

TRANSPORTATION SECURITY ADMINISTRATION REFORM
AND IMPROVEMENT ACT OF 2015

JANUARY 12, 2016.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 3584]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3584) to authorize, streamline, and identify efficiencies within the Transportation Security Administration, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Transportation Security Administration Reform and Improvement Act of 2015”.

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

- Sec. 1. Short title; Table of contents.
 Sec. 2. Definitions.

TITLE I—AVIATION SECURITY

- Sec. 101. TSA PreCheck.
 Sec. 102. PreCheck and general passenger biometric identification.
 Sec. 103. Limitation; PreCheck operations maintained; Alternate methods.
 Sec. 104. Secure Flight program.
 Sec. 105. Efficiency review by TSA.
 Sec. 106. Donation of screening equipment to protect the United States.
 Sec. 107. Review of sustained security directives.
 Sec. 108. Maintenance of security-related technology.
 Sec. 109. Vetting of aviation workers.
 Sec. 110. Aviation Security Advisory Committee consultation.
 Sec. 111. Private contractor canine evaluation and integration pilot program.
 Sec. 112. Covert testing at airports.
 Sec. 113. Training for transportation security officers.

TITLE II—SURFACE TRANSPORTATION SECURITY AND OTHER MATTERS

- Sec. 201. Surface Transportation Inspectors.
 Sec. 202. Inspector General audit; TSA Office of Inspection workforce certification.
 Sec. 203. Repeal of biennial reporting requirement for the Government Accountability Office relating to the Transportation Security Information Sharing Plan.
 Sec. 204. Security training for frontline transportation workers.
 Sec. 205. Feasibility assessment.

SEC. 2. DEFINITIONS.

In this Act:

- (1) **ADMINISTRATION; TSA.**—The terms “Administration” and “TSA” mean the Transportation Security Administration.
 (2) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Transportation Security Administration.
 (3) **INTELLIGENCE COMMUNITY.**—The term “intelligence community” has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).
 (4) **DEPARTMENT.**—The term “Department” means the Department of Homeland Security.
 (5) **SECURE FLIGHT.**—The term “Secure Flight” means the Administration’s watchlist matching program.

TITLE I—AVIATION SECURITY**SEC. 101. TSA PRECHECK.**

(a) **TSA PRECHECK.**—Not later than 90 days after the date of the enactment of this Act, the Administrator shall—

(1) ensure that all screening of passengers and their accessible property shall be conducted in a risk-based, intelligence-driven manner with consideration given to the privacy and civil liberties of such passengers; and

(2) operate a trusted passenger screening program known as “TSA PreCheck” that provides expedited screening for low-risk passengers and their accessible property based on a comprehensive and continuous analysis of factors specified in subsection (b).

(b) **FACTORS.**—Factors referred to in subsection (a)(2) shall include the following:

(1) Whether passengers described in such subsection are members of other trusted traveler programs of the Department.

(2) Whether such passengers are traveling pursuant to subsection (m) of section 44903 of title 49, United States Code (as established under the Risk-Based Security for Members of the Armed Forces Act (Public Law 112–86)), section 44927 of such title (as established under the Helping Heroes Fly Act (Public Law 113–27)), or section 44928 of such title (as established under the Honor Flight Act (Public Law 113–221)).

(3) Whether such passengers possess an active security clearance or other credential issued by the Federal Government for which TSA has conducted a written threat assessment and determined that such passengers present a low risk to transportation or national security.

(4) Whether such passengers are members of a population for whom TSA has conducted a written security threat assessment, determined that such population poses a low risk to transportation or national security, and has issued such passengers a known traveler number.

(5) The ability of the Administration to verify such passengers' identity and whether such passengers pose a risk to aviation security.

(6) Threats to transportation or national security as identified by the intelligence community and law enforcement community.

(c) ENROLLMENT EXPANSION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall publish PreCheck application enrollment standards to add multiple private sector application capabilities for the TSA PreCheck program to increase the public's enrollment access to such program, including standards that allow the use of secure technologies, including online enrollment, kiosks, tablets, or staffed computer stations at which individuals can apply for entry into such program.

(2) REQUIREMENTS.—Upon publication of the PreCheck program application enrollment standards pursuant to paragraph (1), the Administrator shall—

(A) coordinate with interested parties to deploy TSA-approved ready-to-market private sector solutions that meet the TSA PreCheck application enrollment standards described in paragraph (1), make available additional PreCheck enrollment capabilities, and offer secure online and mobile enrollment opportunities;

(B) partner with the private sector to collect biographic and biometric identification information via kiosks, mobile devices, or other mobile enrollment platforms to reduce the number of instances in which passengers need to travel to enrollment centers;

(C) ensure that the kiosks, mobile devices, or other mobile enrollment platforms referred to in subparagraph (E) are secure and not vulnerable to data breaches;

(D) ensure that any biometric and biographic information is collected in a manner which is comparable with the National Institute of Standards and Technology standards and ensures privacy and data security protections, including that applicants' personally identifiable information is collected, retained, used, and shared in a manner consistent with section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), and agency regulations;

(E) ensure that an individual who wants to enroll in the PreCheck program and has started an application with a single identification verification at one location will be able to save such individual's application on any kiosk, personal computer, mobile device, or other mobile enrollment platform and be able to return within a reasonable time to submit a second identification verification; and

(F) ensure that any enrollment expansion using a private sector risk assessment instead of a fingerprint-based criminal history records check is determined, by the Secretary of Homeland Security, to be equivalent to a fingerprint-based criminal history records check conducted through the Federal Bureau of Investigation.

(3) MARKETING OF PRECHECK PROGRAM.—Upon publication of PreCheck program application enrollment standards pursuant to paragraph (1), the Administrator shall—

(A) in accordance with such standards, develop and implement—

(i) a process, including an associated timeframe, for approving private sector marketing of the TSA PreCheck program; and

(ii) a strategy for partnering with the private sector to encourage enrollment in such program; and

(B) submit to Congress a report on any PreCheck fees collected in excess of the costs of administering such program, including recommendations for using such amounts to support marketing of such program under this subsection.

(4) IDENTITY VERIFICATION ENHANCEMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall—

(A) coordinate with the heads of appropriate components of the Department to leverage Department-held data and technologies to verify the citizenship of individuals enrolling in the TSA PreCheck program; and

(B) partner with the private sector to use advanced biometrics and standards comparable with National Institute of Standards and Technology standards to facilitate enrollment in such program.

(5) **PRECHECK LANE OPERATION.**—The Administrator shall—

(A) ensure that TSA PreCheck screening lanes are open and available during peak and high-volume travel times at airports to individuals enrolled in the PreCheck program; and

(B) make every practicable effort to provide expedited screening at standard screening lanes during times when PreCheck screening lanes are closed to individuals enrolled in such program in order to maintain operational efficiency.

(6) **VETTING FOR PRECHECK PARTICIPANTS.**—Not later than 90 days after the date of the enactment of this Act, the Administrator shall initiate an assessment of the security vulnerabilities in the vetting process for the PreCheck program that includes an evaluation of whether subjecting PreCheck participants to recurrent fingerprint-based criminal history records checks, in addition to recurrent checks against the terrorist watchlist, could be done in a cost-effective manner to strengthen the security of the PreCheck program.

SEC. 102. PRECHECK AND GENERAL PASSENGER BIOMETRIC IDENTIFICATION.

(a) **IN GENERAL.**—Not later than one year after the date of enactment of this Act, the Administrator shall conduct a pilot project to establish a secure, automated, biometric-based system at airports to verify the identity of passengers who are members of TSA PreCheck. Such system shall—

(1) reduce the need for security screening personnel to perform travel document verification for individuals enrolled in TSA PreCheck;

(2) reduce the average wait time of individuals enrolled in TSA PreCheck;

(3) reduce overall operating expenses of the Administration;

(4) be integrated with the Administration’s watch list and trusted traveler matching program;

(5) be integrated with other checkpoint technologies to further facilitate risk-based passenger screening at the checkpoint, to the extent practicable and consistent with security standards; and

(6) consider capabilities and policies of U.S. Customs and Border Protection’s Global Entry Program, as appropriate.

(b) **ESTABLISHMENT OF SCREENING SYSTEM FOR CERTAIN PASSENGERS.**—Section 44901 of title 49, United States Code is amended—

(1) by redesignating subsections (c) through (l) as subsections (d) through (m), respectively; and

(2) by inserting after subsection (b) the following new subsection:

“(c) **ESTABLISHMENT OF SCREENING SYSTEM FOR CERTAIN PASSENGERS.**—Not later than December 31, 2017, in accordance with the requirements of the Transportation Security Administration Reform and Improvement Act of 2015, the Administrator of the Transportation Security Administration shall establish a secure, automated system at all large hub airports for verifying travel and identity documents of passengers who are not members of the Administration’s risk-based aviation passenger screening program, known as ‘TSA PreCheck’. Such system shall—

“(1) assess the need for security screening personnel to perform travel document verification for such passengers, thereby assessing the overall number of such screening personnel;

“(2) assess the average wait time of such passengers;

“(3) assess overall operating expenses of the Administration;

“(4) be integrated with the Administration’s watch list matching program; and

“(5) be integrated with other checkpoint technologies to further facilitate risk-based passenger screening at the checkpoint, to the extent practicable and consistent with security standards.”.

SEC. 103. LIMITATION; PRECHECK OPERATIONS MAINTAINED; ALTERNATE METHODS.

(a) **IN GENERAL.**—Except as provided in subsection (c), the Administrator shall direct that access to expedited airport security screening at an airport security checkpoint be limited to only the following:

(1) A passenger who voluntarily submits biographic and biometric information for a security risk assessment and whose application for the PreCheck program has been approved, or a passenger who is a participant in another trusted or registered traveler program of the Department.

(2) A passenger traveling pursuant to section 44903 of title 49, United States Code (as established under the Risk-Based Security for Members of the Armed Forces Act (Public Law 112–86)), section 44927 of such title (as established under the Helping Heroes Fly Act (Public Law 113–27)), or section 44928 of such title (as established under the Honor Flight Act (Public Law 113–221)).

(3) A passenger who did not voluntarily submit biographic and biometric information for a security risk assessment but is a member of a population designated by the Administrator as known and low-risk and who may be issued a unique, known traveler number by the Administrator determining that such passenger is a member of a category of travelers designated by the Administrator as known and low-risk.

(b) **PRECHECK OPERATIONS MAINTAINED.**—In carrying out subsection (a), the Administrator shall ensure that expedited airport security screening remains available to passengers at or above the level that exists on the day before the date of the enactment of this Act.

(c) **FREQUENT FLIERS.**—If the Administrator determines that such is appropriate, the implementation of subsection (a) may be delayed by up to one year with respect to the population of passengers who did not voluntarily submit biographic and biometric information for security risk assessments but who nevertheless receive expedited airport security screening because such passengers are designated as frequent fliers by air carriers. If the Administrator uses the authority provided by this subsection, the Administrator shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate of such phased-in implementation.

(d) **ALTERNATE METHODS.**—The Administrator may provide access to expedited airport security screening to additional passengers pursuant to an alternate method upon the submission to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of an independent assessment of the security effectiveness of such alternate method that is conducted by an independent entity that determines that such alternate method is designed to—

(1) reliably and effectively identify passengers who likely pose a low risk to the United States aviation system;

(2) mitigate the likelihood that a passenger who may pose a security threat to the United States aviation system is selected for expedited security screening; and

(3) address known and evolving security risks to the United States aviation system.

(e) **INFORMATION SHARING.**—The Administrator shall provide to the entity conducting the independent assessment under subsection (d) effectiveness testing results that are consistent with established evaluation design practices, as identified by the Comptroller General of the United States.

(f) **REPORTING.**—Not later than three months after the date of the enactment of this Act and annually thereafter, the Administrator shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the percentage of all passengers who are provided expedited security screening, and of such passengers so provided, the percentage who are participants in the PreCheck program (who have voluntarily submitted biographic and biometric information for security risk assessments), the percentage who are participants in another trusted traveler program of the Department, the percentage who are participants in the PreCheck program due to the Administrator's issuance of known traveler numbers, and for the remaining percentage of passengers granted access to expedited security screening in PreCheck security lanes, information on the percentages attributable to each alternative method utilized by the Administration to direct passengers to expedited airport security screening at PreCheck security lanes.

(g) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to—

(1) authorize or direct the Administrator to reduce or limit the availability of expedited security screening at an airport; or

(2) limit the authority of the Administrator to use technologies and systems, including passenger screening canines and explosives trace detection, as a part of security screening operations.

SEC. 104. SECURE FLIGHT PROGRAM.

Not later than 90 days after the date of the enactment of this Act, the Administrator shall—

(1) develop a process for regularly evaluating the root causes of screening errors at checkpoints across airports so that corrective measures are able to be identified;

(2) implement such corrective measures to address the root causes of such screening errors occurring at the checkpoint;

(3) develop additional measures to address key performance aspects related to the Secure Flight program goals and ensure that such measures clearly identify activities necessary to achieve progress towards such goals;

(4) develop a mechanism to systematically document the number and causes of Secure Flight program matching errors for the purpose of improving program performance and provide program managers with timely and reliable information;

(5) provide job-specific privacy refresher training for Secure Flight program staff to further protect personally identifiable information in the Secure Flight system program; and

(6) develop a mechanism to comprehensively document and track key Secure Flight program privacy issues and decisions to ensure the Secure Flight program has complete information for effective oversight of its privacy controls.

SEC. 105. EFFICIENCY REVIEW BY TSA.

(a) **REVIEW REQUIRED.**—Not later than 270 days after the date of the enactment of this Act, the Administrator shall conduct and complete a comprehensive, agency-wide efficiency review of the Administration to identify spending reductions and administrative savings through the streamlining and any necessary restructuring of agency divisions to make the Administration more efficient. In carrying out the review under this section, the Administrator shall consider each of the following:

(1) The elimination of any duplicative or overlapping programs and initiatives that can be streamlined.

(2) The elimination of any unnecessary or obsolete rules, regulations, directives, or procedures.

(3) Any other matters the Administrator determines are appropriate.

(b) **REPORT TO CONGRESS.**—Not later than 30 days after the completion of the efficiency review required under subsection (a), the Administrator shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report that specifies the results and cost savings expected to be achieved through such efficiency review. Such report shall also include information relating to how the Administration may use efficiencies identified through such efficiency review to provide funding to reimburse airports that incurred eligible costs for in-line baggage screening systems.

SEC. 106. DONATION OF SCREENING EQUIPMENT TO PROTECT THE UNITED STATES.

(a) **IN GENERAL.**—The Administrator is authorized to donate security screening equipment to a foreign last-point-of-departure airport operator if such equipment can be reasonably expected to mitigate a specific vulnerability to the security of the United States or United States citizens.

(b) **REPORT TO CONGRESS.**—Not later than 30 days before any donation of equipment under this section, the Administrator shall provide to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a detailed written explanation of—

(1) the specific vulnerability to the United States that will be mitigated with such donation;

(2) an explanation as to why the recipient is unable or unwilling to purchase equipment to mitigate such threat;

(3) an evacuation plan for sensitive technologies in case of emergency or instability in the country to which such donation is being made;

(4) how the Administration will ensure the equipment that is being donated is used and maintained over the course of its life by the recipient; and

(5) the total dollar value of such donation.

SEC. 107. REVIEW OF SUSTAINED SECURITY DIRECTIVES.

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act and annually thereafter, for any security directive that has been in effect for longer than one year, the Administrator shall review the necessity of such directives, from a risk-based perspective.

(b) **BRIEFING TO CONGRESS.**—Upon completion of each review pursuant to subsection (a), the Administrator shall brief the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate on—

(1) any changes being made to existing security directives as a result of each such review;

(2) the specific threat that is being mitigated by any such directive that will remain in effect; and

(3) the planned disposition of any such directive.

SEC. 108. MAINTENANCE OF SECURITY-RELATED TECHNOLOGY.

(a) **IN GENERAL.**—Title XVI of the Homeland Security Act of 2002 (6 U.S.C. 561 et seq.) is amended by adding at the end the following:

**“Subtitle C—Maintenance of Security-Related
Technology**

“SEC. 1621. MAINTENANCE VALIDATION AND OVERSIGHT.

“(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this subtitle, the Administrator shall develop and implement a preventive maintenance validation process for security-related technology deployed to airports.

“(b) **MAINTENANCE BY ADMINISTRATION PERSONNEL AT AIRPORTS.**—For maintenance to be carried out by Administration personnel at airports, the process referred to in subsection (a) shall include the following:

“(1) Guidance to Administration personnel, equipment maintenance technicians, and other personnel at airports specifying how to conduct and document preventive maintenance actions.

“(2) Mechanisms for the Administrator to verify compliance with the guidance issued pursuant to paragraph (1).

“(c) **MAINTENANCE BY CONTRACTORS AT AIRPORTS.**—For maintenance to be carried out by a contractor at airports, the process referred to in subsection (a) shall require the following:

“(1) Provision of monthly preventive maintenance schedules to appropriate Administration personnel at each airport that includes information on each action to be completed by a contractor.

“(2) Notification to appropriate Administration personnel at each airport when maintenance action is completed by a contractor.

“(3) A process for independent validation by a third party of contractor maintenance.

“(d) **PENALTIES FOR NONCOMPLIANCE.**—The Administrator shall require maintenance contracts for security-related technology deployed to airports to include penalties for noncompliance when it is determined that either preventive or corrective maintenance has not been completed according to contractual requirements and manufacturers’ specifications.”.

(b) **INSPECTOR GENERAL ASSESSMENT.**—Not later than one year after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security shall assess implementation of the requirements under section 1621 of the Homeland Security Act of 2002 (as added by subsection (a) of this section), and provide findings and recommendations with respect to the provision of training to Administration personnel, equipment maintenance technicians, and other personnel under such section 1621 and the availability and utilization of equipment maintenance technicians employed by the Administration.

(c) **CLERICAL AMENDMENT.**—The table of contents of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 1616 the following:

“Subtitle C—Maintenance of Security-Related Technology

“Sec. 1621. Maintenance validation and oversight.”.

SEC. 109. VETTING OF AVIATION WORKERS.

(a) **IN GENERAL.**—Subtitle A of title XVI of the Homeland Security Act of 2002 (6 U.S.C. 561 et seq.) is amended by adding after section 1601 the following new section:

“SEC. 1602. VETTING OF AVIATION WORKERS.

“(a) **IN GENERAL.**—By not later than December 31, 2015, the Administrator, in coordination with the Assistant Secretary for Policy of the Department, shall request from the Director of National Intelligence access to additional data from the Terrorist Identities Datamart Environment (TIDE) data and any or other terrorism-related information to improve the effectiveness of the Administration’s credential vetting program for individuals with unescorted access to sensitive areas of airports.

“(b) **SECURITY INSPECTION.**—By not later than December 31, 2015, the Administrator shall issue guidance for Transportation Security Inspectors to annually review airport badging office procedures for applicants seeking access to sensitive areas of airports. Such guidance shall include a comprehensive review of applicants’ Criminal History Records Check (CHRC) and work authorization documentation during the course of an inspection.

“(c) INFORMATION SHARING.—By not later than December 31, 2015, the Administrator may conduct a pilot program of the Rap Back Service, in coordination with the Director of the Federal Bureau of Investigation, to determine the feasibility of full implementation of a service through which the Administrator would be notified of a change in status of an individual holding a valid credential granting unescorted access to sensitive areas of airports across eligible Administration-regulated populations.

“(d) PROCEDURES.—The pilot program under subsection (c) shall evaluate whether information can be narrowly tailored to ensure that the Administrator only receives notification of a change with respect to a disqualifying offense under the credential vetting program under subsection (a), as specified in 49 CFR 1542.209, and in a manner that complies with current regulations for fingerprint-based criminal history records checks. The pilot program shall be carried out in a manner so as to ensure that, in the event that notification is made through the Rap Back Service of a change but a determination of arrest status or conviction is in question, the matter will be handled in a manner that is consistent with current regulations. The pilot program shall also be carried out in a manner that is consistent with current regulations governing an investigation of arrest status, correction of Federal Bureau of Investigation records and notification of disqualification, and corrective action by the individual who is the subject of an inquiry.

“(e) DETERMINATION AND SUBMISSION.—If the Administrator determines that full implementation of the Rap Back Service is feasible and can be carried out in a manner that is consistent with current regulations for fingerprint-based criminal history checks, including the rights of individuals seeking credentials, the Administrator shall submit such determination, in writing, to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate, together with information on the costs associated with such implementation, including the costs incurred by the private sector. In preparing this determination, the Administrator shall consult with the Chief Civil Rights and Civil Liberties Officer of the Department to ensure that protocols are in place to align the period of retention of personally identifiable information and biometric information, including fingerprints, in the Rap Back Service with the period in which the individual who is the subject of an inquiry has a valid credential.

“(f) CREDENTIAL SECURITY.—By not later than September 30, 2015, the Administrator shall issue guidance to airports mandating that all federalized airport badging authorities place an expiration date on airport credentials commensurate with the period of time during which an individual is lawfully authorized to work in the United States.

“(g) AVIATION WORKER LAWFUL STATUS.—By not later than December 31, 2015, the Administrator shall review the denial of credentials due to issues associated with determining an applicant’s lawful status in order to identify airports with specific weaknesses and shall coordinate with such airports to mutually address such weaknesses, as appropriate.

“(h) REPORTS TO CONGRESS.—Upon completion of the determinations and reviews required under this section, the Administrator shall brief the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate on the results of such determinations and reviews.”

(b) CLERICAL AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 1601 the following new item:

“Sec. 1602. Vetting of aviation workers.”

(c) STATUS UPDATE ON RAP BACK SERVICE PILOT PROGRAM.—Not later than 60 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report on the status of plans to conduct a pilot program in coordination with the Federal Bureau of Investigation of the Rap Back Service in accordance with subsection (c) of section 1602 of the Homeland Security Act of 2002, as added by subsection (a) of this section. The report shall include details on the business, technical, and resource requirements for the Transportation Security Administration and pilot program participants, and provide a timeline and goals for the pilot program.

SEC. 110. AVIATION SECURITY ADVISORY COMMITTEE CONSULTATION.

(a) **IN GENERAL.**—The Administrator shall consult, to the extent practicable, with the Aviation Security Advisory Committee (established pursuant to section 44946 of title 49 of the United States Code) regarding any modification to the prohibited item list prior to issuing a determination about any such modification.

(b) **REPORT ON THE TRANSPORTATION SECURITY OVERSIGHT BOARD.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Transportation Security Oversight Board (established pursuant to section 115 of title 49, United States Code), the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report that includes general information on how often the Board has met, the current composition of the Board, and what activities the Board has undertaken, consistent with the duties specified in subsection (c) of such section. The Secretary may include in such report recommendations for changes to such section in consideration of the provisions of section 44946 of title 49, United States Code.

(c) **TECHNICAL CORRECTION.**—Subparagraph (A) of section 44946(c)(2) of title 49, United States Code, is amended to read as follows:

“(A) **TERMS.**—The term of each member of the Advisory Committee shall be two years but may continue until such time as a successor member begins serving on the Advisory Committee. A member of the Advisory Committee may be reappointed.”

(d) **DEFINITION.**—In this section, the term “prohibited item list” means the list of items passengers are prohibited from carrying as accessible property or on their persons through passenger screening checkpoints at airports, into sterile areas at airports, and on board passenger aircraft, pursuant to section 1540.111 of title 49, Code of Federal Regulations (as in effect on January 1, 2015).

SEC. 111. PRIVATE CONTRACTOR CANINE EVALUATION AND INTEGRATION PILOT PROGRAM.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Administrator shall establish a pilot program to evaluate the use, effectiveness, and integration of privately-operated explosives detection canine teams using both the passenger screening canine and traditional explosives detection canine methods.

(b) **ELEMENTS.**—The pilot program under subsection (a) shall include the following elements:

(1) A full-time presence in three Category X, two Category I, and one Category II airports.

(2) A duration of at least twelve months from the time private contractor teams are operating at full capacity.

(3) A methodology for evaluating how to integrate private contractor teams into the checkpoint area to detect explosive devices missed by mechanical or human error at other points in the screening process.

(4) Covert testing with inert improvised explosive devices and accurately recreated explosives odor traces to determine the relative effectiveness of a full-time canine team in strengthening checkpoint security.

(c) **QUARTERLY UPDATES.**—The Administrator shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate written updates on the procurement, deployment, and evaluation process related to the implementation of the pilot program under subsection (a) for every calendar quarter after the date of the enactment of this Act.

(d) **FINAL REPORT.**—Not later than 90 days after the completion of the pilot program under subsection (a), the Administrator shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a final report on such pilot program.

(e) **FUNDING.**—Out of funds made available to the Office of the Secretary of Homeland Security, \$6,000,000 is authorized to be used to carry out this section.

SEC. 112. COVERT TESTING AT AIRPORTS.

(a) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act and annually thereafter through 2020, the Administrator shall conduct covert testing on an on-going basis to test vulnerabilities and identify weaknesses in the measures used to secure the aviation system of the United States. The Administrator shall, on a quarterly basis if practicable, provide to the Inspector General of the Department such testing results, methodology, and data.

(b) **ELEMENTS.**—In carrying out the covert testing required under subsection (a), the Administrator shall—

- (1) consider security screening and procedures conducted by TSA;
- (2) use available threat information and intelligence to determine the types and sizes of simulated threat items and threat item-body location configurations for such covert testing;
- (3) use a risk-based approach to determine the location and number of such covert testing;
- (4) conduct such covert testing without notifying personnel at airports prior to such covert testing; and
- (5) identify reasons for failure when TSA personnel or the screening equipment used do not identify and resolve any threat item used during such a covert test.

(c) **INDEPENDENT REVIEW.**—The Inspector General of the Department shall conduct covert testing of the aviation system of the United States in addition to the covert testing conducted by the Administrator under subsection (a), as appropriate, and analyze TSA covert testing results, methodology, and data provided pursuant to such subsection to determine the sufficiency of TSA covert testing protocols. The Inspector General shall, as appropriate, compare testing results of any additional covert testing conducted pursuant to this subsection with the results of TSA covert testing under subsection (a) to determine systemic weaknesses in the security of the aviation system of the United States.

(d) **CORRECTIVE ACTION.**—Not later than 30 days upon completion of any covert testing under subsection (a), the Administrator shall make recommendations and implement corrective actions to mitigate vulnerabilities identified by such covert testing and shall notify the Inspector General of the Department of such recommendations and actions. The Inspector General shall review the extent to which such recommendations and actions are implemented and the degree to which such recommendations and actions improve the security of the aviation system of the United States.

(e) **CONGRESSIONAL NOTIFICATION.**—

(1) **BY THE ADMINISTRATOR.**—Not later than 30 days upon completion of any covert testing under subsection (a), the Administrator shall brief the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate on the results of such covert testing.

(2) **BY THE INSPECTOR GENERAL OF THE DEPARTMENT.**—The Inspector General shall brief the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate annually on the requirements specified in this section.

(f) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to prohibit the Administrator or the Inspector General of the Department from conducting covert testing of the aviation system of the United States with greater frequency than required under this section.

SEC. 113. TRAINING FOR TRANSPORTATION SECURITY OFFICERS.

The Administrator shall, on a periodic basis, brief the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate on the status of efforts to enhance initial and recurrent training of Transportation Security Officers.

TITLE II—SURFACE TRANSPORTATION SECURITY AND OTHER MATTERS

SEC. 201. SURFACE TRANSPORTATION INSPECTORS.

(a) **IN GENERAL.**—Section 1304(d) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1113; Public Law 110-53) is amended—

- (1) by inserting “surface” after “relevant”; and
- (2) by striking “, as determined appropriate”.

(b) **REPORT TO CONGRESS.**—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report on the efficiency and effectiveness of the Administration’s Surface Transportation Security Inspectors

Program under subsection (d) of section 1304 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1113; Public Law 110–53).

(c) CONTENTS.—The report required under subsection (b) shall include a review of the following:

- (1) The roles and responsibilities of surface transportation security inspectors.
- (2) The extent to which the TSA has used a risk-based, strategic approach to determine the appropriate number of surface transportation security inspectors and resource allocation across field offices.
- (3) Whether TSA’s surface transportation regulations are risk-based and whether surface transportation security inspectors have adequate experience and training to perform their day-to-day responsibilities.
- (4) Feedback from regulated surface transportation industry stakeholders on the benefit of surface transportation security inspectors to the overall security of the surface transportation systems of such stakeholders and the consistency of regulatory enforcement.
- (5) Whether surface transportation security inspectors have appropriate qualifications to help secure and inspect surface transportation systems.
- (6) Whether TSA measures the effectiveness of surface transportation security inspectors.
- (7) Any overlap between the TSA and the Department of Transportation as such relates to surface transportation security inspectors in accordance with section 1310 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1117; Public Law 110–53).
- (8) The extent to which surface transportation security inspectors review and enhance information security practices and enforce applicable information security regulations and directives.
- (9) Any recommendations relating to the efficiency and effectiveness of the TSA’s surface transportation security inspectors program.

SEC. 202. INSPECTOR GENERAL AUDIT; TSA OFFICE OF INSPECTION WORKFORCE CERTIFICATION.

(a) INSPECTOR GENERAL AUDIT.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Inspector General of the Department shall analyze the data and methods that the Administrator uses to identify Office of Inspection employees of the Administration who meet the requirements of sections 8331(20), 8401(17), and 5545a of title 5, United States Code, and provide the relevant findings to the Administrator, including a finding on whether such data and methods are adequate and valid.

(2) PROHIBITION ON HIRING.—If the Inspector General of the Department finds that the data and methods referred to in paragraph (1) are inadequate or invalid, the Administrator may not hire any new employee to work in the Office of Inspection of the Administration until—

(A) the Administrator makes a certification described in subsection (b)(1) to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Inspector General submits to such Committees a finding, not later than 30 days after the Administrator makes such certification, that the Administrator utilized adequate and valid data and methods to make such certification.

(b) TSA OFFICE OF INSPECTION WORKFORCE CERTIFICATION.—

(1) IN GENERAL.—The Administrator shall, by not later than 90 days after the date the Inspector General of the Department provides its findings to the Assistant Secretary under subsection (a)(1), document and certify in writing to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate that only those Office of Inspection employees of the Administration who meet the requirements of sections 8331(20), 8401(17), and 5545a of title 5, United States Code, are classified as criminal investigators and are receiving premium pay and other benefits associated with such classification.

(2) EMPLOYEE RECLASSIFICATION.—The Administrator shall reclassify criminal investigator positions in the Office of Inspection of the Administration as non-criminal investigator positions or non-law enforcement positions if the individuals in such positions do not, or are not expected to, spend an average of at least 50 percent of their time performing criminal investigative duties.

(3) PROJECTED COST SAVINGS.—

(A) **IN GENERAL.**—The Administrator shall estimate the total long-term cost savings to the Federal Government resulting from the implementation of paragraph (2), and provide such estimate to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate by not later than 180 days after the date of enactment of this Act.

(B) **CONTENTS.**—The estimate described in subparagraph (A) shall identify savings associated with the positions reclassified under paragraph (2) and include, among other factors the Administrator considers appropriate, savings from—

- (i) law enforcement training;
- (ii) early retirement benefits;
- (iii) law enforcement availability and other premium pay; and
- (iv) weapons, vehicles, and communications devices.

(c) **STUDY.**—Not later than 180 days after the date that the Administrator submits the certification under subsection (b)(1), the Inspector General of the Department shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a study—

- (1) reviewing the employee requirements, responsibilities, and benefits of criminal investigators in the Office of Inspection of the Administration with criminal investigators employed at agencies adhering to the Office of Personnel Management employee classification system; and
- (2) identifying any inconsistencies and costs implications for differences between the varying employee requirements, responsibilities, and benefits.

SEC. 203. REPEAL OF BIENNIAL REPORTING REQUIREMENT FOR THE GOVERNMENT ACCOUNTABILITY OFFICE RELATING TO THE TRANSPORTATION SECURITY INFORMATION SHARING PLAN.

Subsection (u) of section 114 of title 49, United States Code, is amended by—

- (1) striking paragraph (7); and
- (2) redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

SEC. 204. SECURITY TRAINING FOR FRONTLINE TRANSPORTATION WORKERS.

Not later than 90 days after the date of the enactment of the Act, the Administrator shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report regarding the status of the implementation of sections 1408 (6 U.S.C. 1137) and 1534 (6 U.S.C. 1184) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53). The Administrator shall include in such report specific information on the challenges that the Administrator has encountered since the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007 with respect to establishing regulations requiring the provision of basic security training to public transportation frontline employees and over-the-road bus frontline employees for preparedness for potential security threats and conditions.

SEC. 205. FEASIBILITY ASSESSMENT.

Not later than 120 days after the date of the enactment of this Act, the Administrator shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a feasibility assessment of partnering with an independent, not-for-profit organization to help provide venture capital to businesses, particularly small businesses, for commercialization of innovative homeland security technologies that are expected to be ready for commercialization in the near term and within 36 months. In conducting such feasibility assessment, the Administrator shall consider the following:

- (1) Establishing an independent, not-for-profit organization, modeled after the In-Q-tel program, a venture capital partnership between the private sector and the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)), to help businesses, particularly small businesses, commercialize innovative security-related technologies.
- (2) Enhanced engagement, either through the Science and Technology Directorate of the Department of Homeland Security or directly, with the In-Q-tel program described in paragraph (1).

PURPOSE AND SUMMARY

The purpose of H.R. 3584 is to authorize, streamline, and identify efficiencies within the Transportation Security Administration, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

This bill is based on a number of oversight priorities and findings by the Subcommittee and serves as part of the Committee's larger, ongoing effort to reform and authorize the Department of Homeland Security.

Since the program's inception in 2011, TSA PreCheck has seen rapid growth in popularity and utilization, and has been the cornerstone of TSA's risk-based security efforts. While the program has helped TSA achieve a number of cost and operational efficiencies, TSA has relied too heavily on alternate forms of granting passengers expedited PreCheck screening. These alternate methods, known as Managed Inclusion and Risk Assessment, have caused confusion among travelers and have come at the expense of comprehensive efforts by TSA to focus on expanding full enrollment and converting "unknown" passengers into "known" travelers. This bill forces TSA to concentrate on enrolling more people in the program by coordinating and leveraging the capabilities and resources of the private sector in a secure, responsible manner. The bill also requires TSA to take steps to effectively and robustly market the program and leverage existing Department of Homeland Security data for identification purposes, all while working to enhance recurrent vetting capabilities for those enrolled in the program, in order to maintain the program's security and integrity. The bill is based on the Committee's priorities for enhancing risk-based security at TSA, as well as industry stakeholder feedback.

In October 2013, TSA began applying PreCheck risk assessment rules in Secure Flight (watch-list matching) to identify and increase the percentage of passengers screened through the PreCheck screening process. TSA's Risk Assessment program uses its Secure Flight system to identify travelers on a flight-by-flight basis who may be eligible for expedited screening by using previously collected information that is already provided to TSA by the airlines. Passengers who are a match to a watch-list will continue to receive the appropriate screening. For all other passengers, the analysis of this data will determine whether passengers will receive expedited or standard screening. Just like with MI, travelers who experience expedited screening through Risk Assessment are not subject to a criminal history background check. However, in contrast to MI participants, passengers who are eligible for PreCheck through Risk Assessment are not required to undergo screening by passenger screening canine teams or explosives trace detection technology. This legislation requires TSA to restrict its use of these alternate methods of diverting passengers into PreCheck, unless the agency can demonstrate that such methods have been tested and proven to be effective security tools. In turn, this will close concerning security vulnerabilities with the program and prioritize enrollment in the PreCheck program.

In addition, the Department of Homeland Security Inspector General recently released a report entitled "TSA Can Improve

Aviation Worker Vetting” (DHS OIG–15–98) which found that 73 aviation workers with access to secure areas in our nation’s airports had links to terrorism. Some of the issues noted by the report included policies that prevented the Transportation Security Administration (TSA) from having access to all the terrorism category codes in the agency’s extract of the Terrorist Screening Database used to vet employees, and limited oversight of airport operators performing criminal history and work authorization checks on the aviation workers. The report made six recommendations to strengthen the vetting of credentialed aviation workers. This legislation codifies several of those recommendations and ensures that TSA has access to the necessary data to properly vet aviation employees, strengthen its criminal background check capabilities, and better-resolve issues of lawful status for credential applicants. The need for enhanced and robust employee vetting stems from the threat to aviation posed by those with access to sensitive and secure areas at airports. A number of incidents in recent years have highlighted security gaps in the employee vetting process, including gun and drug smuggling operations, as well as instances of radicalization of aviation workers. While there has not yet been a successful instance of terrorism perpetrated by an aviation worker, the Committee seeks to close perceived gaps in vetting and strengthen the overall security of the aviation sector.

The Department of Homeland Security Office of the Inspector General also recently issued another report entitled “The Transportation Security Administration Does Not Properly Manage Its Airport Screening Equipment Maintenance Program” (DHS OIG–15–86) which examined the TSA’s airport screening equipment maintenance program and determined that adequate policies and procedures had not been implemented. This has resulted in equipment not being maintained to the specifications required by the manufacturer. Additionally, TSA did not have adequate policies to oversee if the routine preventative maintenance was accomplished resulting in equipment not being ready for operational use. This could shorten the operational life of some equipment and incur unnecessary costs to replace it. Additionally, the equipment, if not properly maintained, has the potential to be less effective at detecting dangerous items, which could jeopardize passenger and airline safety. This legislation codifies the recommendations of the Inspector General to address these vulnerabilities.

Other provisions of this bill are based on watchdog report recommendations, stake holder feedback, TSA legislative proposals, the text of H.R. 2127, H.R. 2750, H.R. 2770 and H.R. 2843, all of which unanimously passed the House in July, as well as H.R. 3144, and general oversight findings and priorities, pursuant to the Committee’s oversight plan for the 114th Congress.

HEARINGS

The Committee held no legislative hearings on H.R. 3584. However the Committee held the following oversight hearings and received briefings on issues related to the contents of this legislation:

On March 4, 2015, the Subcommittee on Transportation Security held a classified Member briefing on air passenger and baggage screening capabilities. Representatives from the DHS-IG and the

GAO were available to provide an overview of capabilities and testing efforts and to respond to Member questions.

On June 2, 2015, the Subcommittee on Transportation Security held a classified Member briefing on threats to transportation security. Representatives from TSA were available to provide an overview of the transportation threat landscape and respond to Member questions.

On June 16, 2015, the Subcommittee on Transportation Security held a hearing entitled “How TSA Can Improve Aviation Worker Vetting.” The Subcommittee received testimony from Hon. John Roth, Inspector General, U.S. Department of Homeland Security; Ms. Stacey Fitzmaurice, Deputy Assistant Administrator, Office of Intelligence and Analysis, Transportation Security Administration, U.S. Department of Homeland Security; and Ms. Jennifer Grover, Director, Transportation Security and Coast Guard Issues, Homeland Security and Justice Team, U.S. Government Accountability Office.

On September 17, 2015, the Subcommittee on Transportation Security and the Subcommittee on Counterterrorism and Intelligence held a joint hearing entitled “Safeguarding our Nation’s Surface Transportation Systems Against Evolving Terrorist Threats.” The Subcommittees received testimony from Mr. Eddie Mayenschein, Assistant Administrator, Office of Security Policy and Industry Engagement, Transportation Security Administration, U.S. Department of Homeland Security; Ms. Jennifer Grover, Director, Transportation Security and Coast Guard Issues, Homeland Security and Justice Team, U.S. Government Accountability Office; Mr. Raymond Diaz, Director of Security, Metropolitan Transportation Authority (New York); and Ms. Polly Hanson, Chief of Police, National Railroad Passenger Corporation (Amtrak).

COMMITTEE CONSIDERATION

The Committee met on September 30, 2015, to consider H.R. 3584, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An en bloc amendment offered by MR. THOMPSON of Mississippi (#1); was AGREED TO by voice vote.

Consisting of the following amendments:

Page 12, beginning line 6, strike “not later than 180 days after the date of the enactment of this Act.”.

At the end of the bill add a new section entitled “Sec. 205. Feasibility Assessment.”

An amendment offered by MR. PERRY (#2); was AGREED TO by voice vote.

At the end of title I, add a new section entitled “Sec. 112. Covert Testing at Airports.”

An en bloc amendment offered by MS. JACKSON LEE (#3); was AGREED TO by voice vote.

Consisting of the following amendments:

At the end of title I, add a new section entitled “Sec. 112. Training for Transportation Security Officers.”

Page 33, beginning line 3, insert the following: (8) Any recommendations relating to the efficiency and effectiveness of the TSA's surface transportation security inspectors program.

An amendment offered by MR. CLAWSON (#4); was AGREED TO by voice vote.

Page 18, line 13, insert the following: "Such report shall also include information relating to how the Administration may use efficiencies identified through such efficiency review to provide funding to reimburse Airports that incurred eligible costs for in-line baggage screening systems."

An amendment offered by MR. LANGEVIN (#5); was AGREED TO by voice vote.

Page 33, beginning line 3, insert the following: (8) The extent to which surface transportation security inspectors review and enhance information security practices and enforce applicable information security regulations and directives.

An amendment offered by MR. THOMPSON (#6); was AGREED TO by voice vote.

Page 11, line 16, strike "reducing" and insert "assessing".

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 3584.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3584, the Transportation Security Administration Reform and Improvement Act of 2015, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 4, 2015.

Hon. MICHAEL MCCAUL,
*Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3584, the Transportation Security Administration Reform and Improvement Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 3584—Transportation Security Administration Reform and Improvement Act of 2015

Summary: H.R. 3584 would specify a variety of requirements related primarily to aviation security programs implemented by the Transportation Security Administration (TSA). The bill would modify TSA programs for screening air passengers, vetting certain employees with access to secure areas of airports, conducting maintenance of screening equipment, and would require various administrative analyses and reports.

CBO estimates that implementing H.R. 3584 would cost \$21 million over the 2016–2020 period, assuming appropriation of the necessary amounts. Enacting H.R. 3584 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Enacting H.R. 3584 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

H.R. 3584 would impose an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) on airport authorities that issue badges to people authorized to work at airports. Based on information from TSA and groups representing airport authorities, CBO estimates that the cost to both public and private airports of complying with the mandate would be small and well below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million, respectively in 2015, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 3584 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	13	2	2	2	2	21
Estimated Outlays	7	7	3	2	2	21

Basis of Estimate: H.R. 3584 would amend provisions of law that govern TSA’s authority to carry out security-related activities and would specify new requirements, particularly related to programs to screen air passengers and oversee other security measures at airports. According to the agency, many of the bill’s provisions would effectively codify existing programs, but some provisions would require TSA to undertake new efforts that would increase federal costs. Such provisions would direct TSA to:

- Expand enrollment in the PreCheck program, through which air travelers voluntarily apply to be prescreened using biographic and biometric information to determine whether they qualify for expedited screening at airport security checkpoints;

- Conduct a pilot program to establish an automated, biometric-based system to verify the identity of travelers enrolled in the PreCheck program;
- Establish an automated system at all large hub airports to verify travel documents of passengers not enrolled in the PreCheck program;
- Expand efforts to improve the effectiveness of the Secure Flight Program, through which TSA compares air passengers' names to lists of trusted travelers and watchlists to identify low and high-risk passengers;
- Implement a pilot program to evaluate the feasibility of contracting with private firms for explosives-detection services involving canine teams; and,
- Enhance procedures for vetting airport workers by expanding efforts to share data and terrorist-related information among federal agencies responsible for intelligence and law enforcement.

Based on information from TSA about the costs of existing and similar security-related activities, CBO estimates that implementing new requirements under H.R. 3584 would cost \$21 million over the 2016–2020 period, assuming appropriation of the necessary amounts. That estimate includes \$6 million specifically authorized for the pilot program related to canine teams detecting explosives, \$5 million in estimated one-time costs for equipment and other upfront costs associated with expanding the use of biometric-based screening and the automated capacity of the Secure Flight program, and \$2 million in increased annual costs over the 2016–2020 period for additional personal and administrative expenses required to maintain expanded efforts under the bill.

In addition, CBO expects that the proposed expansion of TSA's PreCheck program, while largely consistent with current administrative policy, could involve additional costs by increasing the number of passengers that apply for prescreening services under the bill. Because such passengers pay fees to offset TSA's costs of providing such services, CBO estimates that any net changes in federal spending related to increased credentialing activities (which would be subject to provisions in annual appropriation acts) would not be significant in any year.

Pay-As-You-Go Consideration: None.

Increase in long term direct spending and deficits: CBO estimates that enacting H.R. 3584 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

Intergovernmental and private-sector impact: H.R. 3584 would impose an intergovernmental and private-sector mandate as defined in UMRA on airport authorities that issue badges to people authorized to work at airports. The bill would require those authorities to set the expiration of badges for noncitizen employees to correspond with the employee's temporary authorization to work in the United States.

Under current law, badges must expire at least every two years. This bill would require airport authorities to change practices for the issuance of badges to match the expiration dates for those employees. According to information from TSA and groups representing airport authorities, the proportion of employees with tem-

porary work authorization is small. Because current law requires the issuing agent to include expiration dates on the badges, CBO expects that the requirement to align the expiration date with work authorization would only require small changes to existing policies and practices.

Consequently, CBO estimates that the additional cost to both public and private airports of complying with the mandate would fall well below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million, respectively in 2015, adjusted annually for inflation).

Previous CBO estimates: H.R. 3584 contains several provisions that are similar to other bills for which CBO has transmitted estimates. In all cases, our estimates of the budgetary effects are the same. In particular:

- Section 101 of H.R. 3584 is similar to *H.R. 2843, the TSA PreCheck Expansion Act*, as ordered reported by the House Committee on Homeland Security on June 25, 2015, for which CBO transmitted an estimate on July 17, 2015;
- Section 103 of H.R. 3584 is similar to *H.R. 2127, the Securing Expedited Screening Act*, as ordered reported by the House Committee on Homeland Security on June 25, 2015, for which CBO transmitted an estimate on July 17, 2015;
- Section 108 of H.R. 3584 is similar to *H.R. 2770, the Keeping our Travelers Safe and Secure Act*, as ordered reported by the House Committee on Homeland Security on June 25, 2015, for which CBO transmitted an estimate on July 17, 2015;
- Section 109 of H.R. 3584 is similar to *H.R. 2750, the Improved Security Vetting for Aviation Workers Act of 2015*, as ordered reported by the House Committee on Homeland Security on June 25, 2015, for which CBO transmitted an estimate on July 24, 2015;
- Section 110 of H.R. 3584 is similar to *H.R. 3144, the Partners for Aviation Security Act*, as ordered reported by the House Committee on Homeland Security on September 30, 2015, for which CBO transmitted an estimate on October 16, 2015; and
- Section 202 of H.R. 3584 is similar to *H.R. 719, the TSA Office of Inspection Accountability Act of 2015*, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on February 26, 2015, for which CBO transmitted an estimate on March 18, 2015.

Estimate prepared by: Federal costs: Megan Carroll, Impact on state, local, and tribal governments: Melissa Merrell, Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3584 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

This legislation authorizes, streamlines, and reforms certain programs within the Transportation Security Administration as part of the Committee's broader reform and improvement effort for the

Department of Homeland Security. The text includes an authorization of TSA's PreCheck program, along with direction for TSA to implement biometric identification solutions at checkpoints, and an expansion of the PreCheck program to include partnerships with the private sector and a comprehensive marketing strategy. Additionally, H.R. 3584 includes a provision to close security gaps by limiting PreCheck screening to individuals who have successfully registered in the program, have been properly vetted, or are Members of an identified trusted population.

The bill enhances TSA's Secure Flight watchlist matching program, including requiring TSA to establish mechanisms to track and resolve the root causes of screening errors at checkpoints, develop performance metrics for the program, and provide job-specific privacy training for Secure Flight employees to protect individuals' personally identifiable information. In an effort to promote agency efficiency, the bill also includes a provision directing the Administrator to conduct an efficiency review focused on eliminating waste and duplicative efforts within TSA. The bill also authorizes TSA to donate security screening equipment to overseas airport operators at last point of departure airports with flights to the United States, in order to protect U.S. citizens and national security.

The legislation also requires TSA to develop a process by which the agency may validate preventative maintenance being performed on security screening equipment, as well as a review and assessment by the DHS Inspector General. The bill bolsters aviation worker vetting by directing TSA to seek additional data on credential applicants, as well as issue guidance for inspections of airport badging procedures and initiate a pilot of the FBI's Rap Back vetting program. Moreover, the bill seeks to enhance credentialing procedures by ensuring that issuance and expiration of credentials are commensurate with individuals' lawful status to work in the United States. Further, the bill articulates increased involvement and oversight of the Aviation Security Advisory Committee, the Transportation Security Oversight Board, and the use of private sector explosives trace detection canine teams.

H.R. 3584 also includes a surface transportation security title, which requires the GAO to conduct a review of TSA's Surface Transportation Security Inspectors Program. This review is to include an assessment of the roles and responsibilities of inspectors, whether the program is risk-based and efficient, the qualifications of the inspectors, feedback from industry stakeholders, as well as possible overlap between TSA and the Department of Transportation, as it relates to the program. The bill requires the review and subsequent reclassification of employees within TSA's Office of Inspection, as well as validation of methodology by the DHS Inspector General. Lastly, the text repeals a biennial reporting requirement for the GAO and requires TSA to submit a report on the implementation of 9/11 Act training requirements for frontline surface transportation employees.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 3584 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 3584 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 3584 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that bill may be cited as the “Transportation Security Administration Reform and Improvement Act of 2015”.

Sec. 2. Definitions

This section defines the terms used in this legislation including: “TSA” and “Administration” refer to the Transportation Security Administration; “Administrator” refers to the Administrator of the Transportation Security Administration. “Intelligence Community” is defined pursuant to the National Security Act of 1947. “Department” means the Department of Homeland Security. “Secure Flight” means the Administration’s watchlist matching program.

TITLE I—AVIATION SECURITY

Sec. 101. TSA Precheck

This section directs the Administrator, within 90 days, to ensure that passenger screening is conducted in a risk-based, intelligence-driven manner with consideration for privacy and civil liberties. Further, the Administrator shall operate a trusted passenger program known as TSA PreCheck. This program shall provide expedited screening for low-risk passengers and their accessible property based on a comprehensive and continuous analysis of various factors, including if passengers: are members of other DHS trusted traveler programs, are members of the armed forces or are traveling on military orders, possess an active security clearance, and are members of populations designated in a written security assessment as posing a low risk to aviation security.

Sec. 102. Precheck and general passenger biometric identification.

This section requires the Administrator within one year of enactment to conduct a pilot project for a secure, automated, biometric-based system at airports to verify the identity of passengers who are members of TSA PreCheck. This system must assess the need for screening personnel to perform travel document verification, assess the average wait-time of PreCheck participants, assess overall operating expenses, be integrated with TSA's watchlist matching program and checkpoint technologies, and borrow capabilities and policies of the U.S. Customs and Border Protection's Global Entry Program as appropriate.

Sec. 103. Limitation; Pre-Check operations maintained; alternate methods.

This section requires that the Administrator to limit the access to expedited airport security screening at checkpoints to passengers who voluntarily submit biographic and biometric information for a security risk assessment or who are participants in another registered traveler program of the Department or who have been identified as being of low risk to aviation security, such as members of the armed forces or individuals holding a security clearance. Any alternate methods of providing expedited screening must reliably and effectively identify low risk passengers and mitigate known threats to aviation.

Additionally, this section requires the Administrator, not later than three months after the date of the enactment of this Act and annually thereafter, to report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the percentage of all passengers who are provided expedited security screening, and of such passengers so provided, the percentage who are participants in the PreCheck program, the percentage who are participants in another trusted traveler program of the Department, the percentage who are participants in the PreCheck program due to the Administrator's issuance of known traveler numbers and for the remaining percentage of passengers granted access to expedited security screening in PreCheck security lanes, information on the percentages attributable to each alternative method utilized by the

Administration to direct passengers to expedited airport security screening at PreCheck security lanes.

Sec. 104. Secure Flight Program

This section requires the Administrator within 90 days to develop a process for regularly evaluating the root causes of screening errors, implement corrective measures to address the root causes of screening errors occurring at the checkpoint, develop additional measures to address key performance aspects related to the Secure Flight program, develop a mechanism to systematically document the number and causes of Secure Flight matching errors for the purpose of improving program performance, provide job-specific privacy refresher training for Secure Flight staff and develop a mechanism to comprehensively document and track Secure Flight privacy issues and decisions to ensure Secure Flight has complete information for effective oversight of its privacy controls.

Sec. 105. Efficiency Review by TSA

This section requires the Assistant Secretary within 270 days after the enactment to conduct a comprehensive, agency-wide efficiency review of the Transportation Security Agency to identify spending reductions and administrative savings by: the elimination of duplicative or overlapping programs, as well as the elimination of unnecessary or obsolete rules, regulations, directives or procedures. In addition, the Assistant Secretary is required to submit a report to the House Committee on Homeland Security, Homeland Security and Governmental Affairs; and Senate Committee on Commerce, Science, and Transportation within 30 days of the completion of the efficiency review. The report will also include information relating to how the Administration may use efficiencies identified through such efficiency review to provide funding to reimburse Airports that incurred eligible costs for in-line baggage screening systems.

Sec. 106. Donation of screening equipment to protect the United States

This section authorizes the Administrator to donate security-screening equipment to a foreign last point of departure airport operator if the equipment can be reasonably expected to mitigate a specific vulnerability to the security of the United States or American citizens. In addition, this section requires the administrator not later than 30 days prior to any donation to provide to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate, a detailed written explanation of the specific vulnerability to the United States that will be mitigated with the donation, why the recipient is unable or unwilling to purchase equipment to mitigate the threat, an evacuation plan for sensitive technologies in case of emergency or instability in the country to which equipment is being donated, how the Administration will ensure the equipment is used and maintained over the course of its life by the recipient, and the total dollar value of the donation.

Sec. 107. Review of sustained security directives

This section requires the Administrator within 90 days of enactment of this act and annually thereafter, to review the necessity of any security directive that has been in effect for longer than one year, and brief the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate on any changes being made to existing security directives as a result of the review conducted under this section, the specific threat that is being mitigated by any directive that will remain in effect, and the planned disposition of the security directive.

Sec. 108. Maintenance of Security-related technology

This section requires the Administrator, within 180 days, to develop and implement a preventative maintenance validation process for security-related technology deployed at airports both for airport personnel and contractors. This process should include the issuance of guidance and the development of reporting requirements, as well as penalties for non-compliance and a review by the Department of Homeland Security Inspector General.

Sec. 109. Vetting of airport workers.

This section requires the Administrator, in coordination with the Assistant Secretary for Policy of the Department to request additional access to data from the Terrorist Identities Datamart Environment and other databases in order to improve the vetting of aviation workers by December 31, 2015. This section also directs the Administrator to issue guidance to improve auditing procedures for airport badging offices and authorizes the Administrator to implement a pilot program of the FBI's Rap Back Service. Additionally, the Administrator is directed to review the denial of credentials associated with an individual's lawful status.

Sec. 110. Aviation Security Advisory Committee consultation

This section requires the Administrator, to the extent practicable, to consult with the Aviation Security Advisory Committee regarding any modifications to the prohibited items list prior to issuing a determination about any such modification. This section also requires the Secretary, within 120 days of enactment, to submit to the Transportation Security Oversight Board, the House Committee on Homeland Security and relevant Senate Committees a report that includes general information on how often the Board has met, the current composition of the Board, and what activities the Board has undertaken. This section also amends subparagraph (A) of section 4946(c)(2) of title 49, in order to allow a member of the Aviation Security Advisory Committee to serve longer than a two year term in order to prevent a vacancy before a successor is appointed.

Sec. 111. Private contractor canine evaluation and Integration Pilot Program

This section directs the Administrator, within 180 days, to conduct a pilot program to evaluate the use, effectiveness, and integration of privately-operated explosives detection canines teams to

supplement existing capabilities for passenger screening and traditional explosives detection methods. The pilot is to include covert testing to determine security effectiveness and is funded by monies made available to the Office of the Secretary of Homeland Security.

Sec. 112. Covert testing at airports

This section requires TSA to conduct regular covert testing, not later than one year after the enactment of the bill and annually thereafter through 2020, of airport security checkpoints, in order to identify weaknesses and vulnerabilities in the security apparatus protecting U.S. aviation systems. These results are to be reported, quarterly if practicable, to the DHS Inspector General and the Committee on Homeland Security in the House; Homeland Security and Governmental Affairs; and Committee on Commerce, Science, and Transportation. Additionally, the amendment directs TSA to recommend and implement corrective actions to close security vulnerabilities identified by the testing.

The Administrator is required, within 30 days of the completion of the covert testing, to report to the appropriate committees on the results of the covert testing, as well as, the DHS Inspector General.

Additionally, this section requires the DHS Inspector General to conduct its own covert testing, compare its results to that of the TSA's and report to the House Committee on Homeland Security; Homeland Security and Governmental Affairs; and Senate Committee on Commerce, Science, and Transportation

Sec. 113. Training for Transportation Security Officers.

This section requires the Administrator to report to the Committee on Homeland Security in the House; Homeland Security and Governmental Affairs; and Senate Committee on Commerce, Science, and Transportation on a periodic basis on the status of efforts to enhance initial and recurrent training of Transportation Security Officers.

TITLE II—SURFACE TRANSPORTATION SECURITY AND OTHER MATTERS

Sec. 201. Surface Transportation Inspectors

This section would require GAO within one year of enactment to issue a report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate on the efficiency and effectiveness of the Administration's Surface Transportation Security Inspectors Program. This report will also focus on the extent with which the Transportation Security Inspectors review and enhance information, security practices and enforce applicable security information, regulations and directives.

Sec. 202. Inspector General audit; TSA Office of Inspection workforce certification

This section requires the Inspector General of the Department of Homeland Security, within 60 days, to analyze the data and methods used by the Administrator to classify employees within the Office of Inspection and for the Administrator to conduct a workforce assessment and subsequent reclassification of employees within the

Office of Inspection, in accordance with Office of Personnel Management employee classification regulations. The section also requires the Administrator to report to Congress on the estimated cost savings achieved through a workforce realignment within the Office of Inspection.

Sec. 203. Repeal of biennial reporting requirement for the Government Accountability Office relating to the Transportation Security Information sharing plan

This section would repeal a 9/11 Act requirement that required GAO to report biennially on the satisfaction of recipients of transportation intelligence reports disseminated by the Department of Homeland Security.

Sec. 204. Security training for frontline transportation workers

This section requires the Administrator, within 90 days, to report to the appropriate Congressional Committees on the status of the implementation of training requirements for public transportation frontline employees in the 9/11 Act.

Sec. 205. Feasibility assessment

This amendment requires the Administrator, not later than 120 days after the bill's enactment, to conduct an assessment and submit a report to the House Committee on Homeland Security, the Senate Committee on Homeland Security and Governmental Affairs and the Senate Committee on Commerce, Science and Transportation on the feasibility of establishing a partnership with an independent, not-for-profit organization to help provide venture capital to businesses for commercialization of innovative homeland security technologies that are expected to be ready for commercialization within 3 years.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE I—DEPARTMENT OF TRANSPORTATION

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CHAPTER 1—ORGANIZATION

* * * * *

§ 114. Transportation Security Administration

(a) **IN GENERAL.**—The Transportation Security Administration shall be an administration of the Department of Transportation.

(b) **UNDER SECRETARY.**—

(1) **APPOINTMENT.**—The head of the Administration shall be the Under Secretary of Transportation for Security. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(2) **QUALIFICATIONS.**—The Under Secretary must—

(A) be a citizen of the United States; and

(B) have experience in a field directly related to transportation or security.

(3) **TERM.**—The term of office of an individual appointed as the Under Secretary shall be 5 years.

(c) **LIMITATION ON OWNERSHIP OF STOCKS AND BONDS.**—The Under Secretary may not own stock in or bonds of a transportation or security enterprise or an enterprise that makes equipment that could be used for security purposes.

(d) **FUNCTIONS.**—The Under Secretary shall be responsible for security in all modes of transportation, including—

(1) carrying out chapter 449, relating to civil aviation security, and related research and development activities; and

(2) security responsibilities over other modes of transportation that are exercised by the Department of Transportation.

(e) **SCREENING OPERATIONS.**—The Under Secretary shall—

(1) be responsible for day-to-day Federal security screening operations for passenger air transportation and intrastate air transportation under sections 44901 and 44935;

(2) develop standards for the hiring and retention of security screening personnel;

(3) train and test security screening personnel; and

(4) be responsible for hiring and training personnel to provide security screening at all airports in the United States where screening is required under section 44901, in consultation with the Secretary of Transportation and the heads of other appropriate Federal agencies and departments.

(f) **ADDITIONAL DUTIES AND POWERS.**—In addition to carrying out the functions specified in subsections (d) and (e), the Under Secretary shall—

(1) receive, assess, and distribute intelligence information related to transportation security;

(2) assess threats to transportation;

(3) develop policies, strategies, and plans for dealing with threats to transportation security;

(4) make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;

(5) serve as the primary liaison for transportation security to the intelligence and law enforcement communities;

(6) on a day-to-day basis, manage and provide operational guidance to the field security resources of the Administration, including Federal Security Managers as provided by section 44933;

(7) enforce security-related regulations and requirements;

(8) identify and undertake research and development activities necessary to enhance transportation security;

(9) inspect, maintain, and test security facilities, equipment, and systems;

(10) ensure the adequacy of security measures for the transportation of cargo;

(11) oversee the implementation, and ensure the adequacy, of security measures at airports and other transportation facilities;

(12) require background checks for airport security screening personnel, individuals with access to secure areas of airports, and other transportation security personnel;

(13) work in conjunction with the Administrator of the Federal Aviation Administration with respect to any actions or activities that may affect aviation safety or air carrier operations;

(14) work with the International Civil Aviation Organization and appropriate aeronautic authorities of foreign governments under section 44907 to address security concerns on passenger flights by foreign air carriers in foreign air transportation; and

(15) carry out such other duties, and exercise such other powers, relating to transportation security as the Under Secretary considers appropriate, to the extent authorized by law.

(g) NATIONAL EMERGENCY RESPONSIBILITIES.—

(1) IN GENERAL.—Subject to the direction and control of the Secretary, the Under Secretary, during a national emergency, shall have the following responsibilities:

(A) To coordinate domestic transportation, including aviation, rail, and other surface transportation, and maritime transportation (including port security).

(B) To coordinate and oversee the transportation-related responsibilities of other departments and agencies of the Federal Government other than the Department of Defense and the military departments.

(C) To coordinate and provide notice to other departments and agencies of the Federal Government, and appropriate agencies of State and local governments, including departments and agencies for transportation, law enforcement, and border control, about threats to transportation.

(D) To carry out such other duties, and exercise such other powers, relating to transportation during a national emergency as the Secretary shall prescribe.

(2) AUTHORITY OF OTHER DEPARTMENTS AND AGENCIES.—The authority of the Under Secretary under this subsection shall not supersede the authority of any other department or agency of the Federal Government under law with respect to transportation or transportation-related matters, whether or not during a national emergency.

(3) CIRCUMSTANCES.—The Secretary shall prescribe the circumstances constituting a national emergency for purposes of this subsection.

(h) MANAGEMENT OF SECURITY INFORMATION.—In consultation with the Transportation Security Oversight Board, the Under Secretary shall—

(1) enter into memoranda of understanding with Federal agencies or other entities to share or otherwise cross-check as necessary data on individuals identified on Federal agency databases who may pose a risk to transportation or national security;

(2) establish procedures for notifying the Administrator of the Federal Aviation Administration, appropriate State and local law enforcement officials, and airport or airline security officers of the identity of individuals known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety;

(3) in consultation with other appropriate Federal agencies and air carriers, establish policies and procedures requiring air carriers—

(A) to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation or national security; and

(B) if such an individual is identified, notify appropriate law enforcement agencies, prevent the individual from boarding an aircraft, or take other appropriate action with respect to that individual; and

(4) consider requiring passenger air carriers to share passenger lists with appropriate Federal agencies for the purpose of identifying individuals who may pose a threat to aviation safety or national security.

(i) VIEW OF NTSB.—In taking any action under this section that could affect safety, the Under Secretary shall give great weight to the timely views of the National Transportation Safety Board.

(j) ACQUISITIONS.—

(1) IN GENERAL.—The Under Secretary is authorized—

(A) to acquire (by purchase, lease, condemnation, or otherwise) such real property, or any interest therein, within and outside the continental United States, as the Under Secretary considers necessary;

(B) to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain such personal property (including office space and patents), or any interest therein, within and outside the continental United States, as the Under Secretary considers necessary;

(C) to lease to others such real and personal property and to provide by contract or otherwise for necessary facilities for the welfare of its employees and to acquire, maintain and operate equipment for these facilities;

(D) to acquire services, including such personal services as the Secretary determines necessary, and to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain research and testing sites and facilities; and

(E) in cooperation with the Administrator of the Federal Aviation Administration, to utilize the research and development facilities of the Federal Aviation Administration.

(2) TITLE.—Title to any property or interest therein acquired pursuant to this subsection shall be held by the Government of the United States.

(k) TRANSFERS OF FUNDS.—The Under Secretary is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred, on or after the date of enactment of the Aviation and Transportation Security Act, by law to the Under Secretary.

(l) REGULATIONS.—

(1) IN GENERAL.—The Under Secretary is authorized to issue, rescind, and revise such regulations as are necessary to carry out the functions of the Administration.

(2) EMERGENCY PROCEDURES.—

(A) IN GENERAL.—Notwithstanding any other provision of law or executive order (including an executive order requiring a cost-benefit analysis), if the Under Secretary determines that a regulation or security directive must be issued immediately in order to protect transportation security, the Under Secretary shall issue the regulation or security directive without providing notice or an opportunity for comment and without prior approval of the Secretary.

(B) REVIEW BY TRANSPORTATION SECURITY OVERSIGHT BOARD.—Any regulation or security directive issued under this paragraph shall be subject to review by the Transportation Security Oversight Board established under section 115. Any regulation or security directive issued under this paragraph shall remain effective for a period not to exceed 90 days unless ratified or disapproved by the Board or rescinded by the Under Secretary.

(3) FACTORS TO CONSIDER.—In determining whether to issue, rescind, or revise a regulation under this section, the Under Secretary shall consider, as a factor in the final determination, whether the costs of the regulation are excessive in relation to the enhancement of security the regulation will provide. The Under Secretary may waive requirements for an analysis that estimates the number of lives that will be saved by the regulation and the monetary value of such lives if the Under Secretary determines that it is not feasible to make such an estimate.

(4) AIRWORTHINESS OBJECTIONS BY FAA.—

(A) IN GENERAL.—The Under Secretary shall not take an aviation security action under this title if the Administrator of the Federal Aviation Administration notifies the Under Secretary that the action could adversely affect the airworthiness of an aircraft.

(B) REVIEW BY SECRETARY.—Notwithstanding subparagraph (A), the Under Secretary may take such an action, after receiving a notification concerning the action from the Administrator under subparagraph (A), if the Secretary of Transportation subsequently approves the action.

(m) PERSONNEL AND SERVICES; COOPERATION BY UNDER SECRETARY.—

(1) AUTHORITY OF UNDER SECRETARY.—In carrying out the functions of the Administration, the Under Secretary shall have the same authority as is provided to the Administrator of the Federal Aviation Administration under subsections (l) and (m) of section 106.

(2) **AUTHORITY OF AGENCY HEADS.**—The head of a Federal agency shall have the same authority to provide services, supplies, equipment, personnel, and facilities to the Under Secretary as the head has to provide services, supplies, equipment, personnel, and facilities to the Administrator of the Federal Aviation Administration under section 106(m).

(n) **PERSONNEL MANAGEMENT SYSTEM.**—The personnel management system established by the Administrator of the Federal Aviation Administration under section 40122 shall apply to employees of the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary may make such modifications to the personnel management system with respect to such employees as the Under Secretary considers appropriate, such as adopting aspects of other personnel systems of the Department of Transportation.

(o) **AUTHORITY OF INSPECTOR GENERAL.**—The Transportation Security Administration shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.) and other laws relating to the authority of the Inspector General of the Department of Transportation.

(p) **LAW ENFORCEMENT POWERS.**—

(1) **IN GENERAL.**—The Under Secretary may designate an employee of the Transportation Security Administration or other Federal agency to serve as a law enforcement officer.

(2) **POWERS.**—While engaged in official duties of the Administration as required to fulfill the responsibilities under this section, a law enforcement officer designated under paragraph (1) may—

(A) carry a firearm;

(B) make an arrest without a warrant for any offense against the United States committed in the presence of the officer, or for any felony cognizable under the laws of the United States if the officer has probable cause to believe that the person to be arrested has committed or is committing the felony; and

(C) seek and execute warrants for arrest or seizure of evidence issued under the authority of the United States upon probable cause that a violation has been committed.

(3) **GUIDELINES ON EXERCISE OF AUTHORITY.**—The authority provided by this subsection shall be exercised in accordance with guidelines prescribed by the Under Secretary, in consultation with the Attorney General of the United States, and shall include adherence to the Attorney General's policy on use of deadly force.

(4) **REVOCATION OR SUSPENSION OF AUTHORITY.**—The powers authorized by this subsection may be rescinded or suspended should the Attorney General determine that the Under Secretary has not complied with the guidelines prescribed in paragraph (3) and conveys the determination in writing to the Secretary of Transportation and the Under Secretary.

(q) **AUTHORITY TO EXEMPT.**—The Under Secretary may grant an exemption from a regulation prescribed in carrying out this section if the Under Secretary determines that the exemption is in the public interest.

(r) **NONDISCLOSURE OF SECURITY ACTIVITIES.**—

(1) IN GENERAL.—Notwithstanding section 552 of title 5, the Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107-71) or under chapter 449 of this title if the Under Secretary decides that disclosing the information would—

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to the security of transportation.

(2) Availability of information to Congress- Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) Limitation on transferability of duties- Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.

(4) LIMITATIONS.—Nothing in this subsection, or any other provision of law, shall be construed to authorize the designation of information as sensitive security information (as defined in section 1520.5 of title 49, Code of Federal Regulations)—

(A) to conceal a violation of law, inefficiency, or administrative error;

(B) to prevent embarrassment to a person, organization, or agency;

(C) to restrain competition; or

(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.

(s) TRANSPORTATION SECURITY STRATEGIC PLANNING.—

(1) IN GENERAL.—The Secretary of Homeland Security shall develop, prepare, implement, and update, as needed—

(A) a National Strategy for Transportation Security; and

(B) transportation modal security plans addressing security risks, including threats, vulnerabilities, and consequences, for aviation, railroad, ferry, highway, maritime, pipeline, public transportation, over-the-road bus, and other transportation infrastructure assets.

(2) ROLE OF SECRETARY OF TRANSPORTATION.—The Secretary of Homeland Security shall work jointly with the Secretary of Transportation in developing, revising, and updating the documents required by paragraph (1).

(3) CONTENTS OF NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—The National Strategy for Transportation Security shall include the following:

(A) An identification and evaluation of the transportation assets in the United States that, in the interests of national security and commerce, must be protected from attack or disruption by terrorist or other hostile forces, including modal security plans for aviation, bridge and tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, mass transit, over-the-road bus, and other public

transportation infrastructure assets that could be at risk of such an attack or disruption.

(B) The development of risk-based priorities, based on risk assessments conducted or received by the Secretary of Homeland Security (including assessments conducted under the Implementing Recommendations of the 9/11 Commission Act of 2007 across all transportation modes and realistic deadlines for addressing security needs associated with those assets referred to in subparagraph (A).

(C) The most appropriate, practical, and cost-effective means of defending those assets against threats to their security.

(D) A forward-looking strategic plan that sets forth the agreed upon roles and missions of Federal, State, regional, local, and tribal authorities and establishes mechanisms for encouraging cooperation and participation by private sector entities, including nonprofit employee labor organizations, in the implementation of such plan.

(E) A comprehensive delineation of prevention, response, and recovery responsibilities and issues regarding threatened and executed acts of terrorism within the United States and threatened and executed acts of terrorism outside the United States to the extent such acts affect United States transportation systems.

(F) A prioritization of research and development objectives that support transportation security needs, giving a higher priority to research and development directed toward protecting vital transportation assets. Transportation security research and development projects shall be based, to the extent practicable, on such prioritization. Nothing in the preceding sentence shall be construed to require the termination of any research or development project initiated by the Secretary of Homeland Security or the Secretary of Transportation before the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(G) A 3- and 10-year budget for Federal transportation security programs that will achieve the priorities of the National Strategy for Transportation Security.

(H) Methods for linking the individual transportation modal security plans and the programs contained therein, and a plan for addressing the security needs of intermodal transportation.

(I) Transportation modal security plans described in paragraph (1)(B), including operational recovery plans to expedite, to the maximum extent practicable, the return to operation of an adversely affected transportation system following a major terrorist attack on that system or other incident. These plans shall be coordinated with the resumption of trade protocols required under section 202 of the SAFE Port Act (6 U.S.C. 942) and the National Maritime Transportation Security Plan required under section 70103(a) of title 46.

(4) SUBMISSIONS OF PLANS TO CONGRESS.—

(A) INITIAL STRATEGY.—The Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans, developed under this subsection to the appropriate congressional committees not later than April 1, 2005.

(B) SUBSEQUENT VERSIONS.—After December 31, 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans and any revisions to the National Strategy for Transportation Security and the transportation modal security plans, to appropriate congressional committees not less frequently than April 1 of each even-numbered year.

(C) PERIODIC PROGRESS REPORT.—

(i) REQUIREMENT FOR REPORT.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to the appropriate congressional committees an assessment of the progress made on implementing the National Strategy for Transportation Security, including the transportation modal security plans.

(ii) CONTENT.—Each progress report submitted under this subparagraph shall include, at a minimum, the following:

(I) Recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal and intermodal security plans that the Secretary of Homeland Security, in consultation with the Secretary of Transportation, considers appropriate.

(II) An accounting of all grants for transportation security, including grants and contracts for research and development, awarded by the Secretary of Homeland Security in the most recent fiscal year and a description of how such grants accomplished the goals of the National Strategy for Transportation Security.

(III) An accounting of all—

(aa) funds requested in the President's budget submitted pursuant to section 1105 of title 31 for the most recent fiscal year for transportation security, by mode;

(bb) personnel working on transportation security by mode, including the number of contractors; and

(cc) information on the turnover in the previous year among senior staff of the Department of Homeland Security, including component agencies, working on transportation security issues. Such information shall include the number of employees who have permanently left the office, agency, or area in which

they worked, and the amount of time that they worked for the Department.

(iii) WRITTEN EXPLANATION OF TRANSPORTATION SECURITY ACTIVITIES NOT DELINEATED IN THE NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—At the end of each fiscal year, the Secretary of Homeland Security shall submit to the appropriate congressional committees a written explanation of any Federal transportation security activity that is inconsistent with the National Strategy for Transportation Security, including the amount of funds to be expended for the activity and the number of personnel involved.

(D) CLASSIFIED MATERIAL.—Any part of the National Strategy for Transportation Security or the transportation modal security plans that involve information that is properly classified under criteria established by Executive order shall be submitted to the appropriate congressional committees separately in a classified format.

(E) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate congressional committees” means the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation, the Committee on Homeland Security and Governmental Affairs, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(5) PRIORITY STATUS.—

(A) IN GENERAL.—The National Strategy for Transportation Security shall be the governing document for Federal transportation security efforts.

(B) OTHER PLANS AND REPORTS.—The National Strategy for Transportation Security shall include, as an integral part or as an appendix—

(i) the current National Maritime Transportation Security Plan under section 70103 of title 46;

(ii) the report required by section 44938 of this title;

(iii) transportation modal security plans required under this section;

(iv) the transportation sector specific plan required under Homeland Security Presidential Directive-7; and

(v) any other transportation security plan or report that the Secretary of Homeland Security determines appropriate for inclusion.

(6) COORDINATION.—In carrying out the responsibilities under this section, the Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall consult, as appropriate, with Federal, State, and local agencies, tribal governments, private sector entities (including nonprofit employee labor organizations), institutions of higher learning, and other entities.

(7) PLAN DISTRIBUTION.—The Secretary of Homeland Security shall make available and appropriately publicize an unclassified version of the National Strategy for Transportation

Security, including its component transportation modal security plans, to Federal, State, regional, local and tribal authorities, transportation system owners or operators, private sector stakeholders, including nonprofit employee labor organizations representing transportation employees, institutions of higher learning, and other appropriate entities.

(u) TRANSPORTATION SECURITY INFORMATION SHARING PLAN.—

(1) DEFINITIONS.—In this subsection:

(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” has the meaning given that term in subsection (t).

(B) PLAN.—The term “Plan” means the Transportation Security Information Sharing Plan established under paragraph (2).

(C) PUBLIC AND PRIVATE STAKEHOLDERS.—The term “public and private stakeholders” means Federal, State, and local agencies, tribal governments, and appropriate private entities, including nonprofit employee labor organizations representing transportation employees.

(D) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(E) TRANSPORTATION SECURITY INFORMATION.—The term “transportation security information” means information relating to the risks to transportation modes, including aviation, public transportation, railroad, ferry, highway, maritime, pipeline, and over-the-road bus transportation, and may include specific and general intelligence products, as appropriate.

(2) ESTABLISHMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Secretary of Transportation, and public and private stakeholders, shall establish a Transportation Security Information Sharing Plan. In establishing the Plan, the Secretary shall gather input on the development of the Plan from private and public stakeholders and the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

(3) PURPOSE OF PLAN.—The Plan shall promote sharing of transportation security information between the Department of Homeland Security and public and private stakeholders.

(4) CONTENT OF PLAN.—The Plan shall include—

(A) a description of how intelligence analysts within the Department of Homeland Security will coordinate their activities within the Department and with other Federal, State, and local agencies, and tribal governments, including coordination with existing modal information sharing centers and the center described in section 1410 of the Implementing Recommendations of the 9/11 Commission Act of 2007;

(B) the establishment of a point of contact, which may be a single point of contact within the Department of Homeland Security, for each mode of transportation for the

sharing of transportation security information with public and private stakeholders, including an explanation and justification to the appropriate congressional committees if the point of contact established pursuant to this subparagraph differs from the agency within the Department that has the primary authority, or has been delegated such authority by the Secretary, to regulate the security of that transportation mode;

(C) a reasonable deadline by which the Plan will be implemented; and

(D) a description of resource needs for fulfilling the Plan.

(5) COORDINATION WITH INFORMATION SHARING.—The Plan shall be—

(A) implemented in coordination, as appropriate, with the program manager for the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

(B) consistent with the establishment of the information sharing environment and any policies, guidelines, procedures, instructions, or standards established by the President or the program manager for the implementation and management of the information sharing environment.

(6) REPORTS TO CONGRESS.—

(A) IN GENERAL.—Not later than 150 days after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit to the appropriate congressional committees, a report containing the Plan.

(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall submit to the appropriate congressional committees a report on updates to and the implementation of the Plan.

[(7) SURVEY AND REPORT.—

[(A) IN GENERAL.—The Comptroller General of the United States shall conduct a biennial survey of the satisfaction of recipients of transportation intelligence reports disseminated under the Plan.

[(B) INFORMATION SOUGHT.—The survey conducted under subparagraph (A) shall seek information about the quality, speed, regularity, and classification of the transportation security information products disseminated by the Department of Homeland Security to public and private stakeholders.

[(C) REPORT.—Not later than 1 year after the date of the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, and every even numbered year thereafter, the Comptroller General shall submit to the appropriate congressional committees, a report on the results of the survey conducted under subparagraph (A). The Comptroller General shall also provide a copy of the report to the Secretary.]

[(8)] (7) SECURITY CLEARANCES.—The Secretary shall, to the greatest extent practicable, take steps to expedite the security clearances needed for designated public and private stake-

holders to receive and obtain access to classified information distributed under this section, as appropriate.

[(9)] (8) CLASSIFICATION OF MATERIAL.—The Secretary, to the greatest extent practicable, shall provide designated public and private stakeholders with transportation security information in an unclassified format.

(v) **ENFORCEMENT OF REGULATIONS AND ORDERS OF THE SECRETARY OF HOMELAND SECURITY.**—

(1) **APPLICATION OF SUBSECTION.**—

(A) **IN GENERAL.**—This subsection applies to the enforcement of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of chapter 701 of title 46 and under a provision of this title other than a provision of chapter 449 (in this subsection referred to as an “applicable provision of this title”).

(B) **VIOLATIONS OF CHAPTER 449.**—The penalties for violations of regulations prescribed and orders issued by the Secretary of Homeland Security under chapter 449 of this title are provided under chapter 463 of this title.

(C) **NONAPPLICATION TO CERTAIN VIOLATIONS.**—

(i) Paragraphs (2) through (5) do not apply to violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title—

(I) involving the transportation of personnel or shipments of materials by contractors where the Department of Defense has assumed control and responsibility;

(II) by a member of the armed forces of the United States when performing official duties; or

(III) by a civilian employee of the Department of Defense when performing official duties.

(ii) Violations described in subclause (I), (II), or (III) of clause (i) shall be subject to penalties as determined by the Secretary of Defense or the Secretary’s designee.

(2) **CIVIL PENALTY.**—

(A) **IN GENERAL.**—A person is liable to the United States Government for a civil penalty of not more than \$10,000 for a violation of a regulation prescribed, or order issued, by the Secretary of Homeland Security under an applicable provision of this title.

(B) **REPEAT VIOLATIONS.**—A separate violation occurs under this paragraph for each day the violation continues.

(3) **ADMINISTRATIVE IMPOSITION OF CIVIL PENALTIES.**—

(A) **IN GENERAL.**—The Secretary of Homeland Security may impose a civil penalty for a violation of a regulation prescribed, or order issued, under an applicable provision of this title. The Secretary shall give written notice of the finding of a violation and the penalty.

(B) **SCOPE OF CIVIL ACTION.**—In a civil action to collect a civil penalty imposed by the Secretary under this subsection, a court may not re-examine issues of liability or the amount of the penalty.

(C) JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction of civil actions to collect a civil penalty imposed by the Secretary under this subsection if—

(i) the amount in controversy is more than—

(I) \$400,000, if the violation was committed by a person other than an individual or small business concern; or

(II) \$50,000 if the violation was committed by an individual or small business concern;

(ii) the action is in rem or another action in rem based on the same violation has been brought; or

(iii) another action has been brought for an injunction based on the same violation.

(D) MAXIMUM PENALTY.—The maximum civil penalty the Secretary administratively may impose under this paragraph is—

(i) \$400,000, if the violation was committed by a person other than an individual or small business concern; or

(ii) \$50,000, if the violation was committed by an individual or small business concern.

(E) NOTICE AND OPPORTUNITY TO REQUEST HEARING.—Before imposing a penalty under this section the Secretary shall provide to the person against whom the penalty is to be imposed—

(i) written notice of the proposed penalty; and

(ii) the opportunity to request a hearing on the proposed penalty, if the Secretary receives the request not later than 30 days after the date on which the person receives notice.

(4) COMPROMISE AND SETOFF.—

(A) The Secretary may compromise the amount of a civil penalty imposed under this subsection.

(B) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(5) INVESTIGATIONS AND PROCEEDINGS.—Chapter 461 shall apply to investigations and proceedings brought under this subsection to the same extent that it applies to investigations and proceedings brought with respect to aviation security duties designated to be carried out by the Secretary.

(6) DEFINITIONS.—In this subsection:

(A) PERSON.—The term “person” does not include—

(i) the United States Postal Service; or

(ii) the Department of Defense.

(B) SMALL BUSINESS CONCERN.—The term “small business concern” has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

(7) ENFORCEMENT TRANSPARENCY.—

(A) IN GENERAL.—Not later than December 31, 2008, and annually thereafter, the Secretary shall—

(i) provide an annual summary to the public of all enforcement actions taken by the Secretary under this subsection; and

(ii) include in each such summary the docket number of each enforcement action, the type of alleged violation, the penalty or penalties proposed, and the final assessment amount of each penalty.

(B) ELECTRONIC AVAILABILITY.—Each summary under this paragraph shall be made available to the public by electronic means.

(C) RELATIONSHIP TO THE FREEDOM OF INFORMATION ACT AND THE PRIVACY ACT.—Nothing in this subsection shall be construed to require disclosure of information or records that are exempt from disclosure under sections 552 or 552a of title 5.

(D) ENFORCEMENT GUIDANCE.—Not later than 180 days after the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary shall provide a report to the public describing the enforcement process established under this subsection.

(w) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for—

- (1) railroad security—
 - (A) \$488,000,000 for fiscal year 2008;
 - (B) \$483,000,000 for fiscal year 2009;
 - (C) \$508,000,000 for fiscal year 2010; and
 - (D) \$508,000,000 for fiscal year 2011;
- (2) over-the-road bus and trucking security—
 - (A) \$14,000,000 for fiscal year 2008;
 - (B) \$27,000,000 for fiscal year 2009;
 - (C) \$27,000,000 for fiscal year 2010; and
 - (D) \$27,000,000 for fiscal year 2011; and
- (3) hazardous material and pipeline security—
 - (A) \$12,000,000 for fiscal year 2008;
 - (B) \$12,000,000 for fiscal year 2009; and
 - (C) \$12,000,000 for fiscal year 2010.

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SUBTITLE VII—AVIATION PROGRAMS

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PART A—AIR COMMERCE AND SAFETY

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SUBPART III—SAFETY

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CHAPTER 449—SECURITY

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SUBCHAPTER I—REQUIREMENTS

§ 44901. Screening passengers and property

(a) **IN GENERAL.**—The Under Secretary of Transportation for Security shall provide for the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage, and other articles, that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. In the case of flights and flight segments originating in the United States, the screening shall take place before boarding and shall be carried out by a Federal Government employee (as defined in section 2105 of title 5, United States Code), except as otherwise provided in section 44919 or 44920 and except for identifying passengers and baggage for screening under the CAPPS and known shipper programs and conducting positive bag-match programs.

(b) **SUPERVISION OF SCREENING.**—All screening of passengers and property at airports in the United States where screening is required under this section shall be supervised by uniformed Federal personnel of the Transportation Security Administration who shall have the power to order the dismissal of any individual performing such screening.

(c) **ESTABLISHMENT OF SCREENING SYSTEM FOR CERTAIN PASSENGERS.**—*Not later than December 31, 2017, in accordance with the requirements of the Transportation Security Administration Reform and Improvement Act of 2015, the Administrator of the Transportation Security Administration shall establish a secure, automated system at all large hub airports for verifying travel and identity documents of passengers who are not members of the Administration’s risk-based aviation passenger screening program, known as “TSA PreCheck”. Such system shall—*

- (1) *assess the need for security screening personnel to perform travel document verification for such passengers, thereby assessing the overall number of such screening personnel;*
- (2) *assess the average wait time of such passengers;*
- (3) *assess overall operating expenses of the Administration;*
- (4) *be integrated with the Administration’s watch list matching program; and*
- (5) *be integrated with other checkpoint technologies to further facilitate risk-based passenger screening at the checkpoint, to the extent practicable and consistent with security standards.*

[(c)] (d) CHECKED BAGGAGE.—A system must be in operation to screen all checked baggage at all airports in the United States as soon as practicable but not later than the 60th day following the date of enactment of the Aviation and Transportation Security Act.

[(d)] (e) EXPLOSIVES DETECTION SYSTEMS.—

(1) **IN GENERAL.**—The Under Secretary of Transportation for Security shall take all necessary action to ensure that—

(A) explosives detection systems are deployed as soon as possible to ensure that all United States airports described in section 44903(c) have sufficient explosives detection systems to screen all checked baggage no later than December 31, 2002, and that as soon as such systems are in place at an airport, all checked baggage at the airport is screened by those systems; and

(B) all systems deployed under subparagraph (A) are fully utilized; and

(C) if explosives detection equipment at an airport is unavailable, all checked baggage is screened by an alternative means.

(2) DEADLINE.—

(A) IN GENERAL.—If, in his discretion or at the request of an airport, the Under Secretary of Transportation for Security determines that the Transportation Security Administration is not able to deploy explosives detection systems required to be deployed under paragraph (1) at all airports where explosives detection systems are required by December 31, 2002, then with respect to each airport for which the Under Secretary makes that determination—

(i) the Under Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed plan (which may be submitted in classified form) for the deployment of the number of explosives detection systems at that airport necessary to meet the requirements of paragraph (1) as soon as practicable at that airport but in no event later than December 31, 2003; and

(ii) the Under Secretary shall take all necessary action to ensure that alternative means of screening all checked baggage is implemented until the requirements of paragraph (1) have been met.

(B) CRITERIA FOR DETERMINATION.—In making a determination under subparagraph (A), the Under Secretary shall take into account—

(i) the nature and extent of the required modifications to the airport's terminal buildings, and the technical, engineering, design and construction issues;

(ii) the need to ensure that such installations and modifications are effective; and

(iii) the feasibility and cost-effectiveness of deploying explosives detection systems in the baggage sorting area or other non-public area rather than the lobby of an airport terminal building.

(C) RESPONSE.—The Under Secretary shall respond to the request of an airport under subparagraph (A) within 14 days of receiving the request. A denial of request shall create no right of appeal or judicial review.

(D) AIRPORT EFFORT REQUIRED.—Each airport with respect to which the Under Secretary makes a determination under subparagraph (A) shall—

(i) cooperate fully with the Transportation Security Administration with respect to screening checked baggage and changes to accommodate explosives detection systems; and

(ii) make security projects a priority for the obligation or expenditure of funds made available under chapter 417 or 471 until explosives detection systems

required to be deployed under paragraph (1) have been deployed at that airport.

(3) REPORTS.—Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of this Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport.

(4) PRECLEARANCE AIRPORTS.—

(A) IN GENERAL.—For a flight or flight segment originating at an airport outside the United States and traveling to the United States with respect to which checked baggage has been screened in accordance with an aviation security preclearance agreement between the United States and the country in which such airport is located, the Assistant Secretary (Transportation Security Administration) may, in coordination with U.S. Customs and Border Protection, determine whether such baggage must be re-screened in the United States by an explosives detection system before such baggage continues on any additional flight or flight segment.

(B) AVIATION SECURITY PRECLEARANCE AGREEMENT DEFINED.—In this paragraph, the term “aviation security preclearance agreement” means an agreement that delineates and implements security standards and protocols that are determined by the Assistant Secretary, in coordination with U.S. Customs and Border Protection, to be comparable to those of the United States and therefore sufficiently effective to enable passengers to deplane into sterile areas of airports in the United States.

(C) REPORT.—The Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report on the re-screening of baggage under this paragraph. Each such report shall include the following for the year covered by the report:

(i) A list of airports outside the United States from which a flight or flight segment traveled to the United States for which the Assistant Secretary determined, in accordance with the authority under subparagraph (A), that checked baggage was not required to be re-screened in the United States by an explosives detection system before such baggage continued on an additional flight or flight segment.

(ii) The amount of Federal savings generated from the exercise of such authority.

[(e)] (f) MANDATORY SCREENING WHERE EDS NOT YET AVAILABLE.—As soon as practicable but not later than the 60th day following the date of enactment of the Aviation and Transportation Security Act and until the requirements of subsection (b)(1)(A) are met, the Under Secretary shall require alternative means for

screening any piece of checked baggage that is not screened by an explosives detection system. Such alternative means may include 1 or more of the following:

(1) A bag-match program that ensures that no checked baggage is placed aboard an aircraft unless the passenger who checked the baggage is aboard the aircraft.

(2) Manual search.

(3) Search by canine explosives detection units in combination with other means.

(4) Other means or technology approved by the Under Secretary.

[(f)] (g) CARGO DEADLINE.—A system must be in operation to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in all-cargo aircraft in air transportation and intrastate air transportation as soon as practicable after the date of enactment of the Aviation and Transportation Security Act.

[(g)] (h) AIR CARGO ON PASSENGER AIRCRAFT.—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security shall establish a system to screen 100 percent of cargo transported on passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation to ensure the security of all such passenger aircraft carrying cargo.

(2) **MINIMUM STANDARDS.**—The system referred to in paragraph (1) shall require, at a minimum, that equipment, technology, procedures, personnel, or other methods approved by the Administrator of the Transportation Security Administration, are used to screen cargo carried on passenger aircraft described in paragraph (1) to provide a level of security commensurate with the level of security for the screening of passenger checked baggage as follows:

(A) 50 percent of such cargo is so screened not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(B) 100 percent of such cargo is so screened not later than 3 years after such date of enactment.

(3) **REGULATIONS.**—

(A) **INTERIM FINAL RULE.**—The Secretary of Homeland Security may issue an interim final rule as a temporary regulation to implement this subsection without regard to the provisions of chapter 5 of title 5.

(B) **FINAL RULE.**—

(i) **IN GENERAL.**—If the Secretary issues an interim final rule under subparagraph (A), the Secretary shall issue, not later than one year after the effective date of the interim final rule, a final rule as a permanent regulation to implement this subsection in accordance with the provisions of chapter 5 of title 5.

(ii) **FAILURE TO ACT.**—If the Secretary does not issue a final rule in accordance with clause (i) on or before the last day of the one-year period referred to in clause (i), the Secretary shall submit to the Committee

on Homeland Security of the House of Representatives, Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a report explaining why the final rule was not timely issued and providing an estimate of the earliest date on which the final rule will be issued. The Secretary shall submit the first such report within 10 days after such last day and submit a report to the Committees containing updated information every 30 days thereafter until the final rule is issued.

(iii) SUPERCEDING OF INTERIM FINAL RULE.—The final rule issued in accordance with this subparagraph shall supersede the interim final rule issued under subparagraph (A).

(4) REPORT.—Not later than 1 year after the date of establishment of the system under paragraph (1), the Secretary shall submit to the Committees referred to in paragraph (3)(B)(ii) a report that describes the system.

(5) SCREENING DEFINED.—In this subsection the term “screening” means a physical examination or non-intrusive methods of assessing whether cargo poses a threat to transportation security. Methods of screening include x-ray systems, explosives detection systems, explosives trace detection, explosives detection canine teams certified by the Transportation Security Administration, or a physical search together with manifest verification. The Administrator may approve additional methods to ensure that the cargo does not pose a threat to transportation security and to assist in meeting the requirements of this subsection. Such additional cargo screening methods shall not include solely performing a review of information about the contents of cargo or verifying the identity of a shipper of the cargo that is not performed in conjunction with other security methods authorized under this subsection, including whether a known shipper is registered in the known shipper database. Such additional cargo screening methods may include a program to certify the security methods used by shippers pursuant to paragraphs (1) and (2) and alternative screening methods pursuant to exemptions referred to in subsection (b) of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007.

[(h)] (i) DEPLOYMENT OF ARMED PERSONNEL.—

(1) IN GENERAL.—The Under Secretary shall order the deployment of law enforcement personnel authorized to carry firearms at each airport security screening location to ensure passenger safety and national security.

(2) MINIMUM REQUIREMENTS.—Except at airports required to enter into agreements under subsection (c), the Under Secretary shall order the deployment of at least 1 law enforcement officer at each airport security screening location. At the 100 largest airports in the United States, in terms of annual passenger enplanements for the most recent calendar year for which data are available, the Under Secretary shall order the deployment of additional law enforcement personnel at airport security screening locations if the Under Secretary determines

that the additional deployment is necessary to ensure passenger safety and national security.

[(i)] (j) EXEMPTIONS AND ADVISING CONGRESS ON REGULATIONS.—The Under Secretary—

(1) may exempt from this section air transportation operations, except scheduled passenger operations of an air carrier providing air transportation under a certificate issued under section 41102 of this title or a permit issued under section 41302 of this title; and

(2) shall advise Congress of a regulation to be prescribed under this section at least 30 days before the effective date of the regulation, unless the Under Secretary decides an emergency exists requiring the regulation to become effective in fewer than 30 days and notifies Congress of that decision.

[(j)] (k) BLAST-RESISTANT CARGO CONTAINERS.—

(1) **IN GENERAL.**—Before January 1, 2008, the Administrator of the Transportation Security Administration shall—

(A) evaluate the results of the blast-resistant cargo container pilot program that was initiated before the date of enactment of this subsection; and

(B) prepare and distribute through the Aviation Security Advisory Committee to the appropriate Committees of Congress and air carriers a report on that evaluation which may contain nonclassified and classified sections.

(2) **ACQUISITION, MAINTENANCE, AND REPLACEMENT.**—Upon completion and consistent with the results of the evaluation that paragraph (1)(A) requires, the Administrator shall—

(A) develop and implement a program, as the Administrator determines appropriate, to acquire, maintain, and replace blast-resistant cargo containers;

(B) pay for the program; and

(C) make available blast-resistant cargo containers to air carriers pursuant to paragraph (3).

(3) **DISTRIBUTION TO AIR CARRIERS.**—The Administrator shall make available, beginning not later than July 1, 2008, blast-resistant cargo containers to air carriers for use on a risk managed basis as determined by the Administrator.

[(k)] (l) GENERAL AVIATION AIRPORT SECURITY PROGRAM.—

(1) **IN GENERAL.**—Not later than one year after the date of enactment of this subsection, the Administrator of the Transportation Security Administration shall—

(A) develop a standardized threat and vulnerability assessment program for general aviation airports (as defined in section 47134(m)); and

(B) implement a program to perform such assessments on a risk-managed basis at general aviation airports.

(2) **GRANT PROGRAM.**—Not later than 6 months after the date of enactment of this subsection, the Administrator shall initiate and complete a study of the feasibility of a program, based on a risk-managed approach, to provide grants to operators of general aviation airports (as defined in section 47134(m)) for projects to upgrade security at such airports. If the Administrator determines that such a program is feasible, the Administrator shall establish such a program.

(3) APPLICATION TO GENERAL AVIATION AIRCRAFT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall develop a risk-based system under which—

(A) general aviation aircraft, as identified by the Administrator, in coordination with the Administrator of the Federal Aviation Administration, are required to submit passenger information and advance notification requirements for United States Customs and Border Protection before entering United States airspace; and

(B) such information is checked against appropriate databases.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Transportation Security Administration such sums as may be necessary to carry out paragraphs (2) and (3).

[(1)] (m) LIMITATIONS ON USE OF ADVANCED IMAGING TECHNOLOGY FOR SCREENING PASSENGERS.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ADVANCED IMAGING TECHNOLOGY.—The term “advanced imaging technology”—

(i) means a device used in the screening of passengers that creates a visual image of an individual showing the surface of the skin and revealing other objects on the body; and

(ii) may include devices using backscatter x-rays or millimeter waves and devices referred to as “whole-body imaging technology” or “body scanning machines”.

(B) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(i) the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Homeland Security of the House of Representatives.

(C) AUTOMATIC TARGET RECOGNITION SOFTWARE.—The term “automatic target recognition software” means software installed on an advanced imaging technology that produces a generic image of the individual being screened that is the same as the images produced for all other screened individuals.

(2) USE OF ADVANCED IMAGING TECHNOLOGY.—Beginning June 1, 2012, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall ensure that any advanced imaging technology used for the screening of passengers under this section—

(A) is equipped with and employs automatic target recognition software; and

(B) complies with such other requirements as the Assistant Secretary determines necessary to address privacy considerations.

(3) EXTENSION.—

- (A) IN GENERAL.—The Assistant Secretary may extend the deadline specified in paragraph (2), if the Assistant Secretary determines that—
 - (i) an advanced imaging technology equipped with automatic target recognition software is not substantially as effective at screening passengers as an advanced imaging technology without such software; or
 - (ii) additional testing of such software is necessary.
 - (B) DURATION OF EXTENSIONS.—The Assistant Secretary may issue one or more extensions under subparagraph (A). The duration of each extension may not exceed one year.
- (4) REPORTS.—
- (A) IN GENERAL.—Not later than 60 days after the deadline specified in paragraph (2), and not later than 60 days after the date on which the Assistant Secretary issues any extension under paragraph (3), the Assistant Secretary shall submit to the appropriate congressional committees a report on the implementation of this subsection.
 - (B) ELEMENTS.—A report submitted under subparagraph (A) shall include the following:
 - (i) A description of all matters the Assistant Secretary considers relevant to the implementation of the requirements of this subsection.
 - (ii) The status of compliance by the Transportation Security Administration with such requirements.
 - (iii) If the Administration is not in full compliance with such requirements—
 - (I) the reasons for the noncompliance; and
 - (II) a timeline depicting when the Assistant Secretary expects the Administration to achieve full compliance.
 - (C) SECURITY CLASSIFICATION.—To the greatest extent practicable, a report prepared under subparagraph (A) shall be submitted in an unclassified format. If necessary, the report may include a classified annex.

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SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

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§ 44946. Aviation Security Advisory Committee

- (a) ESTABLISHMENT.—The Assistant Secretary shall establish within the Transportation Security Administration an aviation security advisory committee.
- (b) DUTIES.—
 - (1) IN GENERAL.—The Assistant Secretary shall consult the Advisory Committee, as appropriate, on aviation security matters, including on the development, refinement, and implementation of policies, programs, rulemaking, and security directives pertaining to aviation security, while adhering to sensitive security guidelines.
 - (2) RECOMMENDATIONS.—

(A) IN GENERAL.—The Advisory Committee shall develop, at the request of the Assistant Secretary, recommendations for improvements to aviation security.

(B) RECOMMENDATIONS OF SUBCOMMITTEES.—Recommendations agreed upon by the subcommittees established under this section shall be approved by the Advisory Committee before transmission to the Assistant Secretary.

(3) PERIODIC REPORTS.—The Advisory Committee shall periodically submit to the Assistant Secretary—

(A) reports on matters identified by the Assistant Secretary; and

(B) reports on other matters identified by a majority of the members of the Advisory Committee.

(4) ANNUAL REPORT.—The Advisory Committee shall submit to the Assistant Secretary an annual report providing information on the activities, findings, and recommendations of the Advisory Committee, including its subcommittees, for the preceding year. Not later than 6 months after the date that the Secretary receives the annual report, the Secretary shall publish a public version describing the Advisory Committee's activities and such related matters as would be informative to the public consistent with the policy of section 552(b) of title 5.

(5) FEEDBACK.—Not later than 90 days after receiving recommendations transmitted by the Advisory Committee under paragraph (4), the Assistant Secretary shall respond in writing to the Advisory Committee with feedback on each of the recommendations, an action plan to implement any of the recommendations with which the Assistant Secretary concurs, and a justification for why any of the recommendations have been rejected.

(6) CONGRESSIONAL NOTIFICATION.—Not later than 30 days after providing written feedback to the Advisory Committee under paragraph (5), the Assistant Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives on such feedback, and provide a briefing upon request.

(7) REPORT TO CONGRESS.—Prior to briefing the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives under paragraph (6), the Assistant Secretary shall submit to such committees a report containing information relating to the recommendations transmitted by the Advisory Committee in accordance with paragraph (4).

(c) MEMBERSHIP.—

(1) APPOINTMENT.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Aviation Security Stakeholder Participation Act of 2014, the Assistant Secretary shall appoint the members of the Advisory Committee.

(B) COMPOSITION.—The membership of the Advisory Committee shall consist of individuals representing not more than 34 member organizations. Each organization

shall be represented by 1 individual (or the individual's designee).

(C) REPRESENTATION.—The membership of the Advisory Committee shall include representatives of air carriers, all-cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, labor organizations representing transportation security officers, aircraft manufacturers, airport operators, airport construction and maintenance contractors, labor organizations representing employees of airport construction and maintenance contractors, general aviation, privacy organizations, the travel industry, airport-based businesses (including minority-owned small businesses), businesses that conduct security screening operations at airports, aeronautical repair stations, passenger advocacy groups, the aviation security technology industry (including screening technology and biometrics), victims of terrorist acts against aviation, and law enforcement and security experts.

(2) TERM OF OFFICE.—

[(A) TERMS.—The term of each member of the Advisory Committee shall be 2 years. A member of the Advisory Committee may be reappointed.]

(A) TERMS.—The term of each member of the Advisory Committee shall be two years but may continue until such time as a successor member begins serving on the Advisory Committee. A member of the Advisory Committee may be reappointed.

(B) REMOVAL.—The Assistant Secretary may review the participation of a member of the Advisory Committee and remove such member for cause at any time.

(3) PROHIBITION ON COMPENSATION.—The members of the Advisory Committee shall not receive pay, allowances, or benefits from the Government by reason of their service on the Advisory Committee.

(4) MEETINGS.—

(A) IN GENERAL.—The Assistant Secretary shall require the Advisory Committee to meet at least semiannually and may convene additional meetings as necessary.

(B) PUBLIC MEETINGS.—At least 1 of the meetings described in subparagraph (A) shall be open to the public.

(C) ATTENDANCE.—The Advisory Committee shall maintain a record of the persons present at each meeting.

(5) MEMBER ACCESS TO SENSITIVE SECURITY INFORMATION.—Not later than 60 days after the date of a member's appointment, the Assistant Secretary shall determine if there is cause for the member to be restricted from possessing sensitive security information. Without such cause, and upon the member voluntarily signing a non-disclosure agreement, the member may be granted access to sensitive security information that is relevant to the member's advisory duties. The member shall protect the sensitive security information in accordance with part 1520 of title 49, Code of Federal Regulations.

(6) CHAIRPERSON.—A stakeholder representative on the Advisory Committee who is elected by the appointed membership of the Advisory Committee shall chair the Advisory Committee.

(d) SUBCOMMITTEES.—

(1) MEMBERSHIP.—The Advisory Committee chairperson, in coordination with the Assistant Secretary, may establish within the Advisory Committee any subcommittee that the Assistant Secretary and Advisory Committee determine to be necessary. The Assistant Secretary and the Advisory Committee shall create subcommittees to address aviation security issues, including the following:

(A) AIR CARGO SECURITY.—The implementation of the air cargo security programs established by the Transportation Security Administration to screen air cargo on passenger aircraft and all-cargo aircraft in accordance with established cargo screening mandates.

(B) GENERAL AVIATION.—General aviation facilities, general aviation aircraft, and helicopter operations at general aviation and commercial service airports.

(C) PERIMETER AND ACCESS CONTROL.—Recommendations on airport perimeter security, exit lane security and technology at commercial service airports, and access control issues.

(D) SECURITY TECHNOLOGY.—Security technology standards and requirements, including their harmonization internationally, technology to screen passengers, passenger baggage, carry-on baggage, and cargo, and biometric technology.

(2) RISK-BASED SECURITY.—All subcommittees established by the Advisory Committee chairperson in coordination with the Assistant Secretary shall consider risk-based security approaches in the performance of their functions that weigh the optimum balance of costs and benefits in transportation security, including for passenger screening, baggage screening, air cargo security policies, and general aviation security matters.

(3) MEETINGS AND REPORTING.—Each subcommittee shall meet at least quarterly and submit to the Advisory Committee for inclusion in the annual report required under subsection (b)(4) information, including recommendations, regarding issues within the subcommittee.

(4) SUBCOMMITTEE CHAIRS.—Each subcommittee shall be co-chaired by a Government official and an industry official.

(e) SUBJECT MATTER EXPERTS.—Each subcommittee under this section shall include subject matter experts with relevant expertise who are appointed by the respective subcommittee chairpersons.

(f) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee and its subcommittees.

(g) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the aviation security advisory committee established under subsection (a).

(2) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary of Homeland Security (Transportation Security Administration).

(3) PERIMETER SECURITY.—

(A) IN GENERAL.—The term “perimeter security” means procedures or systems to monitor, secure, and prevent un-

authorized access to an airport, including its airfield and terminal.

(B) INCLUSIONS.—The term “perimeter security” includes the fence area surrounding an airport, access gates, and access controls.

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

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

*	*	*	*	*	*	*
TITLE XVI—TRANSPORTATION SECURITY						
Subtitle A—General Provisions						
*	*	*	*	*	*	*
<i>Sec. 1602. Vetting of aviation workers.</i>						
Subtitle B—Transportation Security Administration Acquisition Improvements						
*	*	*	*	*	*	*
<i>Subtitle C—Maintenance of Security-Related Technology</i>						
<i>Sec. 1621. Maintenance validation and oversight.</i>						
*	*	*	*	*	*	*

TITLE XVI—TRANSPORTATION SECURITY

Subtitle A—General Provisions

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SEC. 1602. VETTING OF AVIATION WORKERS.

(a) *IN GENERAL.*—By not later than December 31, 2015, the Administrator, in coordination with the Assistant Secretary for Policy of the Department, shall request from the Director of National Intelligence access to additional data from the Terrorist Identities Datamart Environment (TIDE) data and any or other terrorism-related information to improve the effectiveness of the Administration’s credential vetting program for individuals with unescorted access to sensitive areas of airports.

(b) *SECURITY INSPECTION.*—By not later than December 31, 2015, the Administrator shall issue guidance for Transportation Security Inspectors to annually review airport badging office procedures for applicants seeking access to sensitive areas of airports. Such guidance shall include a comprehensive review of applicants’ Criminal History Records Check (CHRC) and work authorization documentation during the course of an inspection.

(c) *INFORMATION SHARING.*—By not later than December 31, 2015, the Administrator may conduct a pilot program of the Rap Back Service, in coordination with the Director of the Federal Bureau of

Investigation, to determine the feasibility of full implementation of a service through which the Administrator would be notified of a change in status of an individual holding a valid credential granting unescorted access to sensitive areas of airports across eligible Administration-regulated populations.

(d) *PROCEDURES.—The pilot program under subsection (c) shall evaluate whether information can be narrowly tailored to ensure that the Administrator only receives notification of a change with respect to a disqualifying offense under the credential vetting program under subsection (a), as specified in 49 CFR 1542.209, and in a manner that complies with current regulations for fingerprint-based criminal history records checks. The pilot program shall be carried out in a manner so as to ensure that, in the event that notification is made through the Rap Back Service of a change but a determination of arrest status or conviction is in question, the matter will be handled in a manner that is consistent with current regulations. The pilot program shall also be carried out in a manner that is consistent with current regulations governing an investigation of arrest status, correction of Federal Bureau of Investigation records and notification of disqualification, and corrective action by the individual who is the subject of an inquiry.*

(e) *DETERMINATION AND SUBMISSION.—If the Administrator determines that full implementation of the Rap Back Service is feasible and can be carried out in a manner that is consistent with current regulations for fingerprint-based criminal history checks, including the rights of individuals seeking credentials, the Administrator shall submit such determination, in writing, to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate, together with information on the costs associated with such implementation, including the costs incurred by the private sector. In preparing this determination, the Administrator shall consult with the Chief Civil Rights and Civil Liberties Officer of the Department to ensure that protocols are in place to align the period of retention of personally identifiable information and biometric information, including fingerprints, in the Rap Back Service with the period in which the individual who is the subject of an inquiry has a valid credential.*

(f) *CREDENTIAL SECURITY.—By not later than September 30, 2015, the Administrator shall issue guidance to airports mandating that all federalized airport badging authorities place an expiration date on airport credentials commensurate with the period of time during which an individual is lawfully authorized to work in the United States.*

(g) *AVIATION WORKER LAWFUL STATUS.—By not later than December 31, 2015, the Administrator shall review the denial of credentials due to issues associated with determining an applicant's lawful status in order to identify airports with specific weaknesses and shall coordinate with such airports to mutually address such weaknesses, as appropriate.*

(h) *REPORTS TO CONGRESS.—Upon completion of the determinations and reviews required under this section, the Administrator shall brief the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representa-*

tives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate on the results of such determinations and reviews.

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Subtitle C—Maintenance of Security-Related Technology

SEC. 1621. MAINTENANCE VALIDATION AND OVERSIGHT.

(a) *IN GENERAL.*—Not later than 180 days after the date of the enactment of this subtitle, the Administrator shall develop and implement a preventive maintenance validation process for security-related technology deployed to airports.

(b) *MAINTENANCE BY ADMINISTRATION PERSONNEL AT AIRPORTS.*—For maintenance to be carried out by Administration personnel at airports, the process referred to in subsection (a) shall include the following:

(1) *Guidance to Administration personnel, equipment maintenance technicians, and other personnel at airports specifying how to conduct and document preventive maintenance actions.*

(2) *Mechanisms for the Administrator to verify compliance with the guidance issued pursuant to paragraph (1).*

(c) *MAINTENANCE BY CONTRACTORS AT AIRPORTS.*—For maintenance to be carried out by a contractor at airports, the process referred to in subsection (a) shall require the following:

(1) *Provision of monthly preventive maintenance schedules to appropriate Administration personnel at each airport that includes information on each action to be completed by a contractor.*

(2) *Notification to appropriate Administration personnel at each airport when maintenance action is completed by a contractor.*

(3) *A process for independent validation by a third party of contractor maintenance.*

(d) *PENALTIES FOR NONCOMPLIANCE.*—The Administrator shall require maintenance contracts for security-related technology deployed to airports to include penalties for noncompliance when it is determined that either preventive or corrective maintenance has not been completed according to contractual requirements and manufacturers' specifications.

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IMPLEMENTING RECOMMENDATIONS OF THE 9/11 COMMISSION ACT OF 2007

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TITLE XIII—TRANSPORTATION SECURITY ENHANCEMENTS

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SEC. 1304. SURFACE TRANSPORTATION SECURITY INSPECTORS

(a) **IN GENERAL.**—The Secretary, acting through the Administrator of the Transportation Security Administration, is authorized to train, employ, and utilize surface transportation security inspectors.

(b) **MISSION.**—The Secretary shall use surface transportation security inspectors to assist surface transportation carriers, operators, owners, entities, and facilities to enhance their security against terrorist attack and other security threats and to assist the Secretary in enforcing applicable surface transportation security regulations and directives.

(c) **AUTHORITIES.**—Surface transportation security inspectors employed pursuant to this section shall be authorized such powers and delegated such responsibilities as the Secretary determines appropriate, subject to subsection (e).

(d) **REQUIREMENTS.**—The Secretary shall require that surface transportation security inspectors have relevant *surface* transportation experience and other security and inspection qualifications[, as determined appropriate].

(e) **LIMITATIONS.**—

(1) **INSPECTORS.**—Surface transportation inspectors shall be prohibited from issuing fines to public transportation agencies, as defined in title XIV, for violations of the Department's regulations or orders except through the process described in paragraph (2).

(2) **CIVIL PENALTIES.**—The Secretary shall be prohibited from assessing civil penalties against public transportation agencies, as defined in title XIV, for violations of the Department's regulations or orders, except in accordance with the following:

(A) In the case of a public transportation agency that is found to be in violation of a regulation or order issued by the Secretary, the Secretary shall seek correction of the violation through a written notice to the public transportation agency and shall give the public transportation agency reasonable opportunity to correct the violation or propose an alternative means of compliance acceptable to the Secretary.

(B) If the public transportation agency does not correct the violation or propose an alternative means of compliance acceptable to the Secretary within a reasonable time period that is specified in the written notice, the Secretary may take any action authorized in section 114 of title 49, United States Code, as amended by this Act.

(3) **LIMITATION ON SECRETARY.**—The Secretary shall not initiate civil enforcement actions for violations of administrative and procedural requirements pertaining to the application for, and expenditure of, funds awarded under transportation security grant programs under this Act.

(f) **NUMBER OF INSPECTORS.**—The Secretary shall employ up to a total of—

- (1) 100 surface transportation security inspectors in fiscal year 2007;
- (2) 150 surface transportation security inspectors in fiscal year 2008;
- (3) 175 surface transportation security inspectors in fiscal year 2009; and
- (4) 200 surface transportation security inspectors in fiscal years 2010 and 2011.

(g) COORDINATION.—The Secretary shall ensure that the mission of the surface transportation security inspectors is consistent with any relevant risk assessments required by this Act or completed by the Department, the modal plans required under section 114(t) of title 49, United States Code, the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities, dated September 28, 2004, and any and all subsequent annexes to this Memorandum of Understanding, and other relevant documents setting forth the Department’s transportation security strategy, as appropriate.

(h) CONSULTATION.—The Secretary shall periodically consult with the surface transportation entities which are or may be inspected by the surface transportation security inspectors, including, as appropriate, railroad carriers, over-the-road bus operators and terminal owners and operators, motor carriers, public transportation agencies, owners or operators of highways, and pipeline operators on—

- (1) the inspectors’ duties, responsibilities, authorities, and mission; and
- (2) strategies to improve transportation security and to ensure compliance with transportation security requirements.

(i) REPORT.—Not later than September 30, 2008, the Department of Homeland Security Inspector General shall transmit a report to the appropriate congressional committees on the performance and effectiveness of surface transportation security inspectors, whether there is a need for additional inspectors, and other recommendations.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

- (1) \$11,400,000 for fiscal year 2007;
- (2) \$17,100,000 for fiscal year 2008;
- (3) \$19,950,000 for fiscal year 2009;
- (4) \$22,800,000 for fiscal year 2010; and
- (5) \$22,800,000 for fiscal year 2011.

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