

***In the Senate of the United States,***

*September 17, 2015.*

*Resolved*, That the bill from the House of Representatives (H.R. 719) entitled “An Act to require the Transportation Security Administration to conform to existing Federal law and regulations regarding criminal investigator positions, and for other purposes.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “TSA Office of Inspection*  
3 *Accountability Act of 2015”.*

4 ***SEC. 2. FINDINGS.***

5 *Congress makes the following findings:*

6 *(1) Consistent with Federal law and regulations,*  
7 *for law enforcement officers to qualify for premium*  
8 *pay as criminal investigators, the officers must, in*  
9 *general, spend on average at least 50 percent of their*  
10 *time investigating, apprehending, or detaining indi-*

1        *viduals suspected or convicted of offenses against the*  
2        *criminal laws of the United States.*

3                *(2) According to the Inspector General of the De-*  
4        *partment of Homeland Security (DHS IG), the*  
5        *Transportation Security Administration (TSA) does*  
6        *not ensure that its cadre of criminal investigators in*  
7        *the Office of Inspection are meeting this requirement,*  
8        *even though they are considered law enforcement offi-*  
9        *cers under TSA policy and receive premium pay.*

10               *(3) Instead, TSA criminal investigators in the*  
11        *Office of Inspection primarily monitor the results of*  
12        *criminal investigations conducted by other agencies,*  
13        *investigate administrative cases of TSA employee*  
14        *misconduct, and carry out inspections, covert tests,*  
15        *and internal reviews, which the DHS IG asserts could*  
16        *be performed by employees other than criminal inves-*  
17        *tigators at a lower cost.*

18               *(4) The premium pay and other benefits afforded*  
19        *to TSA criminal investigators in the Office of Inspec-*  
20        *tion who are incorrectly classified as such will cost*  
21        *the taxpayer as much as \$17 million over 5 years if*  
22        *TSA fails to make any changes to the number of*  
23        *criminal investigators in the Office of Inspection, ac-*  
24        *cording to the DHS IG.*

1           (5) *This may be a conservative estimate, as it*  
2           *accounts for the cost of Law Enforcement Availability*  
3           *Pay, but not the costs of law enforcement training,*  
4           *statutory early retirement benefits, police vehicles,*  
5           *and weapons.*

6 **SEC. 3. DEFINITIONS.**

7           *In this Act:*

8           (1) *ADMINISTRATION.*—*The term “Administra-*  
9           *tion” means the Transportation Security Administra-*  
10           *tion.*

11           (2) *ASSISTANT SECRETARY.*—*The term “Assist-*  
12           *ant Secretary” means the Assistant Secretary of*  
13           *Homeland Security (Transportation Security) of the*  
14           *Department of Homeland Security.*

15           (3) *INSPECTOR GENERAL.*—*The term “Inspector*  
16           *General” means the Inspector General of the Depart-*  
17           *ment of Homeland Security.*

18 **SEC. 4. INSPECTOR GENERAL AUDIT.**

19           (a) *AUDIT.*—*Not later than 60 days after the date of*  
20           *the enactment of this Act, the Inspector General shall ana-*  
21           *lyze the data and methods that the Assistant Secretary uses*  
22           *to identify Office of Inspection employees of the Administra-*  
23           *tion who meet the requirements of sections 8331(20),*  
24           *8401(17), and 5545a of title 5, United States Code, and*  
25           *provide the relevant findings to the Assistant Secretary, in-*

1 *cluding a finding on whether the data and methods are ade-*  
2 *quate and valid.*

3 (b) *PROHIBITION ON HIRING.*—*If the Inspector Gen-*  
4 *eral finds that such data and methods are inadequate or*  
5 *invalid, the Administration shall not hire any new em-*  
6 *ployee to work in the Office of Inspection of the Administra-*  
7 *tion until—*

8 (1) *the Assistant Secretary makes a certification*  
9 *described in section 5 to the Committee on Homeland*  
10 *Security of the House of Representatives and the*  
11 *Committee on Commerce, Science, and Transpor-*  
12 *tation of the Senate; and*

13 (2) *the Inspector General submits to such Com-*  
14 *mittees a finding, not later than 30 days after the As-*  
15 *stant Secretary makes such certification, that the*  
16 *Assistant Secretary utilized adequate and valid data*  
17 *and methods to make such certification.*

18 **SEC. 5. TSA OFFICE OF INSPECTION WORKFORCE CERTIFI-**  
19 **CATION.**

20 (a) *CERTIFICATION TO CONGRESS.*—*The Assistant*  
21 *Secretary shall, by not later than 90 days after the date*  
22 *the Inspector General provides its findings to the Assistant*  
23 *Secretary under section 4(a), document and certify in writ-*  
24 *ing to the Committee on Homeland Security of the House*  
25 *of Representatives and the Committee on Commerce,*

1 *Science, and Transportation of the Senate that only those*  
2 *Office of Inspection employees of the Administration who*  
3 *meet the requirements of sections 8331(20), 8401(17), and*  
4 *5545a of title 5, United States Code, are classified as crimi-*  
5 *nal investigators and are receiving premium pay and other*  
6 *benefits associated with such classification.*

7       (b) *EMPLOYEE RECLASSIFICATION.—The Assistant*  
8 *Secretary shall reclassify criminal investigator positions in*  
9 *the Office of Inspection as noncriminal investigator posi-*  
10 *tions or non-law enforcement positions if the individuals*  
11 *in those positions do not, or are not expected to, spend an*  
12 *average of at least 50 percent of their time performing*  
13 *criminal investigative duties.*

14       (c) *PROJECTED COST SAVINGS.—*

15             (1) *IN GENERAL.—The Assistant Secretary shall*  
16 *estimate the total long-term cost savings to the Fed-*  
17 *eral Government resulting from the implementation of*  
18 *subsection (b), and provide such estimate to the Com-*  
19 *mittee on Homeland Security of the House of Rep-*  
20 *resentatives and the Committee on Commerce,*  
21 *Science, and Transportation of the Senate by not*  
22 *later than 180 days after the date of enactment of this*  
23 *Act.*

24             (2) *CONTENTS.—Such estimate shall identify*  
25 *savings associated with the positions reclassified*

1        *under subsection (b) and include, among other factors*  
2        *the Assistant Secretary considers appropriate, savings*  
3        *from—*

4                    *(A) law enforcement training;*

5                    *(B) early retirement benefits;*

6                    *(C) law enforcement availability and other*  
7        *premium pay; and*

8                    *(D) weapons, vehicles, and communications*  
9        *devices.*

10 **SEC. 6. INVESTIGATION OF FEDERAL AIR MARSHAL SERV-**  
11 **ICE MISCONDUCT.**

12        *Not later than 90 days after the date of the enactment*  
13 *of this Act, or as soon as practicable, the Assistant Sec-*  
14 *retary shall submit to the Committee on Homeland Security*  
15 *of the House of Representatives and the Committee on Com-*  
16 *merce, Science, and Transportation and the Committee on*  
17 *the Judiciary of the Senate—*

18                    *(1) materials in the possession or control of the*  
19 *Department of Homeland Security associated with*  
20 *the Office of Inspection's review of instances in which*  
21 *Federal Air Marshal Service officials obtained dis-*  
22 *counted or free firearms for personal use; and*

23                    *(2) information on specific actions that will be*  
24 *taken to prevent Federal Air Marshal Service officials*  
25 *from using their official positions, or exploiting, in*

1        *any way, the Service’s relationships with private ven-*  
2        *dors to obtain discounted or free firearms for personal*  
3        *use.*

4        **SEC. 7. STUDY.**

5        *Not later than 180 days after the date that the Assist-*  
6        *ant Secretary submits the certification to Congress under*  
7        *section 5(a), the Inspector General of the Department of*  
8        *Homeland Security shall submit to the Committee on*  
9        *Homeland Security of the House of Representatives and the*  
10       *Committee on Commerce, Science, and Transportation and*  
11       *the Committee on Homeland Security and Governmental*  
12       *Affairs of the Senate a study—*

13                *(1) reviewing the employee requirements, respon-*  
14                *sibilities, and benefits of criminal investigators in the*  
15                *TSA Office of Inspection with criminal investigators*  
16                *employed at agencies adhering to the Office of Per-*  
17                *sonnel Management employee classification system;*  
18                *and*

19                *(2) identifying any inconsistencies and costs im-*  
20                *plications for differences between the varying em-*  
21                *ployee requirements, responsibilities, and benefits.*

Attest:

*Secretary.*

114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H.R. 719**

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**AMENDMENT**