



Concur in the Senate Amendment with an Amendment to H.R. 719 - TSA Office of Inspection Accountability Act of 2015 (Rep. Katko, R-NY)

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FLOOR SCHEDULE:

Scheduled for consideration on September 24, 2015 suspension of the rules, which requires 2/3 vote for passage.

TOPLINE SUMMARY:

The [Senate Amendment to H.R. 719](#) would direct the Inspector General of the Department of Homeland Security to analyze the data and methods that the Assistant Secretary of Homeland Security for Transportation Security uses to identify and classify Transportation Security Administration (TSA) law enforcement officers and criminal investigators.

COST:

The Congressional Budget Office (CBO) [estimates](#) that complying with the legislation's reporting requirements would cost less than \$500,000 and would be subject to the availability of appropriated funds. H.R. 719 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CONSERVATIVE CONCERNS:

There are no substantive concerns regarding this bill.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

According to the CBO, the Office of Inspection in the TSA is responsible for ensuring the effectiveness and efficiency of the TSA's operations and identifying vulnerabilities in the agency's security systems. In carrying out its mission, the office conducts internal inspections, investigations, and covert tests to assess the integrity of the agency's activities and its staff. Under current law, roughly half of the office's employees are classified as criminal investigators and are eligible for certain statutory employment benefits because they are considered law enforcement officers. In particular, such individuals qualify for additional compensation (known as Law Enforcement Availability Pay) and enhanced retirement benefits.

For law enforcement officers to qualify for premium pay as criminal investigators, the officers must, spend on average at least 50 percent of their time investigating, apprehending, or detaining individuals suspected

or convicted of criminal offenses. According to the Inspector General of the Department of Homeland Security, the TSA does not ensure that its cadre of criminal investigators in the Office of Inspection are meeting this requirement.

Section 4 of the bill would require the inspector general to provide these findings to the TSA, including whether the data and methodology are adequate and valid. If the inspector general deems the TSA's data and methodology invalid, TSA may not hire any new employee to work in TSA's Office of Inspection until:

- The TSA makes a new certification to the Committee on Homeland Security of the House and the Committee on Commerce, Science, and Transportation of the Senate, asserting that the data and methodology used to designate employees are valid; and,
- The inspector general submits a finding to those committees within 30 days of the new certification attesting to its soundness.

Section 5 of the bill would require the TSA to reclassify criminal investigator positions in the Office of Inspection as noncriminal investigator positions or non-law enforcement positions if the individuals in those positions do not, or are not expected to, meet the requirements for those positions. Section 5 would also require the TSA to estimate the total long-term cost savings to the federal government resulting from such reclassification. **The section would further require that the Department of Homeland Security certify to Congress that only those Office of Inspection employees of the Administration who meet the specified requirements are classified as criminal investigators and are receiving premium pay and other benefits associated with such classification.**

Section 6 would require the TSA to submit materials related to the Office of Inspection's review of inappropriate uses of a Federal Firearms License by Federal Air Marshal Service officials to obtain discounted or free firearms for personal use. The section would also require the TSA to submit information on specific actions that will be taken to prevent Federal Air Marshal Service officials from using their official positions, or exploiting, in any way, the service's relationships with private vendors to obtain discounted or free firearms for personal use, and **information on specific actions that would be taken to prevent the Federal Air Marshal Service from misusing Government resources.**

Section 7 would require the Inspector General of the Department of Homeland Security to submit a study to Congress, reviewing employee requirements, responsibilities, and benefits of criminal investigators in the TSA Office of Inspection with criminal investigators employed at agencies adhering to the Office of Personnel Management employee classification system; and identifying any inconsistencies and costs implications between the varying employee requirements.

Section 8 would additionally require the Inspector General to submit a study to Congress that reviews the Federal Air Marshal Service's existing personnel policies for identifying the misuse of government resources; and that reviews the administration of the Federal Air Marshal Service's existing code of conduct dealing with instances of misconduct.

The Senate report accompanying H.R. 719 (S. Rept. 114-111) can be found [here](#). The RSC's legislative bulletin for H.R. 719 can be found [here](#).

COMMITTEE ACTION:

The bill was introduced on February 4, 2015 and was referred to the House Committee on Homeland Security and passed in the House by [414-0](#) on February 10, 2015. The bill was then passed in the Senate with an amendment by unanimous consent on September 17, 2015.

ADMINISTRATION POSITION:

No statement of administration position is available at this time.

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 1 of the Constitution of the United States.

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