amount of time TSA employees transit between duty stations and airport parking lots and transit stops at small hub airports, medium hub airports, and large hub airports, the bill would require the Administrator to specifically consider the average total commuting time of TSA employees to airports, potential benefits of considering commuting time on airport grounds as on-duty hours, the feasibility of using mobile phones and other technology to allow TSA employees to report their arrival and departure to and from airport parking lots and transit stops, and the estimated cost of considering commuting time on airport grounds as on-duty hours.

The TSA Administrator would be required to submit the completed feasibility study to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate no later than 270 days after enactment of the bill.

BACKGROUND AND NEED FOR LEGISLATION

TSA relies upon thousands of employees at airports, from Transportation Security Officers (TSOs) and Federal Air Marshals to inspectors and cybersecurity professionals, to carry out its mission of securing the passenger aviation sector. Most airports, however, are situated far away from residential communities where TSA employees live. Additionally, many airports sit on large areas of land, meaning that TSA employees might spend upwards of 45 minutes from entering airport grounds to arriving at their duty station.[1] Many TSA employees must arrive to the airport early in the morning or depart late at night when conventional transit options are more limited, and those employees who arrive during standard working hours often must navigate busy traffic during peak travel times to report to their duty stations. These circumstances make the commuting process challenging for TSA employees, especially since they face the possibility of disciplinary action for being late to their duty station.

By requiring TSA to conduct a feasibility study on considering commuting time on airport grounds as on-duty hours, this legislation could help TSA reduce the commuting burden on their employees while also ensuring efficiency of their airport operations. Decreasing the commuting burden on TSA employees could also make TSA jobs more enticing to job seekers and improve the retention and career advancement of existing employees.

HEARINGS

The Committee held the following hearings in the 118th Congress that informed H.R. 8662:

On June 22, 2023, the Subcommittee on Transportation and Maritime Security of the Committee on Homeland Security held a hearing entitled "An Examination of TSA's FY 2024 Budget and Priorities." The Subcommittee received testimony from the Honorable

[1] *Open Markup Session of the H. Comm. on Homeland Sec.*, 118th Cong. (Jun. 12, 2024) (statement of Rep. Timothy M. Kennedy on H.R. 8662). Email from Tina Won Sherman, Director, Homeland Security and Justice, Government Accountability Office, to Connor Roberts, Professional Staff Member, Committee on Homeland Security of the House of Representatives (Jun. 21, 2024, 20:36 EST) (on file with author).

David Pekoske, Administrator, Transportation Security Administration.

On October 19, 2023, the Subcommittee on Transportation and Maritime Security held a heading entitled "The Role of Technology in Aviation Security." The Subcommittee received testimony from Austin Gould, Assistant Administrator, Requirements and Capabilities Analysis, Transportation Security Administration; Mario Wilson, Assistant Administrator, Acquisition Program Management, Transportation Security Administration; and, Tina Won Sherman, Director, Homeland Security and Justice, U.S. Government Accountability Office.

On March 12, 2024, the Subcommittee on Transportation and Maritime Security of the Committee on Homeland Security held a hearing entitled "Organizational Oversight: Examining TSA's Post-Modernization Efforts." The Subcommittee received testimony from Stacey Fitzmaurice, Executive Assistant Administrator for Operations Support, Transportation Security Agency; Brian C. Belcher, Executive Assistant Administrator and Director of Law Enforcement and the Federal Air Marshal Service, Transportation Security Administration; Julie Scanlon, Executive Assistant Administrator for Enterprise Support, Transportation Security Administration; and Steve Lorincz, Deputy Executive Assistant Administrator for Security Operations, Transportation Security Administration.

On May 15, 2024, the Subcommittee on Transportation and Maritime Security of the Committee on Homeland Security held a hearing entitled "An Examination of the Transportation Security Administration's Fiscal Year 2025 Budget." The Subcommittee received testimony from the Honorable David Pekoske, Administrator, Transportation Security Administration.

COMMITTEE CONSIDERATION

The Committee met on June 12, 2024, a quorum being present, to consider H.R. 8662 and ordered the measure to be favorably reported to the House by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII 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. 8662.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee adopts as its own the estimate of any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures contained in the cost estimate prepared by the Director of the Congressional Budget Office.

At a Glance

Homeland Security Legislation

As ordered reported by the House Committee on Homeland Security on June 12, 2024

On June 12, 2024, the House Committee on Homeland Security ordered reported 13 bills. This comprehensive document provides estimates for 12 of those bills.

- None of the bills would impact direct spending or revenues; thus, pay-as-you-go procedures do not apply.
- Two of the bills would increase spending subject to appropriation by $1 million or more over the 2024-2029 period. The other pieces of legislation would increase spending subject to appropriation by less than $500,000 over the same period.
- None of the bills would increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2035.
- None of the bills contain intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Details of the estimated costs of each bill are discussed in the text.

Bill	Net Increase or Decrease (-) in the Deficit Over the 2024-2034 Period (Millions of Dollars)	Changes in Spending Subject to Appropriation Over the 2024-2029 Period (Outlays, Millions of Dollars)	Mandate Effects?
H.R. 4574	0	26	No
H.R. 6229	0	*	No
H.R. 8150	0	1	No
H.R. 8631	0	*	No
H.R. 8654	0	*	No
H.R. 8655	0	*	No
H.R. 8658	0	*	No
H.R. 8662	0	*	No
H.R. 8663	0	*	No
H.R. 8664	0	*	No
H.R. 8671	0	*	No
H.R. 8675	0	*	No

* = between zero and $500,000.

Legislation summary: On June 12, 2024, the House Committee on Homeland Security ordered 13 bills to be reported. This document provides estimates for 12 of those bills.

The legislation would:

- Require the Department of Homeland Security (DHS) to conduct a public information campaign on the dangers of traveling to the United States through Mexico from Central and South America;
- Codify the Special Event Assessment Rating (SEAR) program within DHS;
- Authorize U.S. Customs and Border Protection (CBP) to conduct its own maintenance at ports of entry for projects that cost less than $300,000;
- Prohibit DHS from purchasing batteries or products that use batteries made by certain Chinese entities;

- Impose various reporting requirements on the Transportation Security Administration (TSA), DHS, and the Government Accountability Office (GAO);
- Require DHS to conduct research and development on equipment used by law enforcement agencies to detect illicit drugs; and
- Expand the employee rotational program within DHS to include intelligence analyst positions.

Estimated Federal cost: The estimated costs of the legislation fall within budget functions 400 (transportation) and 750 (administration of justice).

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the end of fiscal year 2024. The estimated costs do not include any interaction effects among the pieces of legislation. If all 12 bills were combined and enacted as a single piece of legislation, the estimated costs could be different than the sum of the separate estimates, although CBO expects that any difference would be small.

H.R. 4574, Cooperation on combatting Human Smuggling and Trafficking Act: H.R. 4574 would require DHS to conduct public information campaigns about the dangers for migrants traveling across Mexico to the United States. H.R. 4574 also would require DHS to expand partnerships with law enforcement entities in Central and South America to combat human smuggling and trafficking.

Using information from DHS about the costs of similar public awareness campaigns, such as "If You See Something, Say Something" and the Blue Campaign, CBO estimates that it would cost $5 million annually to implement the public information campaigns. Those costs would include hiring and training staff, engaging private contractors, and advertising. CBO estimates that it would cost DHS less than $500,000 to comply with the bill's other provisions because the agency already conducts those activities. In total, CBO estimates that implementing H.R. 4574 would cost $26 million over the 2024–2029 period, assuming appropriation of the estimated amounts.

H.R. 6229, DHS Special Events Program and Support Act: H.R. 6229 would codify the Special Event Assessment Rating program that DHS currently administers. Under that program, state and local governments submit events to an inter-agency working group that assesses each event for potential security risks, such as terrorist attacks and other hazards. Depending on the level of risk determined by the group, DHS and other federal agencies may provide support to the state or local government in managing security operations for the event.

H.R. 6229 also would require DHS to engage in research and development of emerging technologies that would enhance the department's efforts to support federal, state, local, tribal, and territorial agencies with respect to mass gatherings. Lastly, the bill would require DHS to report to the Congress annually on the program's activities and once every five years on the program's effectiveness.

Based on the costs of similar activities, CBO estimates implementing H.R. 6229 would cost less than $500,000 over the 2024–2029 period, primarily to comply with the bill's reporting requirements. Any related spending would be subject to the availability of appropriated funds. Under current law, DHS already can conduct research and development on emerging technologies. On that basis, CBO estimates that the cost of implementing that provision and codifying the existing SEAR program would be insignificant.

H.R. 8150, REVAMP Act: H.R. 8150 would require U.S. Customs and Border Protection (CBP) to establish procedures to allow the agency to carry out maintenance and repair projects that cost less than $300,000 at federally owned ports of entry without the direct involvement of the General Services Administration (GSA). Under the bill, that amount would be adjusted annually for inflation. The bill also would require CBP to consult with GSA before creating those procedures and report annually to the Congress on the projects it completed and their costs.

Using information from CBP, CBO estimates that implementing H.R. 8150 would cost $1 million in administrative and personnel costs over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

H.R. 8631, Decoupling from Foreign Adversarial Battery Dependence Act: H.R. 8631 would, starting in fiscal year 2028, prohibit DHS from using appropriated funds to purchase a battery or a product that uses a battery made by certain Chinese entities. The bill would allow DHS to waive the prohibition under some circumstances, including if it determines that the battery would not pose a threat to national security. H.R. 8631 also would require DHS to report to the Congress within 180 days of enactment on the effect the prohibition would have on costs and operations.

Based on the costs of similar activities, CBO estimates that implementing H.R. 8631 would cost less than $500,000. Any related spending would be subject to the availability of appropriated funds.

H.R. 8654, Streamlining Law Enforcement Information Sharing Act: H.R. 8654 would require the GAO to report to the Congress within one year of enactment on the Homeland Security Information Network. DHS uses that network to share information and intelligence with other law enforcement agencies, coordinate security for planned events, and respond to emergencies. Based on the costs of similar reports, CBO estimates that implementing H.R. 8654 would cost less than $500,000 over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

H.R. 8655, Federal Air Marshal Enhancing Airport Security Act of 2024: H.R. 8655 would require TSA to develop a plan for the role of federal air marshals at certain airports and brief the Congress on that plan. Based on the costs of similar activities, CBO estimates that implementing the bill would cost less than $500,000 over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

H.R. 8658, Emerging Digital Identity Ecosystem Report Act of 2024: H.R. 8658 would require TSA to report to the Congress on digital identity systems that allow credentials and other information to be verified in a secure and efficient manner. Based on the costs of similar activities, CBO estimates that implementing the bill would cost less than $500,000 over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

H.R. 8662, TSA Commuting Fairness Act: H.R. 8662 would require TSA to report to the Congress on the feasibility of treating the time that its employees spend commuting from airport parking lots to their workstations as on-duty hours. Based on the costs of similar activities, CBO estimates that implementing the bill would cost less than $500,000 over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

H.R. 8663, DETECT Fentanyl and Xylazine Act of 2024: H.R. 8663 would require DHS to engage in research and development of technologies and equipment that would help federal, state, local, tribal, and territorial law enforcement agencies detect and disrupt illicit drug trafficking. Under current law, DHS already conducts research on equipment and technologies to detect and intercept illegal drugs. On that basis, CBO estimates that implementing H.R. 8663 would cost less than $500,000. Any related spending would be subject to the availability of appropriated funds.

H.R. 8664, DHS Intelligence and Analysis Oversight and Transparency Act: H.R. 8664 would require DHS to annually audit its use of information systems and bulk data and report the results to the Congress. Based on the costs of similar activities, CBO estimates that implementing H.R. 8664 would cost less than $500,000 over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

H.R. 8671, DHS Intelligence Rotational Assignment Program and Law Enforcement Support Act: H.R. 8671 would allow intelligence analysts to participate in DHS's in-house employee rotation program, which allows personnel to work temporarily in different component units. CBO expects that DHS would need to update policies and procedures to expand the current rotation program. Based on the costs of similar activities, CBO estimates that implementing H.R. 8671 would cost less than $500,000 over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

H.R. 8675, Repair the National Law Enforcement Telecommunications Systems Act of 2024: H.R. 8675 would require TSA to report to the Congress on how the agency collects digital data about law enforcement officers who are armed when they fly. Based on the costs of similar activities, CBO estimates that implementing the bill would cost less than $500,000 over the 2024–2029 period. Any related spending would be subject to the availability of appropriated funds.

Pay-As-You-Go considerations: Enacting any of the 12 bills in this estimate would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Increase in long-term net direct spending and deficits: CBO estimates that enacting any of the 12 bills in this estimate would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2035.

Mandates: None of the bills contain intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

Previous CBO estimate: On April 10, 2023, CBO transmitted a cost estimate for S. 243, a bill to require the Commissioner of U.S. Customs and Border Protection to establish procedures for conducting maintenance projects at ports of entry at which the Office of Field Operations conducts certain enforcement and facilitation activities, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 29, 2023. S. 243 is similar to H.R. 8150, and CBO's estimate of the costs are the same for both bills.

Estimate prepared by: Federal costs: Jeremy Crimm (Department of Homeland Security); Aaron Krupkin (Transportation Security Administration). Mandates: Rachel Austin, Brandon Lever.

Estimate reviewed by: Justin Humphrey, Chief, Finance, Housing, and Education Cost Estimates Unit; Robert Reese, Chief, Natural and Physical Resources Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

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 of 1995.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 8662 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of H.R. 8662 is to reduce commuting burdens on Transportation Security Administration employees.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

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 THE LEGISLATIVE BRANCH

The Committee finds that H.R. 8662 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 states that the Act may be cited as the "TSA Commuting Fairness Act."

Section 2. Feasibility study on TSA commuting benefits

This section requires the TSA Administrator to conduct a study regarding the feasibility of treating as on-duty hours the time TSA employees working at airport locations spend traveling between regular duty locations and airport parking lots and bus and transit stops. The TSA Administrator would be required to submit this study to the Committee on Homeland Security of the House of Representatives and the Committee Commerce, Science, and Transportation and the Committee Homeland Security and Governmental Affairs of the Senate not later than 270 days after the date of the enactment of the Act.

This section requires that the TSA Administrator address six considerations in the study. The first is the amount of time needed by TSA employees at small hub airports, medium hub airports, and large hub airports to travel between their regular duty locations and airport parking lots and bus and transit stops. The second is the time TSA employees spend commuting to the airport grounds, excluding time spent transiting between their duty stations and airport parking lots and bus and transit stops. The third is the potential benefits to TSA employees and the agency of treating the time TSA employees spend transiting between their duty stations and airport parking lots and bus and transit stops as on-duty hours. The fourth is whether TSA employees could use their mobile phones, location data, or other means to report their arrival and departure from the airport parking lots and bus and transit stops. Finally, the fifth is the estimated cost of treating the time TSA employees spend transiting between their duty stations and airport parking lots and bus and transit stops as on-duty hours, including by considering this time as basic pay for retirement purposes. Additionally, the study may also address any other considerations determined appropriate by the TSA Administrator.

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