109TH CONGRESS 1ST SESSION

H. R. 4439

To establish an Airport Screening Organization in the Transportation Security Administration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2005

Mr. DANIEL E. LUNGREN of California (for himself, Mr. ROGERS of Alabama, Mr. MCCaul of Texas, Mr. REICHERT, and Ms. HARRIS) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To establish an Airport Screening Organization in the Transportation Security Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Transportation Security Administration Reorganization Act of 2005”.

TITLE I—TSA MANAGEMENT REFORM

SEC. 101. AIRPORT SCREENING ORGANIZATION.

The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

“TITLE XVIII—TRANSPORTATION SECURITY ADMINISTRATION

“SEC. 1801. AIRPORT SCREENING ORGANIZATION.

“(a) ESTABLISHMENT.—There is established in the Transportation Security Administration an organization to be known as the ‘Airport Screening Organization’.

“(b) MISSION.—The Airport Screening Organization shall seek to improve the delivery of Federal security screening services for passenger air transportation by increasing efficiency, taking better advantage of new technologies, reducing unit costs, and responding more effectively to the needs of the traveling public, while enhancing aviation security.

“(c) CHIEF OPERATING OFFICER.—

“(1) APPOINTMENT.—The head of the Airport Screening Organization shall be the Chief Operating Officer. The Chief Operating Officer shall be appointed by the Assistant Secretary for Homeland Security (Transportation Security Administration).

The Chief Operating Officer shall report directly to
the Assistant Secretary and be subject to the author-

“(2) COMPENSATION.—The annual rate of basic pay of the Chief Operating Officer shall be set by the Assistant Secretary in accordance with the personnel management system established under section 114(n) of title 49, United States Code.

“(3) BONUS.—In addition to the annual rate of basic pay established under paragraph (2), the Chief Operating Officer may receive a bonus for any calendar year based on the Assistant Secretary’s evaluation of the Chief Operating Officer’s performance in relation to the goals set forth in the agreement described in subsection (d).

“(d) ANNUAL PERFORMANCE AGREEMENT.—The Chief Operating Officer shall enter into an annual performance agreement with the Assistant Secretary that sets forth measurable organization and individual goals for the Chief Operating Officer in key operational areas and describes specific targets and how the goals will be achieved. The agreement shall be subject to review and renegotiation on an annual basis.

“(e) RESPONSIBILITIES.—

“(1) IN GENERAL.—The responsibilities of the Assistant Secretary to provide for the day-to-day
Federal security screening operations for passenger air transportation, as specified in section 114(e)(1) of title 49, United States Code, shall be carried out by the Assistant Secretary acting through the Chief Operating Officer.

“(2) LIMITATIONS.—The responsibilities of the Chief Operating Officer shall be limited to operational activities and shall not include any regulatory or oversight function.

“(f) STRATEGIC PLAN.—The Chief Operating Officer shall develop a 5-year strategic plan for Federal security screening operations for passenger air transportation, including a clear statement of the mission and objectives for the system’s effectiveness, efficiency, and productivity and measurable organization-wide performance goals.

“(g) ELEMENTS OF AIRPORT SCREENING ORGANIZATION.—

“(1) IN GENERAL.—The Airport Screening Organization shall be composed of those elements of the Transportation Security Administration that have a direct connection with or give support to the provision of the day-to-day Federal security screening operations for passenger air transportation, as determined by the Assistant Secretary.
“(2) FRAMEWORK AGREEMENT.—The Chief Operating Officer shall enter into an agreement with the Assistant Secretary that establishes the relationship of the Airport Screening Organization with the other organizations of the Transportation Security Administration.

“(h) PERFORMANCE GOALS.—The Chief Operating Officer shall—

“(1) optimize use of existing management flexibilities and authorities to improve the efficiency of Federal security screening operations for passenger air transportation and increase the capacity of the system;

“(2) instill accountability for achieving performance goals at all levels of management;

“(3) develop methods to accelerate advancement and deployment of technologies and equipment to improve security, reduce passenger inconvenience, and reduce costs related to Federal security screening operations for passenger air transportation;

“(4) develop agreements with the Assistant Secretary and users of the products, services, and capabilities that the Airport Screening Organization will provide;
“(5) consult with customers and the traveling public (including direct users such as airlines and airports) and focus on producing results that satisfy the Airport Screening Organization’s external customer needs;

“(6) establish strong incentives for managers to achieve results; and

“(7) formulate and recommend to the Assistant Secretary any management, fiscal, or legislative changes necessary for the Airport Screening Organization to achieve its performance goals.

“(i) COST ACCOUNTING SYSTEM.—

“(1) DEVELOPMENT.—The Chief Operating Officer shall develop a cost accounting system that adequately and accurately reflects the investments, operating and overhead costs, revenues, and other financial measurement and reporting aspects of the operations, functions, and activities of the Airport Screening Organization.

“(2) ANNUAL REPORT.—Not later than 90 days after the date completion of the cost accounting system under paragraph (1), and by March 1 of every year thereafter, the Chief Operating Officer shall submit to the Committee on Homeland Security of the House of Representatives and the Committees
on Commerce, Science, and Transportation and
Homeland Security and Governmental Affairs of the
Senate a report on the annual cost of Federal secu-
rity screening services for passenger air transpor-
tation at each commercial service airport. The report
shall take into consideration existing direct and indi-
rect costs as determined by the cost accounting sys-
tem.

“(j) AIR TRANSPORTATION DEFINED.—In this sec-
tion, the term ‘air transportation’ has the meaning given
that term by section 40102 of title 49, United States
Code, and includes intrastate air transportation.”.

SEC. 102. RISK MANAGEMENT.

et seq.) is amended by adding after section 1801 (as added
by section 101 of this Act) the following:

“SEC. 1802. RISK MANAGEMENT SYSTEM.

“(a) IN GENERAL.—The Assistant Secretary for
Homeland Security (Transportation Security Administra-
tion) shall develop a risk management system to dynami-
cally assess and measure potential threats to and from the
Nation’s transportation system across all modes of trans-
portation.

“(b) CONSULTATION.—The Assistant Secretary shall
develop the risk management system in consultation with
State and local government agencies, industry stakeholders, and other appropriate Federal agencies, including Federal agencies outside the Department of Homeland Security.

“(c) NATIONAL TRANSPORTATION SECURITY POLICY.—Upon completion of the risk management system, the Assistant Secretary, to the extent feasible, shall develop national transportation security policies in a manner consistent with the system.

“(d) REVIEW OF REGULATIONS.—

“(1) REVIEW.—Not later than 90 days after the date of development of the risk management system, the Assistant Secretary shall conduct a review of all regulations issued by the Transportation Security Administration under interim final rule authority.

“(2) MODIFICATIONS.—After completing the review, the Assistant Secretary shall modify such regulations in a manner consistent with the risk management system.

“(e) REVIEW OF STATUTORY REQUIREMENTS.—

“(1) REVIEW.—Not later than 180 days after the date of development of the risk management system, the Assistant Secretary shall conduct a review of chapter 449 of title 49, United States Code, and
other provisions of that title relating to transportation security.

“(2) REPORT.—After completing the review, the Assistant Secretary submit to the Committee on Homeland Security of the House of Representatives and the Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate a report on the results of the review, including recommendations for amendment of title 49, United States Code, in a manner consistent with the risk management system.”.

SEC. 103. TRANSPORTATION SECTOR ADVISORY COUNCILS.

The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding after section 1802 (as added by section 102 of this Act) the following:

“SEC. 1803. TRANSPORTATION SECTOR ADVISORY COUNCILS.

“(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Assistant Secretary for Homeland Security (Transportation Security Administration) shall establish a transportation sector advisory council for each mode of transportation under the jurisdiction of the Transportation Security Administration.

“(b) FUNCTIONS.—
“(1) IN GENERAL.—An advisory council established under this section for a transportation mode shall provide advice and counsel to the Assistant Secretary on issues related to the transportation mode which affect or are affected by actions of the Assistant Secretary, including actions relating to management, policy, spending, and regulatory matters, including interim final rules, under the jurisdiction of the Assistant Secretary.

“(2) REVIEW OF RULEMAKING AND COST-BENEFIT ANALYSIS PROCESSES.—The advisory councils established under this section shall conduct a coordinated review of the rulemaking and cost-benefit analysis processes of the Transportation Security Administration and develop recommendations to improve the processes and ensure that the public interest is fully protected.

“(c) MEMBERSHIP.—An advisory council for a transportation mode established under this section shall be composed of members appointed by the Assistant Secretary from among experts in the transportation mode, including representatives of labor and management.

“(d) COMMENTS, RECOMMENDATIONS, AND DISSenting VIEWS.—An advisory council established under this section for a transportation mode shall submit to the
Assistant Secretary comments, recommendations, and dissenting views with respect to actions of the Transportation Security Administration on matters affecting the transportation mode, including management, policy, spending, funding, and regulatory matters.

“(e) SUBMISSIONS.—The Assistant Secretary shall include in any submission to Congress, the Secretary for Homeland Security, or the general public, and in any submission for publication in the Federal Register, a description of any comments, recommendations, or dissenting views received from an advisory council established under this section related to the submission, together with reasons for any differences between views of the advisory council and the Assistant Secretary.

“(f) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to an advisory council established under this section.”.

SEC. 104. FUNDING ALLOCATIONS.

(a) FORMULA.—The Assistant Secretary for Homeland Security (Transportation Security Administration) shall establish a methodology for allocating funds among airports for operational costs related to the screening of passengers and baggage under section 44901 of title 49, United States Code. To the maximum extent practical, the
Assistant Secretary shall ensure that the methodology reflects costs as determined under section 1801(i) of the Homeland Security Act of 2002.

(b) HOLD HARMLESS.—The Assistant Secretary shall ensure that funding is available for operational costs related to the screening of passengers and baggage at an airport, as determined under subsection (a), without regard to whether the operator of the airport is participating in the Federal security screening partnership program established under section 44920 of title 49, United States Code.

SEC. 105. NON-SCREENER PERSONNEL.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate a report on personnel of the Transportation Security Administration deployed at commercial service airports not directly related to passenger and baggage screening.

(b) CONTENTS.—The report shall contain—

(1) information on the number of positions at each airport and their functions;
an analysis of the cost of non-screening related activities and the need for such activities; and

(3) recommendations on which positions, if any, can be eliminated without degradation of security screening activities.

SEC. 106. PROCUREMENT.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate a report on whether the acquisition management system of the Transportation Security Administration authorized under section 114(o) of title 49, United States Code, has assisted the Transportation Security Administration in meeting its overall security mission.

(b) CONTENTS.—The report shall contain—

(1) a comparison of the acquisition management system of the Transportation Security Administration to the Federal Acquisition Regulation; and

(2) recommendations on whether to continue, modify, or eliminate the acquisition management system of the Transportation Security Administration.
SEC. 107. CONFORMING AMENDMENT.

The table of contents contained in section 1(b) of the Homeland Security Act of 2002 (116 Stat. 2135) is amended by adding at the end the following:

“TITLE XVIII—TRANSPORTATION SECURITY ADMINISTRATION

“Sec. 1801. Airport Screening Organization.
“Sec. 1802. Risk management system.
“Sec. 1803. Transportation sector advisory councils.
“Sec. 1804. Passenger identification documents.”.

TITLE II—AVIATION SECURITY

SEC. 201. FEDERAL SECURITY SCREENING PARTNERSHIP PROGRAM.

(a) Screening Entities.—Section 44920 of title 49, United States Code, is amended—

(1) in the section heading by striking “Security screening opt-out program” and inserting “Federal security screening partnership program”;

(2) by striking “private screening company” each place it appears and inserting “screening entity”; and

(3) by striking “company” each place it appears and inserting “entity”;

(4) in the heading for subsection (c) by striking “PRIVATE SCREENING COMPANY” and inserting “SCREENING ENTITY”;

(5) in the heading for subsection (d) by striking “PRIVATE SCREENING COMPANIES” and inserting “SCREENING ENTITIES”;
(6) in subsection (d)(2)—

(A) by striking “private screening companies” and inserting “screening entities”; and

(B) by inserting “, or the screening entity is a governmental entity or affiliate” before the period; and

(7) in subsection (f) by striking “the pilot program”.

(b) Program Modifications.—Section 44920 of such title is amended by adding at the end the following:

“(g) Standard Operating Procedures and Requirements for Security Screening.—

“(1) Development and Updating.—The Assistant Secretary for Homeland Security (Transportation Security Administration) shall—

“(A) develop, document, and update, as necessary, minimum standard operating procedures and requirements for the security screening of passengers in air transportation and interstate air transportation; and

“(B) conduct safety and hazard analyses of the standard operating procedures and requirements developed under subparagraph (A).
“(2) Submission to Secretary.—The Assistant Secretary shall submit to the Secretary of Homeland Security—

“(A) the procedures and requirements developed under paragraph (1)(A), together with the results of the safety and hazard analysis conducted under paragraph (1)(B) and any other necessary information; and

“(B) any material update to the procedures and requirements.

“(3) Technical Review and Approval.—Not later than 60 days after the date of receipt of the procedures and requirements, or any update thereto, under paragraph (2), the Secretary shall—

“(A) complete a technical review of the procedures and requirements or update under sections 862(b) and 863(d)(2) of the Homeland Security Act of 2002 (6 U.S.C. 441(b); 442(d)(2)); and

“(B) approve or disapprove the procedures and requirements or update.

“(4) Effect of Approval.—

“(A) Issuance of Certificates of Conformance.—In accordance with section 863(d)(3) of that Act (6 U.S.C. 442(d)(3)), the
Secretary shall issue a certificate of conformance to a screening entity providing screening services at an airport under this section if the screening entity—

“(i) demonstrates to the satisfaction of the Secretary the ability to perform in accordance with standard operating procedures and requirements, and any update thereto, approved by the Secretary under paragraph (3); and

“(ii) agrees as a condition of its screening services contract—

“(I) to perform in accordance with the such standard operating procedures and requirements, and any update thereto; and

“(II) maintain liability insurance coverage at policy limits and in accordance with conditions to be established at the time of contracting pursuant to section 864 of that Act (6 U.S.C. 443).

“(B) Litigation and risk management protections.—A screening entity that receives a certificate of conformance under subpara-
graph (A) shall be entitled to all litigation and risk management protections applicable thereto.

“(C) LIABILITY OF OPERATORS OF AIR-PORTS AND OTHER THIRD PARTIES.—Liability protections and defenses available to a screening entity that receives a certificate of conformance under subparagraph (A) shall extend to operators of airports and other third parties as provided by section 864 of that Act (6 U.S.C. 443).

“(D) RECIPROCAL WAIVER OF CLAIMS.—A reciprocal waiver of claims shall be deemed to have been entered into between a screening entity that receives a certificate of conformance under subparagraph (A) and its contractors, subcontractors, suppliers, vendors and customers, and contractors and subcontractors of the customers involved in the use or operation of the screening services of the screening entity.

“(5) INFORMATION FOR ESTABLISHING LIMITS OF LIABILITY INSURANCE.—A screening entity seeking a certificate of conformance under paragraph (4)(A) shall provide to the Secretary necessary information for establishing the limits of liability insur-
ance required to be maintained by the entity under section 864(a) of that Act (6 U.S.C. 443(a)).

“(6) APPROVED PRODUCT LIST.—If the Secretary issues a certificate of conformance to a screening entity under paragraph (4)(A), the Secretary shall, upon the request of the screening entity, place the entity’s screening services on an Approved Product List for Homeland Security as provided by section 863(d)(3) of that Act (6 U.S.C. 442(d)(3)).

“(7) MONITORING.—The Assistant Secretary shall regularly monitor and inspect the operations of a screening entity providing screening services at an airport under this section to ensure that the entity is meeting the minimum standard operating procedures and requirements for the security screening of passengers in air transportation and interstate air transportation established under paragraph (1) and all other applicable requirements for screening services under this chapter.

“(h) PERFORMANCE GOALS.—

“(1) IN GENERAL.—The Assistant Secretary shall develop performance goals for a screening entity providing screening services at an airport under this section.
“(2) LEVEL OF SCREENING SERVICES AND PROTECTION.—The performance goals developed under paragraph (1) shall ensure that screening services and protection provided by a screening entity at an airport under this section will provide a greater level of protection, and result in a lower unit cost, than the screening services and protection that would be provided at the airport by Federal Government personnel under this chapter.

“(3) INCENTIVES.—The Assistant Secretary may establish incentives for screening entities that meet or exceed the performance goals developed under paragraph (1).

“(i) DAILY OPERATIONAL DECISIONS.—The Assistant Secretary shall not become involved in the daily operational decisions of a screening entity providing screening services at an airport under this section, except as required under subsection (g)(7).

“(j) INVESTMENT.—The Assistant Secretary, in consultation with the airport operator, may allow a screening entity providing screening services at an airport under this section to provide security screening equipment and modifications to the physical infrastructure of the airport as necessary to improve the efficiency or effectiveness of the screening operations.
“(k) SHARE IN SAVINGS PROGRAM.—

“(1) AUTHORITY TO MAKE GRANTS.—Subject to the availability of appropriations, the Secretary shall make a grant to the operator of an airport at which screening services are being provided under a contract entered into under this section for a fiscal year in an amount equal to not less than 90 percent of the amount of annual cost savings (if any) realized as a result of the contract, as compared to the cost for such services when using Federal Government employees.

“(2) AMOUNT OF GRANTS.—

“(A) IN GENERAL.—The amount of a grant under paragraph (1) shall be determined by the Assistant Secretary in accordance with the cost accounting system developed under section 1801(i) of the Homeland Security Act of 2002.

“(B) CREDIT FOR INVESTMENTS.—The Assistant Secretary shall credit toward the cost savings calculated under paragraph (1) the annual cost savings in security services achieved as a result of investments made under subsection (j).

“(3) PERIOD OF ELIGIBILITY.—
“(A) FIRST 5 FISCAL YEARS.—The Assistant Secretary shall make a grant to an airport operator under paragraph (1) for each of the first 5 fiscal years for which the Assistant Secretary calculates an annual cost savings in security services for the airport under paragraph (1).

“(B) SUBSEQUENT FISCAL YEARS.—If the Assistant Secretary makes a grant to an airport operator under paragraph (1) for 5 fiscal years, the Assistant Secretary may continue to make grants to the airport operator for a fiscal year in an amount equal to a portion of the annual cost savings, as determined by the Assistant Secretary, calculated for the airport under paragraph (1).

“(4) USE OF GRANTS.—An airport operator receiving a grant under this subsection may use the amounts of the grant for costs associated with aviation security, including debt service related to airport security enhancements.”.

(c) CONFORMING AMENDMENTS.—Section 44920 of such title is amended—

(1) in subsection (e) by striking “provide Federal Government supervisors to”; and
(2) in subsection (f) by striking “the pilot pro-
gram” and inserting “, and revoke a certificate of
conformance issued under subsection (g),”.
(d) CHAPTER ANALYSIS.—The analysis for chapter
449 of such title is amended by striking the item relating
to section 44920 and inserting the following:
“44920. Federal security screening partnership program.”.

SEC. 202. DECLARATION ON PROVISION OF SCREENING
SERVICES.
(a) In General.—Subchapter I of chapter 449 of
title 49, United States Code, is amended by adding at the
end the following:­
§ 44926. Declaration on provision of screening ser-
ices
“Not later than March 31 of each year, the operator
of each airport subject to the requirements of section
44901 shall submit to the Assist Secretary for Homeland
Security (Transportation Security Administration) a writ-
ten notice on whether the operator intends to submit an
application under section 44920 or to continue to allow
the use of Federal employees to provided screening serv-
ices for passenger air transportation for the subsequent
fiscal year.”.
(b) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:

“44926. Declaration on provision of screening services.”.

TITLE III—PASSENGER SCREENING

SEC. 301. PASSENGER IDENTIFICATION DOCUMENTS.

The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding after section 1803 (as added by section 102 of this Act) the following:

“SEC. 1804. PASSENGER IDENTIFICATION DOCUMENTS.

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall issue regulations to require a passenger to present an acceptable personal identification document for inspection before entering a sterile area of an airport in the United States. Such inspections shall be carried out by personnel designated by the Assistant Secretary.

“(b) ACCEPTABLE PERSONAL IDENTIFICATION DOCUMENTS.—

“(1) IN GENERAL.—In carrying out subsection (a), the Assistant Secretary shall establish a list of acceptable personal identification documents.

“(2) MINIMUM REQUIREMENTS.—The Assistant Secretary may include a personal identification docu-
ment on the list to be established under paragraph (1) only if the document is issued under the authority of the United States Government, a State, or a foreign government and includes each of the following:

“(A) The individual’s full legal name.
“(B) The individual’s date of birth.
“(C) The individual’s gender.
“(D) A photograph of the individual.
“(E) The individual’s signature.
“(F) Physical security features designed to prevent tampering, counterfeiting, and duplication of the document for fraudulent purposes.

“(3) DRIVERS’ LICENSES AND PERSONAL IDENTIFICATION CARDS.—The Assistant Secretary shall include on the list to be established under paragraph (1) drivers’ licenses and personal identification cards that meet the requirements of section 202 of the Real ID Act of 2005 (49 U.S.C. 30301 note).

“(c) PROCEDURES AND STANDARDS.—In carrying out subsection (a), the Assistant Secretary shall establish—

“(1) procedures to match the name on a personal identification document with the name on an airline boarding document;
“(2) procedures to match the photograph on a personal identification document with the passenger presenting the document; and

“(3) standards for training personnel who check personal identification documents to recognize unacceptable and false identification documents.

“(d) Failure to Present Acceptable Identification Documents.—A passenger attempting to enter a sterile area of an airport in the United States who does not present an acceptable identification document shall be subject to such additional security screening as the Assistant Secretary determines to be appropriate before the passenger may be admitted to the sterile area.

“(e) Knowing Presentation of False Identification Documents; Penalties.—A passenger who knowingly presents a false identification document in an attempt to enter a sterile area of an airport in the United States shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

“(f) Definitions.—In this section, the following definitions apply:

“(1) False.—The term ‘false’ has the meaning given such term by section 1028(d) of title 18, United States Code.
“(2) PASSENGER.—The term ‘passenger’ means an individual to be carried aboard a passenger aircraft to be operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation (as such terms are defined in section 40102 of title 49, United States Code).

“(3) STERILE AREA.—The term ‘sterile area’ means any part of an airport that is regularly accessible to passengers after having cleared a passenger security checkpoint.”.

SEC. 302. IMMEDIATE INTERNATIONAL PASSENGER PRESCREENING PILOT PROGRAM.

(a) PILOT PROGRAM.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall initiate a pilot program to evaluate the use of automated systems for the immediate prescreening of passengers on flights in foreign air transportation, as defined by section 40102 of title 49, United States Code, that are bound for the United States.

(b) REQUIREMENTS.—At a minimum, with respect to a passenger on a flight described in subsection (a) operated by an air carrier or foreign air carrier, the automated systems evaluated under the pilot program shall—

(1) compare the passenger’s information against the integrated and consolidated terrorist
watchlist maintained by the Federal Government and provide the results of the comparison to the air carrier or foreign air carrier before the passenger is permitted board the flight;

(2) provide functions similar to the advanced passenger information system established under section 431 of the Tariff Act of 1930 (19 U.S.C. 1431); and

(3) make use of machine-readable data elements on passports and other travel and entry documents in a manner consistent with international standards.

(c) OPERATION.—The pilot program shall be conducted—

(1) in not fewer than 2 foreign airports; and

(2) in collaboration with not fewer than one air carrier at each airport participating in the pilot program.

(d) EVALUATION OF AUTOMATED SYSTEMS.—In conducting the pilot program, the Secretary shall evaluate not more than 3 automated systems. One or more of such systems shall be commercially available and currently in use to prescreen passengers.

(e) PRIVACY PROTECTION.—The Secretary shall ensure that the passenger data is collected under the pilot
program in a manner consistent with the standards estab-
lished under section 552a of title 5, United States Code.

(f) DURATION.—The Secretary shall conduct the
pilot program for not fewer than 90 days.

(g) PASSENGER DEFINED.—In this section, the term
“passenger” includes members of the flight crew.

(h) REPORT.—Not later than 30 days after the date
of completion of the pilot program, the Secretary shall
submit to the Committee on Homeland Security of the
House of Representatives and the Committee on Com-
merce, Science, and Transportation of the Senate a report
containing the following:

(1) An assessment of the technical performance
of each of the tested systems, including the system’s
accuracy, scalability, and effectiveness with respect
to measurable factors, including, at a minimum, pas-
senger throughput, the rate of flight diversions, and
the rate of false negatives and positives.

(2) A description of the provisions of each test-
ed system to protect the civil liberties and privacy
rights of passengers, as well as a description of the
adequacy of an immediate redress or appeals process
for passengers denied authorization to travel.

(3) Cost projections for implementation of each
tested system, including—
(A) projected costs to the Department of Homeland Security; and

(B) projected costs of compliance to air carriers operating flights described in subsection (a).

(4) A determination as to which tested system is the best-performing and most efficient system to ensure immediate prescreening of international passengers. Such determination shall be made after consultation with individuals in the private sector having expertise in airline industry, travel, tourism, privacy, national security, or computer security issues.

(5) A plan to fully deploy the best-performing and most efficient system tested by not later than January 1, 2007.

SEC. 303. INTERNATIONAL COOPERATIVE EFFORTS.

To ensure that the collection of passenger information is standardized among nations, the Secretary of Homeland Security is encouraged to pursue international cooperative efforts in the appropriate forum to set technology standards for passenger data and collection systems.
SEC. 304. COMPUTER ASSISTED PASSENGER PRESCREENING SYSTEM.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Assistant Secretary for Homeland Security (Transportation Security Administration) shall submit to the Committee on Homeland Security of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Commerce, Science, and Transportation of the Senate a report containing—

(1) information on the percentage of airline passengers that are designated for secondary search on a daily basis by the Computer Assisted Passenger Prescreening System (in this section referred to as “CAPPS”);

(2) information on the percentage of such airline passengers that have been found to be terrorists or associates of terrorists;

(3) information on the annual cost of administering CAPPS; and

(4) an evaluation of whether CAPPS screening should be continued after the full deployment of the Secure Flight program.

(b) FORM OF REPORT.—The report prepared under this section may be submitted in a classified form.
(c) LIMITATION ON SECONDARY SCREENING.—The Assistant Secretary, in cooperation with appropriate Federal agencies and the representatives of the aviation industry, shall develop a process to ensure that a passenger who has successfully completed a finger-print based background check conducted by the Department of Homeland Security, or holds a security clearance issued by the Department of Homeland Security, is not subject to secondary screening as the result of a designation under CAPPS.

SEC. 305. SECURE FLIGHT PROGRAM.

(a) NON-FEDERAL DATA.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall begin to use data obtained from non-Federal sources to instantaneously verify or disprove the identity of an individual who as a result of implementation of the Secure Flight program (or any successor program related to advanced passenger prescreening) is delayed or prohibited from boarding an aircraft or is otherwise determined to pose a security threat.

(b) LIMITATION.—The Secretary shall not purchase, compile, obtain, or otherwise possess any data obtained from non-Federal sources to verify or disprove the identity of an individual under subsection (a), other than data pro-
vided by an individual for the purpose of determining the
individual’s identity.

**TITLE IV—MISCELLANEOUS PROVISIONS**

**SEC. 401. FEDERAL FLIGHT DECK OFFICERS.**

(a) **Training and Requalification Training.**—

Section 44921(c) of title 49, United States Code, is
amended by adding at the end the following:

“(3) **Dates of Training.**—The Secretary shall ensure that a pilot who is eligible to receive Federal flight deck officer training is offered, to the maximum extent practicable, a choice of training dates and is provided at least 30 days advance notice of the dates.

“(4) **Travel to Training Facilities.**—The Secretary shall establish a program to improve travel access to Federal flight deck officer training facilities through the use of charter flights or improved scheduled air carrier service.

“(5) **Requalification and Recurrent Training.**—

“(A) **Standards.**—The Secretary shall establish qualification standards for facilities where Federal flight deck officers can receive requalification and recurrent training.
“(B) LOCATIONS.—The Secretary shall provide for requalification and recurrent training at geographically diverse facilities, including Federal, State, and local law enforcement and government facilities, and private training facilities that meet the qualification standards established under subparagraph (A).

“(6) COSTS OF TRAINING.—

“(A) IN GENERAL.—The Secretary shall provide Federal flight deck officer training, requalification training, and recurrent training to eligible pilots at no cost to the pilots or the air carriers that employ the pilots.

“(B) TRANSPORTATION AND EXPENSES.—The Secretary may provide travel expenses to a pilot receiving Federal flight deck officer training, requalification training, or recurrent training.

“(7) COMMUNICATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall establish a secure means for personnel of the Transportation Security Administration to communicate with Federal flight deck officers, and for Federal flight deck officers to communicate with each other, in support of the mission of...
such officers. Such means of communication may include a secure Internet website.”.

(b) Revocation of Deputization of Pilot as Federal Flight Deck Officer.—Section 44921(d)(4) of title 49, United States Code, is amended to read as follows:

“(4) Revocation.—

“(A) Orders.—The Assistant Secretary of Homeland Security (Transportation Security Administration) may issue, for good cause, an order revoking the deputization of a Federal flight deck officer under this section. The order shall include the specific reasons for the revocation.

“(B) Hearings.—An individual who is adversely affected by an order of the Assistant Secretary under subparagraph (A) is entitled to a hearing on the record. When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Assistant Secretary.

“(C) Appeals.—An appeal from a decision of an administrative law judge as a result of a hearing under subparagraph (B) shall be
made to the Secretary or the Secretary’s designate.

“(D) JUDICIAL REVIEW OF A FINAL ORDER.—The determination and order of the Secretary revoking the deputization of a Federal flight deck officer under this section shall be final and conclusive unless the individual against whom such an order is issued files an application for judicial review under subchapter II of chapter 5 of title 5 (popularly known as the Administrative Procedure Act) within 60 days of entry of such order in the appropriate United States court of appeals.”

(e) FEDERAL FLIGHT DECK OFFICER FIREARM CARRIAGE PILOT PROGRAM.—Section 44921(f) of title 49, United States Code, is amended by adding at the end the following:

“(4) PILOT PROGRAM.—

“(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Secretary shall implement a pilot program to allow pilots participating in the Federal flight deck officer program to transport their firearms on their persons. The Secretary may prescribe any training, equipment, or pro-
cedures that the Secretary determines necessary to ensure safety and maximize weapon retention.

“(B) Review.—Not later than 1 year after the date of initiation of the pilot program, the Secretary shall conduct a review of the safety record of the pilot program and transmit a report on the results of the review to Congress.

“(C) Option.—If the Secretary as part of the review under subparagraph (B) determines that the safety level obtained under the pilot program is comparable to the safety level determined under existing methods of pilots carrying firearms on aircraft, the Secretary shall allow all pilots participating in the Federal flight deck officer program the option of carrying their firearm on their person subject to such requirements as the Secretary determines appropriate.”.

(d) Federal Flight Deck Officers on International Flights.—

(1) Agreements with Foreign Governments.—The President is encouraged to pursue aggressively agreements with foreign governments to
allow maximum deployment of Federal flight deck
officers on international flights.

(2) REPORT.—Not later than 180 days after
the date of enactment of this Act, the President (or
the President’s designee) shall submit to Congress a
report on the status of the President’s efforts to
allow maximum deployment of Federal flight deck
officers on international flights.

(e) REFERENCES TO UNDER SECRETARY.—Section
44921 of title 49, United States Code, is amended—

(1) in subsection (a) by striking “Under Sec-
retary of Transportation for Security” and inserting
“Secretary of Homeland Security”;

(2) by striking “Under Secretary” each place it
appears and inserting “Secretary”; and

(3) by striking “Under Secretary’s” each place
it appears and inserting “Secretary’s”.