

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.**

**S. 4681**

To ensure a timely, fair, meaningful, and transparent process for individuals to seek redress because they were wrongly identified as a threat under the screening and inspection regimes used by the Department of Homeland Security, to require a report on the effectiveness of enhanced screening programs of the Department of Homeland Security, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. PETERS

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Enhanced Oversight  
5 and Accountability in Screening Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
2           TEES.—The term “appropriate congressional com-  
3           mittees” means—

4                   (A) the Committee on Homeland Security  
5                   and Governmental Affairs of the Senate;

6                   (B) the Committee on the Judiciary of the  
7                   Senate;

8                   (C) the Committee on Armed Services of  
9                   the Senate;

10                  (D) the Select Committee on Intelligence  
11                  of the Senate;

12                  (E) the Committee on Foreign Relations of  
13                  the Senate;

14                  (F) the Committee on Homeland Security  
15                  of the House of Representatives;

16                  (G) the Committee on Oversight and Ac-  
17                  countability of the House of Representatives;

18                  (H) the Committee on the Judiciary of the  
19                  House of Representatives;

20                  (I) the Committee on Armed Services of  
21                  the House of Representatives;

22                  (J) the Permanent Select Committee on  
23                  Intelligence of the House of Representatives;

24                  and

1 (K) the Committee on Foreign Affairs of  
2 the House of Representatives.

3 (2) COMMITTEE.—The term “Committee”  
4 means the Screening and Watchlisting Advisory  
5 Committee established under section 3(a).

6 (3) CONSOLIDATED TERRORIST WATCHLIST.—  
7 The term “consolidated terrorist watchlist” has the  
8 meaning given the term “terrorist screening data-  
9 base” in section 2101 of the Homeland Security Act  
10 of 2002 (6 U.S.C. 621).

11 (4) COVERED PROCESSES.—The term “covered  
12 processes” means the practices, policies, and pro-  
13 grams used to conduct primary, secondary, en-  
14 hanced, and additional screenings, vettings, inspec-  
15 tions, and other processes at airports and other  
16 ports of entry, including those related to watchlists  
17 maintained by the Terrorist Screening Center, the  
18 Department, or a component of the Department.

19 (5) DEPARTMENT.—The term “Department”  
20 means the Department of Homeland Security.

21 (6) ENHANCED REDRESS.— The term “en-  
22 hanced redress” means the process by which the De-  
23 partment confirms whether a United States person,  
24 who has been denied boarding and has applied for

1 redress, is on the No Fly List maintained by the  
2 Terrorist Screening Center.

3 (7) FOREIGN PERSON.—The term “foreign per-  
4 son” means an individual that is not a United States  
5 person.

6 (8) HOMELAND SECURITY CONGRESSIONAL  
7 COMMITTEES.—The term “homeland security con-  
8 gressional committees” means—

9 (A) the Committee on Homeland Security  
10 and Governmental Affairs of the Senate; and

11 (B) the Committee on Homeland Security  
12 of the House of Representatives.

13 (9) REDRESS.— The term “redress” means the  
14 process established by the Department to resolve re-  
15 quests by individuals to address issues relating to  
16 travel, such as being—

17 (A) denied or delayed airline boarding;

18 (B) denied or delayed entry into or exit  
19 from the United States at a port of entry or  
20 border crossing; or

21 (C) repeatedly referred to additional  
22 screening or inspection.

23 (10) SECRETARY.—The term “Secretary”  
24 means the Secretary of Homeland Security.

1           (11) UNITED STATES PERSON.—The term  
2           “United States person” means a United States cit-  
3           izen or an alien lawfully admitted for permanent res-  
4           idence to the United States.

5 **SEC. 3. SCREENING AND WATCHLISTING ADVISORY COM-**  
6 **MITTEE.**

7           (a) ESTABLISHMENT.—Not later than 120 days after  
8           the date of enactment of this Act, the Secretary shall es-  
9           tablish a Screening and Watchlisting Advisory Committee.

10          (b) MEMBERSHIP.—

11           (1) COMPOSITION.—The Committee shall be  
12           composed of an odd number of members of not less  
13           than 15 and not more than 25 members appointed  
14           by the Secretary as follows:

15           (A) 2 members shall be the Civil Rights  
16           and Civil Liberties Officer of the Department  
17           and a representative from a nonprofit organiza-  
18           tion, academia, or civil society, who shall serve  
19           as Co-Chairs of the Committee.

20           (B) Not less than 1 member shall be ap-  
21           pointed from each of the following components  
22           of the Department:

23           (i) The Transportation Security Ad-  
24           ministration.

1 (ii) U.S. Customs and Border Protec-  
2 tion.

3 (iii) The Privacy Office.

4 (iv) The Office of Strategy, Policy,  
5 and Plans.

6 (v) The Office of Intelligence and  
7 Analysis.

8 (vi) Any other relevant component  
9 germane to Department screening, inspec-  
10 tions, and redress, as determined appro-  
11 priate by the Secretary.

12 (C) 5 members shall be the following agen-  
13 cy heads or their representatives:

14 (i) The Director of the Federal Bu-  
15 reau of Investigation.

16 (ii) The Director of the Terrorist  
17 Screening Center.

18 (iii) The Director of the National  
19 Counterterrorism Center.

20 (iv) The Secretary of State.

21 (v) The Chair of the Privacy and Civil  
22 Liberties Oversight Board established  
23 under section 1061 of the Intelligence Re-  
24 form and Terrorism Prevention Act of  
25 2004 (42 U.S.C. 2000ee).

1 (D) Members of the nonprofit, academia,  
2 or civil society sectors representing the fol-  
3 lowing:

4 (i) Individuals who represent commu-  
5 nities of diverse backgrounds in race, eth-  
6 nicity, religion, and gender.

7 (ii) Individuals who represent commu-  
8 nities from various geographic regions  
9 within the United States.

10 (iii) National organizations that rep-  
11 resent diverse racial, ethnic, and religious  
12 communities.

13 (iv) Individuals with expertise in law,  
14 transparency, technology, privacy, civil  
15 rights, and civil liberties.

16 (E) Any other individuals as the Secretary  
17 determines appropriate.

18 (2) NONGOVERNMENT MEMBERS.—There shall  
19 be not less than 1 more member of the Committee  
20 appointed under paragraph (1)(D) than the total  
21 number of members appointed under subparagraphs  
22 (A), (B), (C), and (E) of paragraph (1).

23 (3) DATE.—The appointments of members of  
24 the Committee shall be made not later than 120  
25 days after the date of enactment of this Act.

1           (4) VOLUNTARY SERVICE.—The members of the  
2           Committee shall serve on the Committee on a vol-  
3           untary basis.

4           (5) PUBLICATION OF LIST OF MEMBERS.—The  
5           Committee shall publish an updated list of members  
6           of the Committee on a publicly available website be-  
7           fore each meeting of the Committee.

8           (c) PERIOD OF APPOINTMENT; VACANCIES.—

9           (1) TERM.—The term of a member of the Com-  
10          mittee shall be 3 years, except that a member may  
11          continue to serve until a successor is appointed.

12          (2) VACANCIES.—A vacancy in the Com-  
13          mittee—

14                 (A) shall not affect the powers of the Com-  
15          mittee; and

16                 (B) shall be filled in the same manner as  
17          the original appointment.

18          (3) REAPPOINTMENT.—A member of the Advi-  
19          sory Committee may be reappointed for not more  
20          than 1 term.

21          (d) MEETINGS.—

22                 (1) INITIAL MEETING.—Not later than 30 days  
23          after the date on which all members of the Com-  
24          mittee have been appointed, the Committee shall  
25          hold the first meeting of the Committee.



- 1 (2) FREQUENCY; MANNER.—The Committee—  
2 (A) shall meet—  
3 (i) not less frequently than quarterly;  
4 and  
5 (ii) at the call of the Co-Chairs of the  
6 Committee or the Secretary; and  
7 (B) may meet remotely.

8 (e) DUTIES.—

- 9 (1) IN GENERAL.—The Committee shall—  
10 (A) advise, consult with, and make rec-  
11 ommendations to the Secretary, as appropriate,  
12 on the development, refinement, implementa-  
13 tion, and evaluation of policies, programs, and  
14 planning pertaining to covered processes of the  
15 Department, including—  
16 (i) all covered processes implemented  
17 by the Transportation Security Adminis-  
18 tration;  
19 (ii) all covered processes implemented  
20 by U.S. Customs and Border Protection at  
21 ports of entry and their equivalents;  
22 (iii) trainings associated with these  
23 covered processes;  
24 (iv) the intelligence used to support  
25 these covered processes;

1 (v) how data related to these covered  
2 processes is used, collected, retained, ana-  
3 lyzed, and shared;

4 (vi) internal Department oversight  
5 over these covered processes;

6 (vii) metrics to assess the effectiveness  
7 of covered processes, including any metrics  
8 outlined in policy documents;

9 (viii) redress processes related to  
10 these covered processes; and

11 (ix) any other matter related to cov-  
12 ered processes as the Committee may de-  
13 termine relevant;

14 (B) as appropriate, disclose to the public  
15 and Congress information about the covered  
16 processes described in subparagraph (A), and  
17 the data and analytical system related to those  
18 processes, including materials explaining how  
19 those processes work and legal and policy anal-  
20 yses of the processes;

21 (C) provide recommendations for the plan  
22 required under section 4(a), including—

23 (i) all recommendations agreed upon  
24 by a simple majority of members of the  
25 Committee; and

1 (ii) an identification of each of the  
2 members of the Committee that agreed on  
3 each recommendation; and

4 (D) consider, when providing recommenda-  
5 tions for the plan required under section 4(a)—

6 (i) the use of external advocates who  
7 are granted security clearances and may  
8 access classified information to assist pas-  
9 sengers;

10 (ii) the establishment of a Federal of-  
11 fice to serve as advocates for passengers or  
12 the designation of an existing Federal of-  
13 fice to serve that purpose;

14 (iii) the establishment of an inde-  
15 pendent ombudsman office to assist pas-  
16 sengers with the redress process;

17 (iv) expanding the enhanced redress  
18 process to include United States persons  
19 who wish to contest their placement on the  
20 Selectee List, the Expanded Selectee List,  
21 or the consolidated terrorist watchlist;

22 (v) how to provide United States per-  
23 sons subject to the enhanced redress proc-  
24 ess with a significant amount of informa-  
25 tion about the placement of the person on

1 the No Fly List and what a reasonable  
2 amount of time for this disclosure should  
3 be;

4 (vi) whether it is advisable to create a  
5 system that would allow an individual to  
6 demonstrate that the individual does not  
7 pose a threat to aviation or border secu-  
8 rity, and if advisable, the options for devel-  
9 oping such a system;

10 (vii) the extent to which an applicant  
11 for redress can be notified about placement  
12 on any other lists maintained by the De-  
13 partment or other Federal agencies aside  
14 from those described in clause (iv), and a  
15 summary of the basis for that placement;

16 (viii) which policies, procedures, and  
17 guidelines related to covered processes and  
18 redress can be made available to the public  
19 and, for those policies, procedures, and  
20 guidelines that are required to be withheld  
21 in part or in full, how the Department and  
22 other Federal agencies can release mean-  
23 ingful information about those policies,  
24 procedures, and guidelines to the public;

1 (ix) notifying applicants for redress of  
2 whether any records, including records re-  
3 lating to the status of the applicant, have  
4 changed as a result of the application; and

5 (x) the potential for a redress appli-  
6 cant who opts in to receive an expedited or  
7 discounted review of an application for a  
8 trusted traveler program of the Depart-  
9 ment.

10 (2) CONSULTATION.—

11 (A) IN GENERAL.—To ensure input and  
12 coordination from relevant components of the  
13 Department and the public, the Secretary shall  
14 regularly seek the advice of the Committee on  
15 the administration of Department covered proc-  
16 esses and redress policies and procedures.

17 (B) COMMITTEE CONSULTATION.—The  
18 Committee may consult with applicable Federal  
19 agencies other than the Department to ensure  
20 a holistic review of covered processes.

21 (C) ACCESS TO MATERIALS.—The Com-  
22 mittee shall have access to all materials nec-  
23 essary to implement its responsibilities, includ-  
24 ing all materials marked as for official use only,

1 law enforcement sensitive, or sensitive security  
2 information.

3 (3) REPORTS.—

4 (A) PERIODIC REPORTS.—The Committee  
5 shall periodically submit to the Secretary re-  
6 ports on screening, inspections, and redress  
7 matters identified by the Secretary and on mat-  
8 ters of concern identified by a majority of the  
9 members of the Committee.

10 (B) ANNUAL REPORT.—

11 (i) IN GENERAL.—Not later than Sep-  
12 tember 30 of each year, the Co-Chairs of  
13 the Committee shall submit to the home-  
14 land security congressional committees and  
15 the Secretary a report on the activities of  
16 the Committee for the preceding year,  
17 which shall include—

18 (I) information from the periodic  
19 reports submitted under subparagraph  
20 (A) during the year covered by the re-  
21 port; and

22 (II) the activities of any sub-  
23 committees established under sub-  
24 section (f)(5).

1 (ii) PUBLICATION.—Not more than 30  
2 days after the date on which the Secretary  
3 receives a report under clause (i), the Sec-  
4 retary shall publish a public version of the  
5 report.

6 (4) CONGRESSIONAL BRIEFING.—Not more  
7 than 10 days after the date on which the Co-Chairs  
8 of the Committee submit to the Secretary the report  
9 required under paragraph (3)(B)(i), the Co-Chairs  
10 of the Committee shall provide a briefing to the  
11 homeland security congressional committees on the  
12 work, recommendations, and dissenting opinions of  
13 the Committee and any actions taken as the result  
14 of the work, recommendations, and dissenting opin-  
15 ions.

16 (f) POWERS OF THE COMMITTEE.—

17 (1) HEARINGS.—The Committee may hold such  
18 hearings, sit and act at such times and places, take  
19 such testimony, and receive such evidence as the  
20 Committee considers advisable to carry out this Act.

21 (2) INFORMATION FROM FEDERAL AGENCIES.—

22 (A) IN GENERAL.—The Committee may  
23 secure directly from a Federal department or  
24 agency such information as the Committee con-  
25 siders necessary to carry out this Act.

1 (B) FURNISHING INFORMATION.—On re-  
2 quest of the Co-Chairs of the Committee, the  
3 head of the relevant Federal department or  
4 agency shall furnish the information to the  
5 Committee.

6 (C) SAFEGUARDS.—Each member of the  
7 Committee shall abide by the relevant executive  
8 orders, regulations, and policies regarding the  
9 use, safeguarding, and sharing of information  
10 that regularly apply to the information accessed  
11 and role of the member on the Committee.

12 (3) POSTAL SERVICES.—The Committee may  
13 use the United States mail in the same manner and  
14 under the same conditions as other departments and  
15 agencies of the Federal Government.

16 (4) GIFTS.—The Committee may accept, use,  
17 and dispose of gifts or donations of services or prop-  
18 erty.

19 (5) SUBCOMMITTEES.—

20 (A) IN GENERAL.—The Co-Chairs of the  
21 Committee may establish subcommittees to ac-  
22 complish the duties of the Committee.

23 (B) INTELLIGENCE MATTERS.—

24 (i) IN GENERAL.—The Co-Chairs of  
25 the Committee shall establish a sub-



1 committee on intelligence matters related  
2 to covered processes.

3 (ii) MEMBERSHIP.—The sub-  
4 committee described in clause (i) shall in-  
5 clude the Co-Chairs of the Committee and  
6 may include other members of the Com-  
7 mittee who are not Federal employees.

8 (iii) SECURITY CLEARANCES.—

9 (I) IN GENERAL.—Subject to  
10 subclause (II), the Department shall  
11 expeditiously provide the Committee  
12 members and staff of the sub-  
13 committee established under clause (i)  
14 with appropriate security clearances  
15 to the extent possible under existing  
16 procedures and requirements to per-  
17 form oversight of intelligence matters  
18 relating to covered processes.

19 (II) PROHIBITION.—No indi-  
20 vidual may be appointed to the sub-  
21 committee established under clause (i)  
22 if such individual is determined not to  
23 be eligible to receive the requisite se-  
24 curity clearance.

1 (III) SECURITY CLEARANCE RE-  
2 QUIREMENTS.—Any individual ap-  
3 pointed to the subcommittee estab-  
4 lished under clause (i) shall abide by  
5 the requirements to hold a security  
6 clearance provided under this clause.

7 (C) OPEN MEETINGS.— To the greatest  
8 extent possible, all meetings of a subcommittee  
9 described in this paragraph shall be open to the  
10 public.

11 (g) COMMITTEE PERSONNEL MATTERS.—

12 (1) PROHIBITION ON COMPENSATION.—No non-  
13 Federal member of the Committee may receive pay  
14 or benefits from the United States Government by  
15 reason of service on the Committee.

16 (2) TRAVEL EXPENSES.—All members of the  
17 Committee may be paid travel, per diem, and other  
18 necessary expenses while traveling away from such  
19 member's home or regular place of business in the  
20 performance of the duties of the Committee.

21 (h) APPLICABILITY OF FACA.—Chapter 10 of title  
22 5, United States Code (commonly referred to as the “Fed-  
23 eral Advisory Committee Act”), shall apply to the Com-  
24 mittee.

1 (i) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
2 tion shall be construed to limit the communications of the  
3 members of the Committee with Congress.

4 (j) **TERMINATION.**—The Committee shall terminate  
5 on December 31, 2030.

6 **SEC. 4. REVISING DEPARTMENT REDRESS PROCESSES.**

7 (a) **PLAN TO IMPROVE REDRESS PROCESSES.**—

8 (1) **IN GENERAL.**—Not later than 2 years after  
9 the date of enactment of this Act, the Secretary  
10 shall submit to the homeland security congressional  
11 committees a plan, to be known as the “DHS Plan  
12 to Improve Redress”, to improve and expand the im-  
13 plementation by the Department of the appeal and  
14 redress process required under section 44926 of title  
15 49, United States Code.

16 (2) **ELEMENTS.**—The plan required under  
17 paragraph (1) shall include—

18 (A) the needs and intended outcomes of  
19 the redress process, including—

20 (i) protecting national security and  
21 upholding transparency, privacy, civil  
22 rights, and civil liberties;

23 (ii) an implementation schedule with  
24 key milestones; and

25 (iii) delegation of responsibilities;

1 (B) improved processes to seek redress for  
2 individuals who believe they have been delayed,  
3 prohibited from boarding a commercial aircraft,  
4 denied or delayed entry into the United States,  
5 subjected to electronic device searches, or de-  
6 nied Department credentials because they were  
7 wrongly identified as a risk under the regimes  
8 utilized by the Transportation Security Admin-  
9 istration, U.S. Customs and Border Protection,  
10 or any other office or component of the Depart-  
11 ment;

12 (C) efforts to ensure the redress process is  
13 timely, fair, and provides for sufficient constitu-  
14 tional protections and corrective actions to min-  
15 imize misidentifications and wrongful place-  
16 ments;

17 (D) opportunities for the public to provide  
18 feedback before and after implementation of the  
19 plan;

20 (E) a description of concrete steps the De-  
21 partment will take to strengthen the redress  
22 process and make the redress process more  
23 transparent and readily available for people of  
24 all backgrounds, including individuals who lack

1 access to technology or familiarity with the  
2 Federal government; and

3 (F) a list of policies, procedures, and  
4 guidelines related to redress and covered proc-  
5 esses of the Department that the Department  
6 will make available to the public and, for those  
7 policies, procedures, and guidelines that must  
8 be withheld in part or in full as a result of rea-  
9 sonable national security concerns, how the De-  
10 partment and other Federal agencies can re-  
11 lease meaningful information about those poli-  
12 cies, procedures, and guidelines to the public.

13 (3) CONSIDERATIONS.—The Secretary shall  
14 consider any recommendations made by the Com-  
15 mittee under section 3(e)(1) when developing the  
16 plan required under paragraph (1) of this subsection  
17 and provide an explanation for any rejected rec-  
18 ommendations.

19 (4) FORM.—The plan required under paragraph  
20 (1) shall be submitted in unclassified form, but may  
21 include a classified annex.

22 (5) PUBLIC AVAILABILITY.—Not later than 30  
23 days after the date on which the Secretary submits  
24 the plan required under paragraph (1), the Sec-  
25 retary shall publish a public version of the plan.

1           (6) BRIEFING.—Not later than 10 days after  
2           the Secretary publishes a public version of the plan  
3           under paragraph (5), the Secretary shall brief the  
4           homeland security congressional committees on the  
5           plan.

6           (b) EXPANSION OF OFFICE OF APPEALS AND RE-  
7           DRESS.—Section 44926(b)(1) of title 49, United States  
8           Code, is amended—

9           (1) by striking “The Secretary shall” and in-  
10          serting the following:

11                   “(A) IN GENERAL.—The Secretary shall”;

12           (2) by striking “The Office shall include rep-  
13          resentatives” and inserting the following:

14                   “(B) COMPOSITION.—The Office shall in-  
15          clude—

16                           “(i) representatives”;

17           (3) in subparagraph (B), as so designated—

18                   (A) in clause (i), by striking the period at  
19          the end and inserting a semicolon; and

20                   (B) by adding at the end the following:

21                           “(ii) the Privacy Officer of the De-  
22          partment; and

23                           “(iii) the Officer for Civil Rights and  
24          Civil Liberties of the Department.”.

25           (c) ANNUAL REPORT TO CONGRESS.—

1           (1) IN GENERAL.— Not later than 180 days  
2 after the date of enactment of this Act, and annually  
3 thereafter until December 31, 2030, the Attorney  
4 General, in consultation with the Secretary, the Di-  
5 rector of National Intelligence, the Secretary of  
6 State, and the Secretary of Defense, shall submit to  
7 appropriate congressional committees a report on  
8 the consolidated terrorist watchlist, which shall in-  
9 clude—

10           (A) the criteria and guidance used by Fed-  
11 eral agencies for placing the name of an indi-  
12 vidual on the consolidated terrorist watchlist, by  
13 category, including a summary of any changes  
14 made in the 1-year period preceding submission  
15 of the report;

16           (B) the total number of identities on the  
17 consolidated terrorist watchlist, and the number  
18 of identities by each category, including the  
19 number of United States person identities in  
20 each category;

21           (C) the minimum standards for reliability  
22 and accuracy of identifying information;

23           (D) the degree of information certainty, in-  
24 cluding all audits conducted in the 1-year pe-  
25 riod preceding submission of the report;

1           (E) a list of policies and programs for  
2           which the consolidated terrorist watchlist is  
3           used and the range of applicable consequences  
4           that are to apply to an individual, including  
5           screening and inspection activities that may  
6           apply as a result;

7           (F) the types of records contained within  
8           the consolidated terrorist watchlist;

9           (G) the list of government and nongovern-  
10          ment entities with whom the consolidated ter-  
11          rorist watchlist information is shared, including  
12          foreign government entities, the way those enti-  
13          ties use consolidated terrorist watchlist infor-  
14          mation, and the categories from the consoli-  
15          dated terrorist watchlist that those entities re-  
16          ceive; and

17          (H) the number of records added, removed,  
18          and changed in the consolidated terrorist  
19          watchlist, including, for each removal, the num-  
20          ber of such records by reason for the removal,  
21          in the 1-year period preceding submission of the  
22          report.

23          (I) a description of new information main-  
24          tained by the Terrorist Screening Center.



1           (2) FORM.—Each report required under para-  
2 graph (1) shall be submitted in unclassified form,  
3 but may include a classified annex.

4           (3) BRIEFING.—Not later than 10 days after  
5 the date on which the Attorney General submits the  
6 first report under paragraph (1), the Attorney Gen-  
7 eral shall brief the appropriate congressional com-  
8 mittees on the report.

9           (4) PUBLICATION.—The Attorney General shall  
10 develop and publish on the website of the Depart-  
11 ment of Justice a public version of each report re-  
12 quired under this subsection in a manner that makes  
13 available any information in the report that would  
14 not harm national security.

15 **SEC. 5. REPORT ON EFFECTIVENESS OF ENHANCED**  
16 **SCREENING PROGRAMS.**

17 (a) DEFINITIONS.—In this section:

18           (1) DHS TRIP.—The term “DHS TRIP”  
19 means the Traveler Redress Inquiry Program of the  
20 Department.

21           (2) ENHANCED SCREENING.—The term “en-  
22 hanced screening” means enhanced or additional  
23 screening by the Transportation Security Adminis-  
24 tration of a passenger at an airport or secondary in-

1       spection by U.S. Customs and Border Protection of  
2       an individual at a port of entry or the equivalent.

3               (3) REPORTING PERIOD.—The term “reporting  
4       period”, with respect to a report required by sub-  
5       section (b), means the one-year period preceding  
6       submission of the report.

7       (b) REPORTS.—Not later than 1 year after the date  
8       of the enactment of this Act, and annually thereafter for  
9       the next 10 years, the Secretary shall—

10              (1) submit to the Committee on Homeland Se-  
11       curity and Governmental Affairs and the Committee  
12       on Commerce, Science, and Transportation of the  
13       Senate, the Committee on Homeland Security of the  
14       House of Representatives, and the Comptroller Gen-  
15       eral of the United States a report evaluating the ef-  
16       fectiveness, during the reporting period, of the mech-  
17       anisms of the Transportation Security Administra-  
18       tion and U.S. Customs and Border Protection for  
19       performing enhanced screening of passengers at air-  
20       ports and individuals at ports of entry or the equiva-  
21       lent; and

22              (2) work with the Chief Information Officer of  
23       the Department and the Science and Technology Di-  
24       rectorate of the Department to develop any new  
25       tools or mechanisms needed to track the information

1 described in paragraph (1) in a manner that shall  
2 not delay travelers and shall report any challenges in  
3 development of that technology to the appropriate  
4 congressional committees.

5 (c) ELEMENTS OF REPORTS.—

6 (1) IN GENERAL.—Each report required by  
7 subsection (b) shall include for the reporting period,  
8 at a minimum, the following data, disaggregated  
9 with respect to the Transportation Security Admin-  
10 istration and U.S. Customs and Border Protection,  
11 as applicable to each agency:

12 (A) The number of individuals who under-  
13 went at least 1 enhanced screening, the number  
14 of enhanced screenings conducted, and the  
15 number of enhanced screenings disaggregated  
16 by the following reasons for screening, as ap-  
17 propriate:

18 (i) The individual being on the Se-  
19 lectee List.

20 (ii) The individual being on the Ex-  
21 panded Selectee List.

22 (iii) A rules-based screening,  
23 disaggregated by whether the screening  
24 was conducted under the Silent Partner or  
25 Quiet Skies program of the Transportation

1 Security Administration or pursuant to a  
2 rule of U.S. Customs and Border Protec-  
3 tion.

4 (iv) Identification of the individual by  
5 the Transportation Security Administra-  
6 tion under section 114(h)(2) of title 49,  
7 United States Code.

8 (v) Agricultural inspection.

9 (vi) Customs inspection.

10 (vii) Immigration inspection.

11 (viii) At the discretion of an employee  
12 of U.S. Customs and Border Protection or  
13 Transportation Security Administration,  
14 including by a member of a Tactical Ter-  
15 rorism Response Team.

16 (ix) Random selection, disaggregated  
17 by whether enhanced screening was con-  
18 ducted—

19 (I) under the Secure Flight pro-  
20 gram of the Transportation Security  
21 Administration; or

22 (II) at a port of entry or at an  
23 airport security checkpoint, including  
24 for participants in trusted traveler

1 programs or the Registered Traveler  
2 program.

3 (x) In response to a flag from another  
4 Federal agency, disaggregated by which  
5 agency and what that flag was for, includ-  
6 ing because the individual is on the Do  
7 Not Board List or the Public Health Look-  
8 out List of the Centers for Disease Control  
9 and Prevention.

10 (xi) Air carrier designation.

11 (xii) Other reasons, including informa-  
12 tion with respect to such other reasons.

13 (B) The enhanced screenings described in  
14 subparagraph (A) that, as appropriate to the  
15 Transportation Security Administration and  
16 U.S. Customs and Border Protection, resulted  
17 in—

18 (i) the discovery of a violation of the  
19 law, disaggregated by violation;

20 (ii) the revocation of a visa;

21 (iii) the placement of an individual in  
22 detention;

23 (iv) the nomination of an individual to  
24 the Terrorist Screening Database;

25 (v) the levying of a fine or penalty;

1 (vi) the detection of a prohibited item;

2 or

3 (vii) no consequences.

4 (C) Whether there were individuals who,  
5 during the period covered under the relevant re-  
6 port, underwent more than 1 enhanced screen-  
7 ing, including—

8 (i) how many individuals underwent  
9 more than 1 enhanced screening;

10 (ii) how often those individuals re-  
11 ceived enhanced screenings;

12 (iii) whether there were common rea-  
13 sons for the multiple enhanced screenings;

14 (iv) whether individuals who received  
15 enhanced screenings received those  
16 screenings because of a rules-based screen-  
17 ing program matched to more than 1 rule  
18 and, if so, how many rules they matched  
19 to;

20 (v) whether there were any common  
21 trends or characteristics to the individuals  
22 who underwent more than 1 enhanced  
23 screening that the Department was able to  
24 identify, including nationality, gender, or  
25 another relevant characteristic;

1 (vi) whether there were individuals  
2 who were previously removed from the Ter-  
3 rorist Screening Database who after that  
4 removal received an enhanced screening  
5 that was not related to the previous place-  
6 ment in the Database; and

7 (vii) whether the individuals who un-  
8 derwent more than 1 enhanced screening,  
9 by either the Transportation Security Ad-  
10 ministration or U.S. Customs and Border  
11 Protection, had also undergone more than  
12 1 enhanced screening in the previous 2  
13 years.

14 (D) With respect to the searches of the  
15 content of electronic devices arising from en-  
16 hanced screenings, the following:

17 (i) The number of electronic devices  
18 searched, disaggregated by airport or port  
19 of entry and basic or advanced search, and  
20 the names of third-party tools used to con-  
21 duct the search.

22 (ii) The number of requests for tech-  
23 nical assistance to search an electronic de-  
24 vice or for assistance to conduct analysis of  
25 the findings of a search of a device,

1 disaggregated by requesting agency, air-  
2 port or port of entry, and assisting agency,  
3 and including the number of requests  
4 granted and a description of the result of  
5 each request.

6 (iii) The total number of individuals  
7 whose electronic devices were searched dur-  
8 ing the reporting period.

9 (iv) The number of those individuals  
10 who were, at the time of the search, in-  
11 cluded on the No Fly List, the Selectee  
12 List, the Terrorist Screening Database, or  
13 other subsidiary lists shared with the De-  
14 partment, disaggregated by list.

15 (v) The number of individuals who, as  
16 a result of the search in part or wholly,  
17 were newly added to a list described in  
18 clause (iv).

19 (E) With respect to each Transportation  
20 Security Administration and U.S. Customs and  
21 Border Protection rules-based screening pro-  
22 gram, the following:

23 (i) A description of each rule that was  
24 in effect at any point during the reporting  
25 period.



1 (ii) A statement of the following:

2 (I) The total number of rules and  
3 the number of rules added, changed,  
4 maintained, or archived.

5 (II) For the number of rules  
6 added or changed, a statement of—

7 (aa) the number added or  
8 changed through standard rule  
9 review procedures; and

10 (bb) the number added or  
11 changed through procedures de-  
12 signed for exigent circumstances.

13 (III) The total number of rules  
14 that rely in part or wholly on race,  
15 ethnicity, nationality, sex, age, or reli-  
16 gion, a breakdown of the rules by  
17 each trait, and a description of how  
18 each rule uses that trait.

19 (F) With respect to DHS TRIP, a state-  
20 ment of the following:

21 (i) The number of applications to  
22 DHS TRIP.

23 (ii) With respect to the No Fly List,  
24 the Selectee List, the Terrorist Screening

1 Database, or other subsidiary lists shared  
2 with the Department, the following:

3 (I) The number of applicants to  
4 DHS TRIP who were included on one  
5 of those lists and were not removed as  
6 a result of the application,  
7 disaggregated by list.

8 (II) The number of applicants to  
9 DHS TRIP who were included on one  
10 of those lists at the time of a redress  
11 application and whose status changed  
12 as a result of the redress process,  
13 disaggregated by list.

14 (III) The number of applicants  
15 that DHS TRIP determined had no  
16 nexus to one of those lists.

17 (IV) The number of applicants  
18 that DHS TRIP determined were  
19 mistakenly identified as an individual  
20 on one of those lists, disaggregated by  
21 list.

22 (iii) The number of applicants that  
23 DHS TRIP determined were included as  
24 random selectees for enhanced screening  
25 under the Secure Flight program.

1 (iv) The number of applicants for  
2 DHS TRIP who encountered travel inci-  
3 dents that fall into categories not described  
4 in any of clauses (i), (ii), and (iii),  
5 disaggregated by category.

6 (v) The number of applications to  
7 DHS TRIP that stated that an agency or  
8 officer relied upon race, ethnicity, nation-  
9 ality, sex, age, or religion to make any de-  
10 cision.

11 (G) Any other information the Secretary  
12 considers relevant to evaluating the effective-  
13 ness of the enhanced screening selection proce-  
14 dures of the Transportation Security Adminis-  
15 tration and U.S. Customs and Border Protec-  
16 tion, including any improvements the Secretary  
17 has identified as a result of the report and  
18 plans to implement or the effect of improve-  
19 ments made as a result of reports submitted  
20 during previous years.

21 (2) INITIAL REPORT.—In submitting the first  
22 report in accordance with this subsection, the Sec-  
23 retary shall include the following:

24 (A) An explanation for any required infor-  
25 mation and data described in paragraph (1)

1 that is not available on the date of the submis-  
2 sion but can be collected in the future, includ-  
3 ing—

4 (i) whether technological or other  
5 changes will need to be made to collect the  
6 information or data;

7 (ii) the timeline for collecting the in-  
8 formation or data, including any specific  
9 agency responsibilities; and

10 (iii) any additional resources nec-  
11 essary for collecting the information or  
12 data.

13 (B) With respect to any required informa-  
14 tion and data described in paragraph (1) that  
15 the Secretary cannot collect, an explanation as  
16 to why the information or data cannot be col-  
17 lected.

18 (3) SUBSEQUENT REPORTS.—Each report sub-  
19 mitted after the initial report described in paragraph  
20 (2) shall include a description of any required infor-  
21 mation or data described in paragraph (1) that is  
22 missing from the report, including the following:

23 (A) A description of the missing required  
24 information or data described in paragraph (1).

1           (B) The Transportation Security Adminis-  
2           tration or U.S. Customs and Border Protection  
3           or other Government entity screening entity, ac-  
4           tivity, or program that uses, produces, or is  
5           best positioned to have knowledge of the miss-  
6           ing required information or data described in  
7           paragraph (1).

8           (C) The reasons the required information  
9           or data described in paragraph (1) are missing  
10          from the report.

11          (D) Any updates relating to changes made  
12          based on subsection (2)(A).

13          (E) Any additional required authorities, re-  
14          sources, or other needed actions to begin track-  
15          ing the missing required information or data  
16          described in paragraph (1), if practicable.

17          (d) ANALYSIS OF CIVIL RIGHTS, CIVIL LIBERTIES,  
18          AND PRIVACY IMPACT.—Each report required under sub-  
19          section (b) shall include an analysis of any impacts on civil  
20          rights, civil liberties, and privacy of enhanced screening  
21          based on the data included in the report.

22          (e) DISAGGREGATION.—Each report required under  
23          subsection (b) shall disaggregate the information con-  
24          tained in the report relating to individuals into the cat-  
25          egories of United States persons and foreign persons.

1 (f) GAO REVIEW.—

2 (1) REVIEW.—Upon receipt of the first report  
3 submitted under subsection (b), the Comptroller  
4 General of the United States shall commence a re-  
5 view of the section of the report submitted in compli-  
6 ance with subsection (c)(2).

7 (2) BRIEFING.—Not later than 1 year after re-  
8 ceipt of the report submitted under subsection (b),  
9 the Comptroller General of the United States shall  
10 provide a briefing on the findings of the review to  
11 the Committee on Homeland Security and Govern-  
12 mental Affairs and the Committee on Commerce,  
13 Science, and Transportation of the Senate and to  
14 the Committee on Homeland Security of the House  
15 of Representatives.

16 (g) DATA COLLECTION.—The data to be included in  
17 each report required by subsection (b) shall—

18 (1) be provided by the Transportation Security  
19 Administration and U.S. Customs and Border Pro-  
20 tection to the Office of Homeland Security Statis-  
21 tics; and

22 (2) be collected and analyzed—

23 (A) by the Office of Homeland Security  
24 Statistics, in coordination with the Transpor-  
25 tation Security Administration, U.S. Customs

1 and Border Protection, and other relevant  
2 agencies; and

3 (B) in a manner that—

4 (i) is consistent with the Constitution  
5 of the United States;

6 (ii) complies with all applicable laws  
7 and policies, including laws and policies  
8 protecting privacy, civil rights, and civil  
9 liberties.

10 (h) LIMITATIONS ON USE OF DATA.—Data that is  
11 aggregated for purposes of a report required by subsection  
12 (b)—

13 (1) shall be used only for purposes of preparing  
14 the report, analyzing trends, making recommenda-  
15 tions for improving the efficiency and effectiveness  
16 of enhanced screening at airports and ports of entry  
17 or implementing those improvements, or reviewing  
18 enhanced screening programs; and

19 (2) may not be used for purposes of tracking,  
20 vetting, or screening individuals.

21 (i) FORM OF REPORT.—Each report required by sub-  
22 section (b) shall be submitted in unclassified form, but  
23 may include a classified appendix.

24 (j) PUBLICATION.—The Secretary shall develop and  
25 publish on the website of the Department of Homeland

- 1 Security a public version of each report required under
- 2 this section in a manner that makes available any informa-
- 3 tion in the report that would not harm national security.