

107TH CONGRESS
1ST SESSION

H. R. 2951

To improve aviation security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2001

Mr. GANSKE (for himself, Mr. ANDREWS, Mr. LEACH, Mr. DINGELL, Mr. GRAHAM, Mr. SHAYS, Mr. NORWOOD, Mr. SMITH of New Jersey, and Mr. TOM DAVIS of Virginia) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To improve aviation security, 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 “Aviation Security Act”.

5 **SEC. 2. FINDINGS.**

6 The Congress finds the following:

7 (1) The safety and security of the civil air
8 transportation system is critical to the United
9 States’ security and its national defense.

10 (2) A safe and secure United States civil air
11 transportation system is essential to the basic free-

1 dom of Americans to move in intrastate, interstate,
2 and international transportation.

3 (3) The terrorist hijackings and crashes of pas-
4 senger aircraft on September 11, 2001, converting
5 civil aircraft into guided bombs for strikes against
6 civilian and military targets requires the United
7 States to change fundamentally the way it ap-
8 proaches the task of ensuring the safety and security
9 of the civil air transportation system.

10 (4) The existing fragmentation of responsibility
11 for that safety and security among government
12 agencies and between government and nongovern-
13 ment entities is inefficient and unacceptable in light
14 of the hijackings and crashes on September 11th.

15 (5) The General Accounting Office, as well as
16 other independent investigators, have recommended
17 that security functions and security personnel at
18 United States airports should become a Federal gov-
19 ernment responsibility.

20 (6) Although the number of Federal air mar-
21 shals is classified, their presence on both inter-
22 national and domestic flights would have a deterrent
23 effect on hijacking and would further bolster public
24 confidence in the safety of air travel.

(7) The effectiveness of existing security measures, including employee background checks and passenger profiling, is impaired because of the inaccessibility of, or the failure to share information among, data bases maintained by different Federal and international agencies for criminal behavior or pertinent intelligence information.

SEC. 3. DEPUTY ADMINISTRATOR FOR AVIATION SECURITY.

(a) IN GENERAL.—Section 106 of title 49, United States Code, is amended—

(1) by striking the second sentence of subsection (b) and inserting “The Administration has 2 Deputy Administrators: (1) A Deputy Administrator for Administration; and (2) A Deputy Administrator for Aviation Security.”; and

(2) by striking subsection (i) and inserting the following:

“(i) FUNCTIONS OF DEPUTY ADMINISTRATORS.—

“(1) DEPUTY ADMINISTRATOR FOR ADMINISTRATION.—The Deputy Administrator for Administration shall carry out duties and power prescribed by the Administrator. The Deputy Administrator for Administration acts for the Administrator when the Administrator is absent or unable to serve, or when the office of Administrator is vacant.

1 “(2) DEPUTY ADMINISTRATOR FOR AVIATION
2 SECURITY.—

3 “(A) IN GENERAL.—The Deputy Adminis-
4 trator for Aviation Security—

5 “(i) is responsible for hiring and
6 training employees engaged in providing
7 aviation-related security at all United
8 States airports and air navigation facilities
9 involved in interstate air transportation or
10 intrastate air transportation by civil air-
11 craft;

12 “(ii) is responsible for day-to-day
13 aviation-related security operations for
14 such transportation; and

15 “(iii) shall actively cooperate and co-
16 ordinate with other Federal agencies with
17 responsibilities for national security and
18 criminal justice enforcement activities that
19 are related to aviation security through the
20 Aviation Security Coordination Council.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 106 of title 49, United States Code,
23 is amended—

24 (A) by striking “The Deputy” in sub-
25 section (d)(1) and inserting “Each Deputy”;

1 (B) by striking the first sentence of sub-
2 section (d)(1) and inserting “Each Deputy Ad-
3 ministrator must be a citizen of the United
4 States. The Deputy Administrator for Adminis-
5 tration must have experience in a field directly
6 related to aviation. The Deputy Administrator
7 for Aviation Security must have experience in a
8 field directly related to law enforcement, na-
9 tional security, or intelligence.”;

10 (C) by inserting “for Administration” after
11 “Deputy Administrator” in the third sentence
12 of subsection (d)(1);

13 (D) by striking “The Deputy” in sub-
14 section (d)(2) and inserting “Such a Deputy”;

15 (E) by striking “the Deputy” in subsection
16 (d)(3) and inserting “a Deputy”; and

17 (F) by striking “the Deputy” in subsection
18 (e) and inserting “a Deputy”.

19 (2) Section 44932 of title 49, United States
20 Code, is amended—

21 (A) by striking subsection (a) and insert-
22 ing the following:

23 “(a) ORGANIZATION.—The Deputy Administrator for
24 Aviation Security reports directly to the Administrator of

1 the Federal Aviation Administration and is subject to the
2 authority of the Administrator.”;

3 (B) by striking “Assistant” in subsection
4 (b) and inserting “Deputy”;

5 (C) by striking “title;” in subsection (b)(1)
6 and inserting “title and individuals authorized
7 to carry firearms and make arrests under sec-
8 tion 44903(d);”;

9 (D) by striking “Assistant” in subsection
10 (c) and inserting “Deputy”; and

11 (E) by striking “x-ray” in subsection
12 (c)(4) and inserting “screening”.

13 (3) Chapter 449 of title 49, United States
14 Code, is amended—

15 (A) by striking the section heading for sec-
16 tion 44932 and inserting the following:

17 **“§ 44932. Deputy Administrator for Civil Aviation**
18 **Security”;**

19 and

20 (B) by striking the item relating to that
21 section in the chapter analysis for that chapter
22 and inserting the following:

“44932. Deputy Administrator for Civil Aviation Security.”.

23 (c) **TRANSITION.**—Until the Deputy Administrator
24 for Aviation Security in the Federal Aviation Administra-
25 tion is appointed by the President, the functions of the

1 Deputy Administrator shall be carried out by the Assist-
 2 ant Administrator for Aviation Security.

3 **SEC. 4. AVIATION SECURITY COORDINATION COUNCIL.**

4 (a) IN GENERAL.—Chapter 449 of title 49, United
 5 States Code, is amended by adding at the end the fol-
 6 lowing:

7 “SUBCHAPTER III—AVIATION SECURITY
 8 COORDINATION COUNCIL

9 “§ 44951. Aviation Security Coordination Council

10 “(a) IN GENERAL.—There is established an Aviation
 11 Security Coordination Council.

12 “(b) FUNCTION.—The Council shall coordinate intel-
 13 ligence, security, and criminal enforcement activities af-
 14 fecting the safety and security of aviation at all United
 15 States airports and air navigation facilities involved in
 16 interstate air transportation or intrastate air transpor-
 17 tation by public aircraft.

18 “(c) MEMBERSHIP.—The members of the Council are
 19 as follows:

20 “(1) The Deputy Administrator for Aviation
 21 Security in the Federal Aviation Agency.

22 “(2) A senior representative of equivalent rank
 23 with security-related responsibilities from—

24 “(A) the Department of Justice, des-
 25 ignated by the Attorney General;

1 “(B) the Department of Defense, des-
2 ignated by the Secretary of Defense;

3 “(C) the Central Intelligence Agency, des-
4 ignated by the Director of Central Intelligence;
5 and

6 “(D) any other Federal agency the partici-
7 pation of which is determined by the Deputy
8 Administrator to be appropriate, designated by
9 the head of that agency.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-
11 ysis for chapter 449 of title 49, United States Code, is
12 amended by adding at the end the following:

“SUBCHAPTER III—AVIATION SECURITY COORDINA-
TION COUNCIL
“Sec. 44951. Aviation Security Coordination Council.”.

13 **SEC. 5. IMPROVED FLIGHT DECK INTEGRITY MEASURES.**

14 (a) IN GENERAL.—The Administrator of the Federal
15 Aviation Agency shall, as soon as possible after the date
16 of enactment of this Act, issue an order (without regard
17 to the provisions of chapter 5 of title 5, United States
18 Code)—

19 (1) prohibiting access to the flight deck of com-
20 mercial aircraft engaged in interstate or intrastate
21 transportation while the aircraft is so engaged by
22 any person other than a member of the flight deck
23 crew;

1 (2) requiring the strengthening of the flight
2 deck door and locks on any such aircraft operating
3 under part 121 of title 14, Code of Federal Regula-
4 tions, that has a door in a bulkhead between the
5 flight deck and the passenger area to prevent them
6 being forced open from inside the aircraft;

7 (3) requiring that such flight deck doors remain
8 locked while any such aircraft is in flight except
9 when necessary to permit the flight deck crew access
10 and egress; and

11 (4) prohibit the possession of a key to any such
12 flight deck door by any member of the flight crew
13 who is not assigned to the flight deck.

14 (b) COMMUTER AIRCRAFT.—The Administrator shall
15 investigate means of securing the flight deck of aircraft
16 operating under the authority of part 135 of title 14, Code
17 of Federal Regulations, that are engaged in interstate or
18 intrastate air transportation that do not have a fixed door
19 with a lock between the passenger compartment and the
20 flight deck and issue such an order as the Secretary deems
21 appropriate (without regard to the provisions of chapter
22 5 of title 5, United States Code) to ensure the inaccess-
23 sibility, to the greatest extent feasible, of the flight deck
24 while the aircraft is so engaged.

1 **SEC. 6. DEPLOYMENT OF FEDERAL AIR MARSHALS.**

2 (a) IN GENERAL.—Within 30 days after the date of
3 enactment of this Act, the Administrator of the Federal
4 Aviation Administration, under the authority provided by
5 section 44903(d) of title 49, United States Code, shall—

6 (1) provide for random deployment of Federal
7 air marshals on domestic commercial air passenger
8 flights in the United States, and all international
9 flights on American carriers into or out of the
10 United States;

11 (2) provide for appropriate background and fit-
12 ness checks for candidates for appointment as Fed-
13 eral air marshals;

14 (3) provide for appropriate training, super-
15 vision, and equipment of Federal air marshals; and

16 (4) require commercial air carriers to provide
17 seating for a Federal air marshal on any selected air
18 passenger flight without regard to the availability of
19 seats on that flight.

20 (b) INTERNATIONAL FLIGHTS.—The Administrator
21 shall work with appropriate aeronautic authorities of for-
22 eign governments under section 44907 of title 49, United
23 States Code, to address security concerns on international
24 flights.

25 (c) INTERIM MEASURES.—Until the Administrator
26 can fully implement subsection (a), the Administrator

1 shall, after consultation with the heads of other Federal
2 agencies and departments, use personnel from those agen-
3 cies and departments, on a reimbursable or nonreimburs-
4 able basis, to provide air marshal service on domestic and
5 international flights.

6 (d) REPORT.—No later than 18 months after the
7 date of enactment of this Act, the Administrator shall sub-
8 mit a report to the Committee on Commerce, Science, and
9 Transportation of the Senate and the Committee on
10 Transportation and Infrastructure of the House of Rep-
11 resentatives setting forth—

12 (1) an assessment of the effectiveness of the
13 program;

14 (2) the Administrator’s recommendation as to
15 whether the program should be continued; and

16 (3) any recommendations the Administrator
17 may have for improving the effectiveness of the pro-
18 gram if it is to be continued.

19 **SEC. 7. FEDERALIZATION OF AIRPORT SECURITY OPER-**
20 **ATIONS.**

21 (a) IN GENERAL.—Section 44903(c) of title 49,
22 United States Code, is amended to read as follows:

23 “(c) SECURITY PROGRAM.—

24 “(1) IN GENERAL.—The Administrator shall es-
25 tablish an air transportation security program at

1 each airport regularly serving an air carrier holding
2 a certificate issued by the Secretary of Transpor-
3 tation that provides a law enforcement presence and
4 capability at each of those airports that is adequate
5 to ensure the safety of passengers. In carrying out
6 that program, the Administrator may use—

7 “(A) the services of qualified State, local,
8 and private law enforcement personnel;

9 “(B) personnel employed by the Adminis-
10 trator; or

11 “(C) personnel employed by another de-
12 partment, agency, or instrumentality of the
13 Government with the consent of the head of the
14 department, agency, or instrumentality.

15 “(2) DEPLOYMENT OF ARMED PERSONNEL.—In
16 carrying out the program established under para-
17 graph (1), the Administrator shall order the deploy-
18 ment of personnel authorized to carry firearms as
19 follows:

20 “(A) LARGEST AIRPORTS.—At the 100
21 largest airports in the United States, in terms
22 of average annual passenger boardings, the Ad-
23 ministrator shall order the deployment of a suf-
24 ficient number of personnel at each airport se-

1 security screening location as may be necessary to
2 ensure passenger safety.

3 “(B) OTHER AIRPORTS.—At United States
4 airports not described in subparagraph (A), the
5 Administrator shall order the deployment of at
6 least 1 of such personnel at each such location.

7 “(C) OTHER AREAS.—The Administrator,
8 in consultation with the airport operator and
9 law enforcement authorities, may order the de-
10 ployment of such personnel at any secure area
11 of the airport as necessary to counter the risk
12 of criminal violence, the risk of aircraft piracy
13 at the airport, or the risk to air carrier aircraft
14 operations at the airport.”.

15 (b) SECURITY OF AIRCRAFT AND GROUND AC-
16 CESS.—Section 44903 of title 49, United States Code, is
17 amended by adding at the end the following:

18 “(h) SECURITY OF AIRCRAFT AND GROUND AC-
19 CESS.—The Administrator shall establish and enforce
20 rules to improve the physical security of air traffic control
21 facilities, parked aircraft, aircraft servicing equipment,
22 aircraft supplies (including fuel), automobile parking fa-
23 cilities at airports, and access and transition areas at air-
24 ports served by other means of ground or water transpor-
25 tation.”.

1 **SEC. 8. ENHANCED ANTI-HIJACKING TRAINING FOR**
2 **FLIGHT CREWS.**

3 The Administrator of the Federal Aviation Adminis-
4 tration shall develop and implement a mandatory program
5 of training for flight crews of aircraft providing interstate
6 or intrastate air transportation in dealing with attempts
7 to commit aircraft piracy (as defined in section
8 46502(a)(1)(A) of title 49, United States Code).

9 **SEC. 9. IMPROVED PASSENGER SCREENING PROCESS.**

10 Section 44901 of title 49, United States Code, is
11 amended to read as follows:

12 **“§ 44901. Screening passengers and property**

13 “(a) IN GENERAL.—The Administrator of the Fed-
14 eral Aviation Administration shall be responsible for the
15 screening of all passengers and property that will be car-
16 ried in a cabin of an aircraft in air transportation or intra-
17 state air transportation. The screening must take place
18 before boarding and be carried out by certified Federal
19 security screening personnel using equipment approved for
20 that purpose by the Administration.

21 “(b) EXEMPTIONS.—The Administrator may exempt
22 any class of air transportation operations from this section
23 except scheduled passenger operations of an air carrier
24 providing air transportation under a certificate issued
25 under section 41102 of this title or a permit issued under
26 section 41302 of this title.

1 “(c) CROSS-CHECKING DATA BASE INFORMATION.—
2 The Deputy Administrator, acting through the Aviation
3 Security Coordination Council, shall establish and imple-
4 ment a system for cross-checking data on individuals iden-
5 tified on all Federal agency security-related data bases.”.

6 **SEC. 10. TRAINING AND EMPLOYMENT OF SECURITY**
7 **SCREENING PERSONNEL.**

8 (a) USE OF OTHER AGENCIES.—The Administrator
9 of the Federal Aviation Administration shall enter into a
10 memorandum of understanding with any other Federal
11 agency or department with law enforcement responsibil-
12 ities to provide cooperation and assistance in the training
13 of Federal airport security screening personnel.

14 (b) IN GENERAL.—The Administrator of the Federal
15 Aviation Administration shall establish a program for the
16 hiring and training of airport security screening personnel.

17 (c) HIRING.—

18 (1) QUALIFICATIONS.—The Administrator shall
19 establish, within 30 days after the date of enactment
20 of this Act, qualification standards for individuals to
21 be hired by the United States as airport security
22 screening personnel. Those standards shall, at a
23 minimum, require an individual—

1 (A) to have a satisfactory or better score
2 on a Federal security screening personnel selec-
3 tion examination;

4 (B) to be a national of the United States
5 as defined in section 101(a)(22) of the Immi-
6 gration and Nationality Act (8 U.S.C.
7 1101(a)(22));

8 (C) to meet the requirements set forth in
9 section 108.31(a) of title 14, Code of Federal
10 Regulations; and

11 (D) to have passed an examination for re-
12 cent consumption of a controlled substance.

13 (2) EXAMINATION; REVIEW OF EXISTING
14 RULES.—The Administrator shall develop a Federal
15 security screening personnel examination for use in
16 determining the qualification of individuals seeking
17 employment as airport security screening personnel.
18 The Administrator shall also review, and revise as
19 necessary, any rule or regulation governing the em-
20 ployment of individuals as airport security screening
21 personnel.

22 (d) TRAINING.—

23 (1) IN GENERAL.—The Administrator shall,
24 within 60 days after the date of enactment of this
25 Act, develop a plan for the training of Federal air-

1 port security screening personnel. The plan shall, at
2 a minimum, require—

3 (A) 40 hours of classroom training; and

4 (B) 60 hours of on-the-job training.

5 (2) EQUIPMENT-SPECIFIC TRAINING.—An indi-
6 vidual employed as a Federal airport security screen-
7 er may not use any security screening device or
8 equipment in the scope of that individual’s employ-
9 ment unless the individual has been trained and cer-
10 tified as proficient on that device or equipment.

11 (3) CONFORMING AMENDMENTS.—Section
12 44935(e) of title 49, United States Code, is
13 amended—

14 (A) by striking paragraph (1) and insert-
15 ing the following:

16 “(1) In general.—The Administrator shall es-
17 tablish training standards for screeners.”;

18 (B) by striking “As part of the final rule,
19 the” in paragraph (2)(A) and inserting “The”;

20 (C) by striking “(2), as part of the final
21 rule,” in paragraph (3) and inserting “(2)”;
22 and

23 (D) by striking “40” in paragraph (3) and
24 inserting “60”.

25 (e) TESTING.—

1 (1) ANNUAL TESTING.—The Administrator
 2 shall by rule require that individuals employed as
 3 Federal airport security screening personnel be test-
 4 ed for proficiency not less often than once annually.

5 (2) RANDOM AND SPOT TESTING.—The Admin-
 6 istrator shall review and revise as necessary, or pre-
 7 scribe, rules governing the random, spot, or other
 8 testing of such personnel in addition to the annual
 9 testing required by paragraph (1).

10 (f) AUTHORIZATION OF EMPLOYMENT.—The Sec-
 11 retary of Transportation is authorized to employ, appoint,
 12 and fix the compensation of such a number of individuals
 13 as may be necessary to carry out sections 44901 and
 14 44903 of title 49, United States Code, in accordance with
 15 the provisions of part III of title 5, United States Code,
 16 without regard to any limitation on number of employees
 17 imposed by any other law or Executive Order.

18 **SEC. 11. BACKGROUND CHECKS ON HEAVY PLANE FLIGHT**
 19 **TRAINING APPLICANTS.**

20 Section 44936(a) of title 49, United States Code, is
 21 amended by striking “access, to—” in subsection (a) and
 22 inserting “access, and of each individual seeking flight
 23 training for an aircraft larger than an aircraft described
 24 in (f)(14)(A), to—”.

1 **SEC. 12. SECURITY FEE.**

2 (a) IN GENERAL.—Chapter 481 is amended by add-
3 ing at the end thereof the following:

4 **“§ 48114. Security fee**

5 “(a) IN GENERAL.—The Secretary of Transportation
6 shall collect a user fee from commercial air carriers.
7 Amounts collected under this section shall be treated as
8 offsetting collections to partially offset the Federal Avia-
9 tion Administration’s costs of providing aviation security
10 services to air carriers. The amounts collected shall be im-
11 mediately available to the Administration for obligation
12 and expenditure for its activities, and shall remain avail-
13 able in a revolving fund, to be established by the Adminis-
14 tration, until expended.

15 “(b) AMOUNT OF FEE.—Commercial air carriers
16 shall pay \$1.00 for each one-way revenue passenger, on
17 the basis of on-line origin-destination travel.

18 “(c) DEFINITIONS.—As used in this section—

19 “(1) COMMERCIAL AIR CARRIER.—The term
20 ‘commercial air carrier’ means a commercial oper-
21 ator that engages in the carriage of persons in air
22 commerce for compensation or hire.

23 “(2) REVENUE PASSENGER.—The term ‘rev-
24 enue passenger’ means a passenger on board a flight
25 in revenue service and does not include passengers

1 traveling for a zero fare on frequent flyer or mileage
2 programs or non-revenue air carrier employees.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 for chapter 481 is amended by adding at the end thereof
5 the following:

“48114. Security fee”.

6 (c) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply with respect to transportation
8 beginning after the date which is 90 days after the date
9 of enactment of this Act.

10 **SEC. 13. INCREASED AVIATION SECURITY FUNDING.**

11 (a) IN GENERAL.—Part C of subtitle VII of title 49,
12 United States Code, is amended by adding at the end the
13 following:

14 **“CHAPTER 483—AVIATION SECURITY FUNDING**

“Sec. 48301. Aviation security funding.

15 **“§ 48301. Aviation security funding**

16 “There are authorized to be appropriated to the Sec-
17 retary of Transportation for fiscal years 2002, 2003, and
18 2004, such sums as may be necessary to carry out chapter
19 449 and related aviation security activities under this
20 title.”.

21 (b) CONFORMING AMENDMENT.—The subtitle anal-
22 ysis for subtitle VII of title 49, United States Code, is

1 amended by inserting after the item relating to chapter
 2 482 the following:

“483. Aviation Security Funding 48301”.

3 **SEC. 14. DEFINITIONS.**

4 Except as otherwise explicitly provided, any term
 5 used in this Act that is defined in section 40102 of title
 6 49, United States Code, has the meaning given that term
 7 in that section.

○