

116TH CONGRESS  
1ST SESSION

# H. R. 3469

To direct the Transportation Security Administration to carry out covert testing and risk mitigation improvement of aviation security operations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2019

Mr. CUMMINGS (for himself, Mr. THOMPSON of Mississippi, Mrs. CAROLYN B. MALONEY of New York, Ms. NORTON, Mr. CLAY, Mr. LYNCH, Mr. COOPER, Mr. CONNOLLY, Mr. KRISHNAMOORTHY, Mr. RASKIN, Mr. ROUDA, Ms. HILL of California, Ms. WASSERMAN SCHULTZ, Mr. SARBANES, Mr. WELCH, Ms. SPEIER, Ms. KELLY of Illinois, Mr. DESAULNIER, Mrs. LAWRENCE, Ms. PLASKETT, Mr. KHANNA, Mr. GOMEZ, Ms. OCASIO-CORTEZ, Ms. PRESSLEY, and Ms. TLAIB) introduced the following bill; which was referred to the Committee on Homeland Security

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## A BILL

To direct the Transportation Security Administration to carry out covert testing and risk mitigation improvement of aviation security operations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Covert Testing and  
5 Risk Mitigation Improvement Act of 2019”.

1 **SEC. 2. TSA COVERT TESTING AND RISK MITIGATION IM-**  
2 **PROVEMENT.**

3 (a) IN GENERAL.—Not later than 180 days after the  
4 date of the enactment of this Act and annually thereafter,  
5 the Administrator of the Transportation Security Admin-  
6 istration shall implement the following:

7 (1) A system for conducting risk-informed  
8 headquarters-based covert tests of aviation security  
9 operations, including relating to airport passenger  
10 and baggage security screening operations, that can  
11 yield statistically valid data that can be used to iden-  
12 tify and assess the nature and extent of  
13 vulnerabilities to such operations that are not miti-  
14 gated by current security practices. The Adminis-  
15 trator shall execute annually not fewer than three  
16 risk-informed covert testing projects designed to  
17 identify systemic vulnerabilities in the transportation  
18 security system, and shall document the assumptions  
19 and rationale guiding the selection of such projects.

20 (2) A long-term headquarters-based covert test-  
21 ing program, employing static but risk-informed  
22 threat vectors, designed to assess changes in overall  
23 screening effectiveness.

24 (b) MITIGATION.—

25 (1) IN GENERAL.—The Administrator of the  
26 Transportation Security Administration shall estab-

1       lish a system to address and mitigate the  
2       vulnerabilities identified and assessed pursuant to  
3       the testing conducted under subsection (a).

4               (2) ANALYSIS.—Not later than 60 days after  
5       the identification of any such vulnerability, the Ad-  
6       ministrator shall ensure a vulnerability described in  
7       paragraph (1) is analyzed to determine root causes.

8               (3) DETERMINATION.—Not later than 120 days  
9       after the identification of any such vulnerability, the  
10       Administrator shall make a determination regarding  
11       whether or not to mitigate such vulnerability. The  
12       Administrator shall prioritize mitigating  
13       vulnerabilities based on their ability to reduce risk.  
14       If the Administrator determines—

15               (A) to not mitigate such vulnerability, the  
16       Administrator shall document the reasons for  
17       the decision; or

18               (B) to mitigate such vulnerability, the Ad-  
19       ministrator shall establish and document—

20                       (i) key milestones appropriate for the  
21                       level of effort required to so mitigate such  
22                       vulnerability; and

23                       (ii) a date by which measures to so  
24                       mitigate such vulnerability shall be imple-

1                   mented by the Transportation Security Ad-  
2                   ministration.

3                   (4) RETESTING.—Not later than 180 days after  
4                   the date on which measures to mitigate a vulner-  
5                   ability are completed by the Transportation Security  
6                   Administration pursuant to paragraph (3)(B)(ii), the  
7                   Administrator shall conduct a covert test in accord-  
8                   ance with subsection (a) of the aviation security op-  
9                   eration with respect to which such vulnerability was  
10                  identified to assess the effectiveness of such meas-  
11                  ures to mitigate such vulnerability.

12                  (c) COMPILATION OF LISTS.—

13                  (1) IN GENERAL.—Not later than 60 days after  
14                  completing a covert testing protocol under sub-  
15                  section (a), the Administrator of the Transportation  
16                  Security Administration shall compile a list (includ-  
17                  ing a classified annex if necessary) of the  
18                  vulnerabilities identified and assessed pursuant to  
19                  such testing. Each such list shall contain, at a min-  
20                  imum, the following:

21                         (A) A brief description of the nature of  
22                         each vulnerability so identified and assessed.

23                         (B) The date on which each vulnerability  
24                         was so identified and assessed.

1           (C) Key milestones appropriate for the  
2 level of effort required to mitigate each vulner-  
3 ability, as well as an indication of whether each  
4 such milestone has been met.

5           (D) An indication of whether each vulner-  
6 ability has been mitigated or reduced and, if so,  
7 the date on which each such vulnerability was  
8 so mitigated or reduced.

9           (E) If a vulnerability has not been fully  
10 mitigated, the date by which the Administrator  
11 shall so mitigate such vulnerability or a deter-  
12 mination that it is not possible to fully mitigate  
13 such vulnerability.

14           (F) The results of any subsequent covert  
15 testing undertaken to assess whether mitigation  
16 efforts have eliminated or reduced each vulner-  
17 ability.

18           (2) SUBMISSION TO CONGRESS.—The Adminis-  
19 trator shall submit to the Committee on Homeland  
20 Security of the House of Representatives and the  
21 Committee on Commerce, Science, and Transpor-  
22 tation of the Senate a comprehensive document  
23 tracking the status of the information required  
24 under paragraph (1) together with the Transpor-

1        tation Security Administration’s annual budget re-  
2        quest.

3        (d) GAO REVIEW.—Not later than three years after  
4 the date of the enactment of this Act, the Comptroller  
5 General of the United States shall review and submit to  
6 the Administrator of the Transportation Security Admin-  
7 istration and the Committee on Homeland Security of the  
8 House of Representatives and the Committee on Com-  
9 merce, Science, and Transportation of the Senate a report  
10 on the effectiveness of the Transportation Security Admin-  
11 istration’s processes for conducting covert testing projects  
12 that yield statistically valid data that can be used to assess  
13 the nature and extent of vulnerabilities to aviation security  
14 operations that are not effectively mitigated by current se-  
15 curity operations.

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