

.....  
(Original Signature of Member)

111TH CONGRESS  
1ST SESSION

**H. R.**

To enhance the transportation security functions of the Department of Homeland Security by providing for an enhanced personnel system for employees of the Transportation Security Administration, and for other purposes.

---

IN THE HOUSE OF REPRESENTATIVES

Mrs. LOWEY (for herself, Mr. THOMPSON of Mississippi, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

---

**A BILL**

To enhance the transportation security functions of the Department of Homeland Security by providing for an enhanced personnel system for employees of the Transportation Security Administration, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Transportation Security Workforce Enhancement Act of  
6 2009”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Conversion of transportation security personnel.
- Sec. 4. Transition rules.
- Sec. 5. Consultation requirement.
- Sec. 6. No right to strike.
- Sec. 7. Regulations.
- Sec. 8. Delegations to Assistant Secretary.
- Sec. 9. Authorization of appropriations.

3 **SEC. 2. DEFINITIONS.**

4 For purposes of this Act—

5 (1) the term “covered position” means—

6 (A) a position within the Transportation  
7 Security Administration; and

8 (B) any position within the Department of  
9 Homeland Security, not described in subpara-  
10 graph (A), the duties and responsibilities of  
11 which involve providing transportation security  
12 in furtherance of the purposes of the Aviation  
13 and Transportation Security Act (Public Law  
14 107-71), as determined by the Secretary;

15 (2) the term “covered employee” means an em-  
16 ployee who holds a covered position;

17 (3) the term “employee” has the meaning given  
18 such term by section 2105 of title 5, United States  
19 Code;

20 (4) the term “Secretary” means the Secretary  
21 of Homeland Security;

1           (5) the term “Assistant Secretary” means the  
2           official within the Department of Homeland Security  
3           who is responsible for overseeing and implementing  
4           transportation security pursuant to the Aviation and  
5           Transportation Security Act, whether designated as  
6           the Assistant Secretary of Homeland Security  
7           (Transportation Security Administration), the Ad-  
8           ministrators of the Transportation Security Adminis-  
9           tration, the Undersecretary of Transportation for  
10          Security, or otherwise;

11          (6) the term “TSA personnel management sys-  
12          tem” means any personnel management system, as  
13          established or modified under—

14                 (A) section 111(d) of the Aviation and  
15                 Transportation Security Act; or

16                 (B) section 114(n) of title 49, United  
17                 States Code;

18          (7) the term “agency” means an Executive  
19          agency, as defined by section 105 of title 5, United  
20          States Code; and

21          (8) the term “conversion date” means the date  
22          as of which paragraphs (1) through (3) of section  
23          3(b) take effect.

1 **SEC. 3. CONVERSION OF TRANSPORTATION SECURITY PER-**  
2 **SONNEL.**

3 (a) **TERMINATION OF CERTAIN PERSONNEL AU-**  
4 **THORITIES.**—Effective as of the date of the enactment of  
5 this Act—

6 (1) each provision of law cited in section 2(6)  
7 is repealed, and any authority to establish or modify  
8 a TSA personnel management system under either  
9 such provision of law shall terminate; and

10 (2) all authority to establish or adjust a human  
11 resources management system under chapter 97 of  
12 title 5, United States Code, shall terminate with re-  
13 spect to covered employees and covered positions.

14 (b) **COVERED EMPLOYEES AND POSITIONS MADE**  
15 **SUBJECT TO SAME PERSONNEL MANAGEMENT SYSTEM**  
16 **AS APPLIES TO CIVIL SERVICE EMPLOYEES GEN-**  
17 **ERALLY.**—Effective as of the date determined by the Sec-  
18 retary, but in no event later than 60 days after the date  
19 of the enactment of this Act—

20 (1) all TSA personnel management systems  
21 shall cease to be effective;

22 (2) any human resources management system  
23 established or adjusted under chapter 97 of title 5,  
24 United States Code, to the extent otherwise applica-  
25 ble with respect to covered employees or covered po-  
26 sitions, shall cease to be effective; and

1           (3) covered employees and covered positions  
2 shall become subject to the provisions of title 5,  
3 United States Code, and all other civil service laws  
4 which apply with respect to both—

5           (A) any employees and positions within the  
6 Department of Homeland Security (other than  
7 covered employees and covered positions, and  
8 disregarding the effect of any action taken  
9 under chapter 97 of title 5, United States  
10 Code); and

11           (B) employees and positions within agen-  
12 cies generally (outside of the Department of  
13 Homeland Security).

14 **SEC. 4. TRANSITION RULES.**

15           (a) **NONREDUCTION IN RATE OF PAY.**—Any conver-  
16 sion of an employee from a TSA personnel management  
17 system to the provisions of law made applicable with re-  
18 spect to such employee by section 3(b)(3) shall be effected,  
19 under pay conversion rules prescribed by the Secretary,  
20 without any reduction in the rate of basic pay payable to  
21 such employee.

22           (b) **PRESERVATION OF OTHER RIGHTS.**—In the case  
23 of each individual who is a covered employee as of the con-  
24 version date, the Secretary shall take any actions which  
25 may be necessary to ensure that—

1           (1) all service performed by such individual as  
2           a covered employee before the conversion date shall  
3           be credited in the determination of such individual's  
4           length of service as an employee for purposes of ap-  
5           plying the provisions of law governing leave, pay,  
6           group life and health insurance, severance pay, ten-  
7           ure, and status, which are made applicable with re-  
8           spect to such individual by section 3(b)(3);

9           (2) all annual leave, sick leave, or other paid  
10          leave accrued, accumulated, or otherwise available to  
11          a covered employee immediately before the conver-  
12          sion date shall remain available to the employee,  
13          until used, so long as such individual remains con-  
14          tinuously employed by the Department of Homeland  
15          Security; and

16          (3) the Government share of any premiums or  
17          other periodic charges under the provisions of law  
18          governing group health insurance shall remain the  
19          same as was the case immediately before the conver-  
20          sion date, so long as such individual remains con-  
21          tinuously employed by the Department of Homeland  
22          Security.

23          (c) PENDING PROCEEDINGS.—No provision of this  
24          Act shall affect any administrative or judicial proceeding  
25          commenced before the date of the enactment of this Act.

1 Determinations in any such proceeding shall be made and  
2 appeals therefrom shall be taken as if this Act had not  
3 been enacted.

4 **SEC. 5. CONSULTATION REQUIREMENT.**

5 (a) **QUALIFIED LABOR ORGANIZATION.**—For pur-  
6 poses of this section, the term “qualified labor organiza-  
7 tion” means a labor organization which, as of the date  
8 of the enactment of this Act—

9 (1) satisfies the definition of a labor organiza-  
10 tion under section 7103(a)(4) of title 5, United  
11 States Code; and

12 (2) is receiving through payroll deductions,  
13 from at least 1,000 covered employees, dues payable  
14 to the labor organization.

15 (b) **CONSULTATION RIGHTS.**—A qualified labor orga-  
16 nization—

17 (1) shall, within 14 days after the date of the  
18 enactment of this Act, be informed by the Secretary  
19 in writing of the plans in accordance with which the  
20 Secretary intends to carry out the conversion of cov-  
21 ered employees and covered positions under this Act,  
22 including with respect to such matters as—

23 (A) the proposed conversion date; and

24 (B) measures to ensure compliance with  
25 section 4; and

1           (2) shall be afforded a reasonable opportunity  
2           to present its views and recommendations regarding  
3           those plans.

4           (c) REQUIRED AGENCY RESPONSE.—If any views or  
5           recommendations are presented under subsection (b)(2) by  
6           a labor organization, the Secretary—

7           (1) shall consider the views or recommendations  
8           before taking final action on any matter with respect  
9           to which the views or recommendations are pre-  
10          sented; and

11          (2) shall provide the labor organization a writ-  
12          ten statement of the reasons for the final actions to  
13          be taken.

14          (d) RULE OF CONSTRUCTION REGARDING EXCLU-  
15          SIVE REPRESENTATION.—Nothing in this section shall be  
16          considered—

17          (1) to permit or require the application, or the  
18          continued application, of subsection (b) or (c) if any  
19          labor organization has been accorded exclusive rec-  
20          ognition with respect to all covered employees; or

21          (2) to limit the right of any agency or exclusive  
22          representative to engage in collective bargaining.

23          (e) SUNSET PROVISION.—The provisions of this sec-  
24          tion shall cease to be effective as of the conversion date.

1 **SEC. 6. NO RIGHT TO STRIKE.**

2 Nothing in this Act shall be considered—

3 (1) to repeal or otherwise affect—

4 (A) section 1918 of title 18, United States  
5 Code (relating to disloyalty and asserting the  
6 right to strike against the Government); or

7 (B) section 7311 of title 5, United States  
8 Code (relating to loyalty and striking); or

9 (2) to otherwise authorize any activity which is  
10 not permitted under either provision of law cited in  
11 paragraph (1).

12 **SEC. 7. REGULATIONS.**

13 The Secretary may prescribe any regulations nec-  
14 essary to carry out this Act.

15 **SEC. 8. DELEGATIONS TO ASSISTANT SECRETARY.**

16 The Secretary may, with respect to any authority or  
17 function vested in the Secretary under any of the pre-  
18 ceding provisions of this Act, delegate any such authority  
19 or function to the Assistant Secretary under such terms,  
20 conditions, and limitations, including the power of redele-  
21 gation, as the Secretary considers appropriate.

22 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated such sums  
24 as may be necessary to carry out this Act.