AMENDMENT TO RULES COMMITTEE PRINT 118–10

OFFERED BY MR. DONALDS OF FLORIDA

At the end of title XVIII, insert the following:

SEC. 18. EVALUATION OF CBP'S IMPLEMENTATION OF AN INTEGRATED BIOMETRIC ENTRY AND EXIT DATA SYSTEM.

(a) Evaluation.—

(1) In general.—Not later than 120 days after the date of the enactment of this section, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate an evaluation of the status of efforts to implement an integrated entry and exit data system in accordance with section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a; in this section referred to as the “System”).
(2) CONTENTS.—The evaluation required under paragraph (1) shall include information relating to the following:

(A) An evaluation of the ongoing efforts to implement the System, including information on pre-existing requirements, design, development, operational, and maintenance costs relating to the System, and other information that takes into account prior reports on such matters issued by the Government Accountability Office and the Department of Homeland Security.

(B) An evaluation of cost-effective staffing and personnel requirements of the System that leverages existing resources of the Department and takes into account prior reports on such matters issued by the Government Accountability Office and the Department.

(C) An evaluation of training programs necessary to establish the System that takes into account prior reports on such matters issued by the Government Accountability Office and the Department.

(D) An evaluation of how the System will affect arrival and departure wait times that takes into account prior reports on such mat-
ters issued by the Government Accountability
Office and the Department.

(E) An evaluation of audit capability for
systems procured in partnership with the pri-

tate sector.

(F) An evaluation of prior and ongoing
consultation with the private sector, including
how the System would impact the following:

(i) The trucking industry.

(ii) The airport industry.

(iii) The airline industry.

(iv) The seaport industry.

(v) The travel industry.

(vi) The biometric technology indus-

try.

(G) An evaluation how trusted traveler
programs in existence as of the date of the en-
actment of this section may be impacted by, or
incorporated into, the System.

(H) An evaluation of milestones and
metrics of success, if any, that have occurred
already, and whether such milestones and
metrics should be updated to successfully carry
out the congressional directive to establish the
System.
(I) An evaluation of risks and mitigation strategies to address such risks.

(J) The effects of the System on the following:

   (i) Legitimate travel and trade.

   (ii) Wait times, including processing times, for non-pedestrian traffic.

   (iii) Combating terrorism.

   (iv) Identifying visa holders who violate the terms of their visas.

(3) REQUIREMENT.—The Secretary of Homeland Security, in consultation with appropriate industry stakeholders, shall ensure that the collection of biometric data under the System shall cause the least possible disruption to the movement of people or cargo in air, sea, or land transportation while fulfilling the goals of improving counterterrorism efforts and identifying visa holders who violate the terms of their visas.

(4) TERMINATION OF PROCEEDING.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, on the date of the enactment of this section, terminate the proceeding entitled “Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of De-
parture; United States Visitor and Immigrant Status Indicator Technology Program (‘US–VISIT’),

(b) Data Matching Assessment.—

(1) In general.—Not later than 120 days after the date of the enactment of this section, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate an assessment of how the System is currently—

(A) matching biometric information for an individual, regardless of nationality, citizenship, or immigration status, who is departing the United States against biometric data previously provided to the United States Government by such individual for the purposes of international travel;

(B) leveraging the infrastructure and databases of the current biometric entry and exit system established pursuant to section 7208 of the Intelligence Reform and Terrorism Preven-
tion Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and

(C) being interoperable with, and allow matching against, other Federal databases that—

(i) store biometrics of known or suspected terrorists; and

(ii) identify visa holders who violate the terms of their visas.

(2) Prohibition.—The assessment required under paragraph (1) shall not include any information relating to citizens of the United States.

(e) Exceptions for Certain Individuals and Certain Ports of Entry.—An evaluation of whether certain individuals, as described as an individual who exits and then enters the United States on a passenger vessel (as such term is defined in section 2101 of title 46, United States Code) the itinerary of which originates and terminates in the United States, in addition to an evaluation of considerations relating to not collecting biometric information in the case of a United States or Canadian citizen who exits the United States through a land port of entry.

(d) Further Evaluations.—Not later than 120 days after the date of the enactment of this section, the Secretary of Homeland Security shall submit to the Com-
mittee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate the following evaluations:

(1) COLLECTION OF DATA.—An evaluation of whether ongoing efforts have required any non-Federal person to collect biometric data, or contribute to the costs of collecting or administering the System, except through a mutual agreement, and whether such should continue to ultimately carry out the establishment of the System.

(2) MULTIMODAL COLLECTION.—An evaluation of whether the Secretary has made every effort to collect biometric data using multiple modes of biometrics, and how the Secretary can improve, modernize, and take advantage of innovation relating to using multiple modes of biometrics.

(3) NORTHERN LAND BORDER.—With respect to the northern land border, an evaluation of whether the sharing of biometric data provided to the Department of Homeland Security by the Canadian Border Services Agency pursuant to the 2011 Beyond the Border agreement has occurred and the impacts of such data sharing agreement.
(4) Full and Open Competition.—An evaluation of whether the procurement of goods and services to implement the System has been through full and open competition in accordance with the Federal Acquisition Regulation.

(5) Facilities.—An evaluation of whether facilities at which the System is implemented has provided and maintained space for Federal use that is adequate to support biometric data collection and other inspection-related activity.

(e) Special Rules Relating to Certain Facilities.—

(1) Non-Federal Facilities.—With respect to each non-Federal facility at which the System is implemented, the space required for such implementation shall be provided and maintained at no cost to the Federal Government.

(2) Land Ports of Entry.—With respect to each facility at a land port of entry at which the System is implemented, the space required for such implementation shall be coordinated with the Administrator of General Services.

(f) Other Biometric Initiatives.—Nothing in this section may be construed as limiting the authority of the Secretary of Homeland Security to collect biometric
information in circumstances other than as specified in this section.

(g) SAVINGS CLAUSE.—Nothing in this section may prohibit the collection of user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).