

108TH CONGRESS  
2D SESSION

# H. R. 5121

To further protect the United States aviation system from terrorist attacks.

---

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2004

Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. MICA, and Mr. DEFazio) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To further protect the United States aviation system from terrorist attacks.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROVISION FOR THE USE OF BIOMETRIC OR**  
4 **OTHER TECHNOLOGY.**

5 (a) USE OF BIOMETRIC TECHNOLOGY.—Section  
6 44903(h) of title 49, United States Code, is amended—

7 (1) in paragraph (4)(E) by striking “may pro-  
8 vide for” and inserting “shall issue, not later than

1 120 days after the date of enactment of paragraph  
2 (5), guidance for”; and

3 (2) by adding at the end the following:

4 “(5) USE OF BIOMETRIC TECHNOLOGY IN AIR-  
5 PORT ACCESS CONTROL SYSTEMS.—In issuing guid-  
6 ance under paragraph (4)(E), the Assistant Sec-  
7 retary of Homeland Security (Transportation Secu-  
8 rity Administration), in consultation with represent-  
9 atives of the aviation industry, the biometrics indus-  
10 try, and the National Institute of Standards and  
11 Technology, shall establish, at a minimum—

12 “(A) comprehensive technical and oper-  
13 ational system requirements and performance  
14 standards for the use of biometrics in airport  
15 access control systems (including airport perim-  
16 eter access control systems) to ensure that the  
17 biometric systems are effective, reliable, and se-  
18 cure;

19 “(B) a list of products and vendors that  
20 meet such requirements and standards;

21 “(C) procedures for implementing biomet-  
22 ric systems—

23 “(i) to ensure that individuals do not  
24 use an assumed identity to enroll in a bio-  
25 metric system; and

1 “(ii) to resolve failures to enroll, false  
2 matches, and false non-matches; and

3 “(D) best practices for incorporating bio-  
4 metric technology into airport access control  
5 systems in the most effective manner, including  
6 a process to best utilize existing airport access  
7 control systems, facilities, and equipment and  
8 existing data networks connecting airports.

9 “(6) USE OF BIOMETRIC TECHNOLOGY FOR  
10 LAW ENFORCEMENT OFFICER TRAVEL.—

11 “(A) IN GENERAL.—Not later than 120  
12 days after the date of enactment of this para-  
13 graph, the Assistant Secretary shall—

14 “(i) establish a law enforcement offi-  
15 cer travel credential that incorporates bio-  
16 metrics and is uniform across all Federal,  
17 State, and local government law enforce-  
18 ment agencies;

19 “(ii) establish a process by which the  
20 travel credential will be used to verify the  
21 identity of a Federal, State, or local gov-  
22 ernment law enforcement officer seeking to  
23 carry a weapon on board an aircraft, with-  
24 out unnecessarily disclosing to the public

1 that the individual is a law enforcement of-  
2 ficer;

3 “(iii) establish procedures—

4 “(I) to ensure that only Federal,  
5 State, and local government law en-  
6 forcement officers are issued the trav-  
7 el credential;

8 “(II) to resolve failures to enroll,  
9 false matches, and false non-matches  
10 relating to use of the travel credential;  
11 and

12 “(III) to invalidate any travel  
13 credential that is lost, stolen, or no  
14 longer authorized for use;

15 “(iv) begin issuance of the travel cre-  
16 dential to each Federal, State, and local  
17 government law enforcement officer au-  
18 thorized by the Assistant Secretary to  
19 carry a weapon on board an aircraft; and

20 “(v) take such other actions with re-  
21 spect to the travel credential as the Sec-  
22 retary considers appropriate.

23 “(B) FUNDING.—There are authorized to  
24 be appropriated such sums as may be necessary  
25 to carry out this paragraph.

1           “(7) DEFINITIONS.—In this subsection, the fol-  
2           lowing definitions apply:

3                   “(A) BIOMETRIC INFORMATION.—The  
4                   term ‘biometric information’ means the distinct  
5                   physical or behavioral characteristics that are  
6                   used for identification, or verification of the  
7                   identity, of an individual.

8                   “(B) BIOMETRICS.—The term ‘biometrics’  
9                   means a technology that enables the automated  
10                  identification, or verification of the identity, of  
11                  an individual based on biometric information.

12                  “(C) FAILURE TO ENROLL.—The term  
13                  ‘failure to enroll’ means the inability of an indi-  
14                  vidual to enroll in a biometric system due to an  
15                  insufficiently distinctive biometric sample, the  
16                  lack of a body part necessary to provide the bio-  
17                  metric sample, a system design that makes it  
18                  difficult to provide consistent biometric infor-  
19                  mation, or other factors.

20                  “(D) FALSE MATCH.—The term ‘false  
21                  match’ means the incorrect matching of one in-  
22                  dividual’s biometric information to another indi-  
23                  vidual’s biometric information by a biometric  
24                  system.

1           “(E) FALSE NON-MATCH.—The term ‘false  
2           non-match’ means the rejection of a valid iden-  
3           tity by a biometric system.

4           “(F) SECURE AREA OF AN AIRPORT.—The  
5           term ‘secure area of an airport’ means the ster-  
6           ile area and the Secure Identification Display  
7           Area of an airport (as such terms are defined  
8           in section 1540.5 of title 49, Code of Federal  
9           Regulations, or any successor regulation to such  
10          section).”.

11          (b) FUNDING FOR USE OF BIOMETRIC TECHNOLOGY  
12          IN AIRPORT ACCESS CONTROL SYSTEMS.—

13               (1) GRANT AUTHORITY.—Section 44923(a)(4)  
14          of title 49, United States Code, is amended—

15                       (A) by striking “and” at the end of para-  
16                       graph (3);

17                       (B) by redesignating paragraph (4) as  
18                       paragraph (5); and

19                       (C) by inserting after paragraph (3) the  
20                       following:

21                               “(4) for projects to implement biometric tech-  
22                               nologies in accordance with guidance issued under  
23                               section 44903(h)(4)(E); and”.

24               (2) AUTHORIZATION OF APPROPRIATIONS.—  
25          Section 44923(i)(1) of such title is amended by

1 striking “\$250,000,000 for each of fiscal years 2004  
2 through 2007” and inserting “\$250,000,000 for fis-  
3 cal year 2004, \$345,000,000 for fiscal year 2005,  
4 and \$250,000,000 for each of fiscal years 2006 and  
5 2007”.

6 **SEC. 2. CHECKED BAGGAGE SECURITY SCREENING.**

7 (a) IN GENERAL.—Subchapter I of chapter 449 of  
8 title 49 United States Code, is amended by adding at the  
9 end the following:

10 **“§ 44925. Authority to enter into multi-year contracts**  
11 **for the provision of electronic explosive**  
12 **detection system images for checked bag-**  
13 **gage and related items**

14 “(a) GENERAL AUTHORITY.—Not later than 60 days  
15 after the date of enactment of this section, the Assistant  
16 Secretary of Homeland Security (Transportation Security  
17 Administration) shall establish a program to enter into  
18 multi-year contracts of not more than 10 years with air-  
19 port operators or other non-Federal entities to provide  
20 electronic explosive detection system images of checked  
21 baggage for screening purposes.

22 “(b) REQUIRED FINDINGS.—The Assistant Secretary  
23 may enter into a contract for the provision of images  
24 under this section at an airport only if the Assistant Sec-  
25 retary finds that the average annual cost of the contract

1 is less than the total estimated average annual cost for  
2 the Transportation Security Administration to acquire  
3 such images through the operation of stand alone explosive  
4 detection systems at that airport.

5 “(c) ENDING CONTRACT.—A contract made under  
6 this section shall be contingent on the availability of an-  
7 nual appropriations and shall be ended if amounts are not  
8 made available to continue the contract in subsequent fis-  
9 cal years. The Assistant Secretary may not terminate a  
10 contract made under this section to the extent annual ap-  
11 propriations are available, except when the Assistant Sec-  
12 retary finds cause for termination.

13 “(d) CONTRACT PROVISIONS.—A contract made  
14 under this section—

15 “(1) may include any cost associated with pro-  
16 viding electronic explosive detection system images,  
17 including—

18 “(A) maintenance;

19 “(B) financing;

20 “(C) reasonable management fees; and

21 “(D) other items or services the Assistant  
22 Secretary deems necessary;

23 “(2) may specify the manner in which the elec-  
24 tronic explosive detection system images may be ac-



1       quired and any other operational requirements the  
2       Assistant Secretary deems necessary;

3               “(3) may specify ownership rights of the elec-  
4       tronic explosive detection system images; and

5               “(4) may be made with multiple parties.

6       “(e) SYSTEM DESIGN.—Prior to entering into a con-  
7       tract under this section with respect to an airport, the As-  
8       sistant Secretary shall consult with the operator and users  
9       of the airport to ensure that the provision of electronic  
10      explosive detection system images under this section takes  
11      into consideration the operational needs of the airport and  
12      its users.

13      “(f) PRIORITY CONSIDERATION.—The Assistant Sec-  
14      retary shall give priority under this section to entering into  
15      contracts that will expedite the installation of integrated  
16      in-line explosive detection systems at air carrier airports  
17      (as defined in section 47102) that have approved plans  
18      on the date of enactment of this section.

19      “(g) SCORING.—Notwithstanding any other provision  
20      of law, any contract entered into under this section shall  
21      be treated and scored as an operating lease as defined in  
22      the Office of Management and Budget Circular A–11.”.

23      (b) CLERICAL AMENDMENT.—The analysis for such  
24      chapter is amended by inserting after the item relating  
25      to section 44924 the following:

“44925. Authority to enter into multi-year contracts for the provision of electronic explosive detection system images for checked baggage and related items.”.

**1 SEC. 3. AVIATION SECURITY CAPITAL FUND.**

**2** (a) IN GENERAL.—Section 44923(h)(1) of title 49,  
**3** United States Code, is amended—

**4** (1) by striking “in each of fiscal years 2004”  
**5** and inserting “in fiscal year 2004 and the first  
**6** \$500,000,000 derived from such fees in each of fis-  
**7** cal years 2005”; and

**8** (2) by striking “in each of such fiscal years”  
**9** and inserting “in fiscal year 2004 and at least  
**10** \$500,000,000 in each of fiscal years 2005 through  
**11** 2007”.

**12** (b) DISCRETIONARY GRANTS.—Section 44923(h)(3)  
**13** of such title is amended by inserting after  
**14** “\$125,000,000” the following: “for fiscal year 2004 and  
**15** \$375,000,000 for each of fiscal years 2005 through  
**16** 2007”.

**17 SEC. 4. TRANSPORTATION SECURITY STRATEGIC PLAN-**  
**18 NING.**

**19** Section 44904 of title 49, United States Code, is  
**20** amended—

**21** (1) by redesignating subsection (c) as sub-  
**22** section (e); and

**23** (2) by inserting after subsection (b) the fol-  
**24** lowing:

1       “(c) TRANSPORTATION SECURITY STRATEGIC PLAN-  
2   NING.—

3               “(1) IN GENERAL.—The Secretary of Homeland  
4   Security shall prepare and update, as needed, a  
5   transportation sector specific plan and transpor-  
6   tation modal security plans in accordance with this  
7   section.

8               “(2) CONTENTS.—At a minimum, the modal se-  
9   curity plan for aviation prepared under paragraph  
10   (1) shall—

11               “(A) set risk-based priorities for defending  
12   aviation assets;

13               “(B) select the most practical and cost-ef-  
14   fective methods for defending aviation assets;

15               “(C) assign roles and missions to Federal,  
16   State, regional, and local authorities and to  
17   stakeholders;

18               “(D) establish a damage mitigation and re-  
19   covery plan for the aviation system in the event  
20   of a terrorist attack; and

21               “(E) include a threat matrix document  
22   that outlines each threat to the United States  
23   civil aviation system and the corresponding lay-  
24   ers of security in place to address such threat.

1           “(3) REPORTS.—Not later than 180 days after  
 2           the date of enactment of the subsection and annually  
 3           thereafter, the Secretary shall submit to the Com-  
 4           mittee on Transportation and Infrastructure of the  
 5           House of Representatives and the Committee on  
 6           Commerce, Science, and Transportation of the Sen-  
 7           ate a report containing the plans prepared under  
 8           paragraph (1), including any updates to the plans.  
 9           The report may be submitted in a classified format.

10          “(d) OPERATIONAL CRITERIA.—Not later than 90  
 11       days after the date of submission of the report under sub-  
 12       section (c)(3), the Assistant Secretary of Homeland Secu-  
 13       rity (Transportation Security Administration) shall issue  
 14       operational criteria to protect airport infrastructure and  
 15       operations against the threat identified in the plans pre-  
 16       pared under subsection (c)(1) and shall approve best prac-  
 17       tices guidelines for airport assets.”.

18       **SEC. 5. NEXT GENERATION AIRLINE PASSENGER**  
 19               **PRESCREENING.**

20           (a) IN GENERAL.—Section 44903(j)(2) of title 49,  
 21       United States Code, is amended by adding at the end the  
 22       following:

23                       “(C) NEXT GENERATION AIRLINE PAS-  
 24                       SENGER PRESCREENING.—

1 “(i) COMMENCEMENT OF TESTING.—

2 Not later than November 1, 2004, the As-  
3 sistant Secretary of Homeland Security  
4 (Transportation Security Administration),  
5 or the designee of the Assistant Secretary,  
6 shall commence testing of a next genera-  
7 tion passenger prescreening system that  
8 will allow the Department of Homeland Se-  
9 curity to assume the performance of com-  
10 paring passenger name records to the  
11 automatic selectee and no fly lists, utilizing  
12 all appropriate records in the consolidated  
13 and integrated terrorist watchlist main-  
14 tained by the Federal Government.

15 “(ii) ASSUMPTION OF FUNCTION.—

16 Not later than 180 days after completion  
17 of testing under clause (i), the Assistant  
18 Secretary, or the designee of the Assistant  
19 Secretary, shall assume the performance of  
20 the passenger prescreening function of  
21 comparing passenger name records to the  
22 automatic selectee and no fly lists and uti-  
23 lize all appropriate records in the consoli-  
24 dated and integrated terrorist watchlist

1 maintained by the Federal Government in  
2 performing that function.

3 “(iii) REQUIREMENTS.—In assuming  
4 performance of the function under clause  
5 (i), the Assistant Secretary shall—

6 “(I) establish a procedure to en-  
7 able airline passengers, who are de-  
8 layed or prohibited from boarding a  
9 flight because the next generation  
10 passenger prescreening system deter-  
11 mined that they might pose a security  
12 threat, to appeal such determination  
13 and correct information contained in  
14 the system;

15 “(II) ensure that Federal Gov-  
16 ernment databases that will be used  
17 to establish the identity of a pas-  
18 senger under the system will not  
19 produce a large number of false  
20 positives;

21 “(III) establish an internal over-  
22 sight board to oversee and monitor  
23 the manner in which the system is  
24 being implemented;

1 “(IV) establish sufficient oper-  
2 ational safeguards to reduce the op-  
3 portunities for abuse;

4 “(V) implement substantial secu-  
5 rity measures to protect the system  
6 from unauthorized access;

7 “(VI) adopt policies establishing  
8 effective oversight of the use and op-  
9 eration of the system; and

10 “(VII) ensure that there are no  
11 specific privacy concerns with the  
12 technological architecture of the sys-  
13 tem.

14 “(iv) PASSENGER NAME RECORDS.—  
15 Not later than 60 days after the comple-  
16 tion of the testing of the next generation  
17 passenger prescreening system, the Assist-  
18 ant Secretary shall require air carriers to  
19 supply to the Assistant Secretary the pas-  
20 senger name records needed to begin im-  
21 plementing the next generation passenger  
22 prescreening system.

23 “(D) SCREENING OF EMPLOYEES AGAINST  
24 WATCHLIST.—The Assistant Secretary of  
25 Homeland Security (Transportation Security

1 Administration), in coordination with the Sec-  
2 retary of Transportation and the Administrator  
3 of the Federal Aviation Administration, shall  
4 ensure that individuals are screened against all  
5 appropriate records in the consolidated and in-  
6 tegrated terrorist watchlist maintained by the  
7 Federal Government before—

8 “(i) being certificated by the Federal  
9 Aviation Administration;

10 “(ii) being issued a credential for ac-  
11 cess to the secure area of an airport; or

12 “(iii) being issued a credential for ac-  
13 cess to the air operations area (as defined  
14 in section 1540.5 of title 49, Code of Fed-  
15 eral Regulations, or any successor regula-  
16 tion to such section) of an airport.

17 “(E) APPEAL PROCEDURES.—The Assist-  
18 ant Secretary shall establish a timely and fair  
19 process for individuals identified as a threat  
20 under subparagraph (D) to appeal the deter-  
21 mination and correct any erroneous informa-  
22 tion.

23 “(F) DEFINITION.—In this paragraph, the  
24 term ‘secure area of an airport’ means the ster-  
25 ile area and the Secure Identification Display



1           Area of an airport (as such terms are defined  
2           in section 1540.5 of title 49, Code of Federal  
3           Regulations, or any successor regulation to such  
4           section).”.

5       (b) GAO REPORT.—

6           (1) IN GENERAL.—Not later than 90 days after  
7       the date on which the Assistant Secretary of Home-  
8       land Security (Transportation Security Administra-  
9       tion) assumes performance of the passenger  
10      prescreening function under section  
11      44903(j)(2)(C)(ii) of title 49, United States Code,  
12      the Comptroller General shall submit to the appro-  
13      priate congressional committees a report on the as-  
14      sumption of such function. The report may be sub-  
15      mitted in a classified format.

16          (2) CONTENTS.—The report under paragraph  
17      (1) shall address—

18           (A) whether a system exists in the next  
19           generation passenger prescreening system  
20           whereby aviation passengers, determined to  
21           pose a threat and either delayed or prohibited  
22           from boarding their scheduled flights by the  
23           Transportation Security Administration, may  
24           appeal such a decision and correct erroneous in-  
25           formation;

1           (B) the sufficiency of identifying informa-  
2           tion contained in passenger name records and  
3           any government databases for ensuring that a  
4           large number of false positives will not result  
5           under the next generation passenger  
6           prescreening system in a significant number of  
7           passengers being treated as a threat mistakenly  
8           or in security resources being diverted;

9           (C) whether the Transportation Security  
10          Administration stress tested the next generation  
11          passenger prescreening system;

12          (D) whether an internal oversight board  
13          has been established in the Department of  
14          Homeland Security to monitor the next genera-  
15          tion passenger prescreening system;

16          (E) whether sufficient operational safe-  
17          guards have been established to prevent the op-  
18          portunities for abuse of the system;

19          (F) whether substantial security measures  
20          are in place to protect the passenger  
21          prescreening database from unauthorized ac-  
22          cess;

23          (G) whether policies have been adopted for  
24          the effective oversight of the use and operation  
25          of the system;

1 (H) whether specific privacy concerns still  
 2 exist with the system; and

3 (I) whether appropriate life cycle cost esti-  
 4 mates have been developed, and a benefit and  
 5 cost analysis has been performed, for the sys-  
 6 tem.

7 **SEC. 6. DEPLOYMENT AND USE OF EXPLOSIVE DETECTION**  
 8 **EQUIPMENT AT AIRPORT SCREENING CHECK-**  
 9 **POINTS.**

10 (a) NONMETALLIC WEAPONS AND EXPLOSIVES.—In  
 11 order to improve security, the Assistant Secretary of  
 12 Homeland Security (Transportation Security Administra-  
 13 tion) shall give priority to developing, testing, improving,  
 14 and deploying technology at screening checkpoints at air-  
 15 ports that will detect nonmetallic weapons and explosives  
 16 on the person of individuals, in their clothing, or in their  
 17 carry-on baggage or personal property and shall ensure  
 18 that the equipment alone, or as part of an integrated sys-  
 19 tem, can detect under realistic operating conditions the  
 20 types of nonmetallic weapons and explosives that terrorists  
 21 would likely try to smuggle aboard an air carrier aircraft.

22 (b) STRATEGIC PLAN FOR DEPLOYMENT AND USE  
 23 OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT  
 24 SCREENING CHECKPOINTS.—

1           (1) IN GENERAL.—Not later than 90 days after  
2           the date of enactment of this Act, the Assistant Sec-  
3           retary shall transmit to the appropriate congres-  
4           sional committees a strategic plan to promote the  
5           optimal utilization and deployment of explosive de-  
6           tection systems at airports to screen individuals and  
7           their carry-on baggage or personal property, includ-  
8           ing walk-through explosive detection portals, docu-  
9           ment scanners, shoe scanners, and any other explo-  
10          sive detection equipment for use at a screening  
11          checkpoint. The plan may be transmitted in a classi-  
12          fied format.

13          (2) CONTENTS.—The strategic plan shall in-  
14          clude descriptions of the operational applications of  
15          explosive detection equipment at airport screening  
16          checkpoints, a deployment schedule and quantities of  
17          equipment needed to implement the plan, and fund-  
18          ing needs for implementation of the plan, including  
19          a financing plan that provides for leveraging non-  
20          Federal funding.

21 **SEC. 7. PILOT PROGRAM TO EVALUATE USE OF BLAST-RE-**  
22 **SISTANT CARGO AND BAGGAGE CONTAINERS.**

23          (a) IN GENERAL.—Beginning not later than 180  
24          days after the date of enactment of this Act, the Assistant  
25          Secretary of Homeland Security (Transportation Security

1 Administration) shall carry out a pilot program to evalu-  
2 ate the use of blast-resistant containers for cargo and bag-  
3 gage on passenger aircraft to minimize the potential ef-  
4 fects of detonation of an explosive device.

5 (b) INCENTIVES FOR PARTICIPATION IN PILOT PRO-  
6 GRAM.—

7 (1) IN GENERAL.—As part of the pilot pro-  
8 gram, the Assistant Secretary shall provide incen-  
9 tives to air carriers to volunteer to test the use of  
10 blast-resistant containers for cargo and baggage on  
11 passenger aircraft.

12 (2) APPLICATIONS.—To volunteer to participate  
13 in the incentive program, an air carrier shall submit  
14 to the Assistant Secretary an application that is in  
15 such form and contains such information as the As-  
16 sistant Secretary requires.

17 (3) TYPES OF ASSISTANCE.—Assistance pro-  
18 vided by the Assistant Secretary to air carriers that  
19 volunteer to participate in the pilot program shall in-  
20 clude the use of blast-resistant containers and finan-  
21 cial assistance to cover increased costs to the car-  
22 riers associated with the use and maintenance of the  
23 containers, including increased fuel costs.

24 (c) REPORT.—Not later than one year after the date  
25 of enactment of this Act, the Assistant Secretary shall

1 submit to appropriate congressional committees a report  
 2 on the results of the pilot program.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
 4 are authorized to be appropriated to carry out this section  
 5 \$2,000,000. Such sums shall remain available until ex-  
 6 pended.

7 **SEC. 8. AIR CARGO SCREENING TECHNOLOGY.**

8 The Transportation Security Administration shall de-  
 9 velop technology to better identify, track, and screen air  
 10 cargo.

11 **SEC. 9. AIRPORT CHECKPOINT SCREENING EXPLOSIVE DE-**  
 12 **TECTION.**

13 Section 44940 of title 49, United States Code, is  
 14 amended by adding at the end the following:

15 “(i) CHECKPOINT SCREENING SECURITY FUND.—

16 “(1) ESTABLISHMENT.—There is established in  
 17 the Department of Homeland Security a fund to be  
 18 known as the ‘Checkpoint Screening Security Fund’.

19 “(2) DEPOSITS.—In each of fiscal years 2005  
 20 and 2006, after amounts are made available under  
 21 section 44923(h), the next \$30,000,000 derived from  
 22 fees received under subsection (a)(1) shall be avail-  
 23 able to be deposited in the Fund.

24 “(3) FEES.—The Secretary of Homeland Secu-  
 25 rity shall impose the fee authorized by subsection

1 (a)(1) so as to collect at least \$30,000,000 in each  
2 of fiscal years 2005 and 2006 for deposit into the  
3 Fund.

4 “(4) AVAILABILITY OF AMOUNTS.—Amounts in  
5 the Fund shall be available for the purchase, deploy-  
6 ment, and installation of equipment to improve the  
7 ability of security screening personnel at screening  
8 checkpoints to detect explosives.”.

9 **SEC. 10. NEXT GENERATION SECURITY CHECKPOINT.**

10 (a) PILOT PROGRAM.—The Transportation Security  
11 Administration shall develop, not later than 120 days after  
12 the date of enactment of this Act, and conduct a pilot pro-  
13 gram to test, integrate, and deploy next generation secu-  
14 rity checkpoint screening technology at not less than 5 air-  
15 ports in the United States.

16 (b) HUMAN FACTOR STUDIES.— The Administration  
17 shall conduct human factors studies to improve screener  
18 performance as part of the pilot program under subsection  
19 (a).

20 **SEC. 11. PENALTY FOR FAILURE TO SECURE COCKPIT**  
21 **DOOR.**

22 (a) CIVIL PENALTY.—Section 46301(a) of title 49,  
23 United States Code, is amended by adding at the end the  
24 following:

1           “(6) PENALTY FOR FAILURE TO SECURE  
2 FLIGHT DECK DOOR.—Any person holding a part  
3 119 certificate under part of title 14, Code of Fed-  
4 eral Regulations, is liable to the Government for a  
5 civil penalty of not more than \$25,000 for each vio-  
6 lation, by the pilot in command of an aircraft owned  
7 or operated by such person, of any Federal regula-  
8 tion that requires that the flight deck door be closed  
9 and locked when the aircraft is being operated.”.

10 (b) TECHNICAL CORRECTIONS.—

11           (1) COMPROMISE AND SETOFF FOR FALSE IN-  
12 FORMATION.—Section 46302(b) of such title is  
13 amended by striking “Secretary of Transportation”  
14 and inserting “Secretary of the Department of  
15 Homeland Security and, for a violation relating to  
16 section 46504, the Secretary of Transportation,”.

17           (2) CARRYING A WEAPON.—Section 46303 of  
18 such title is amended—

19                 (A) in subsection (b) by striking “Sec-  
20 retary of Transportation” and inserting “Sec-  
21 retary of Homeland Security”; and

22                 (B) in subsection (c)(2) by striking  
23 “Under Secretary of Transportation for Secu-  
24 rity” and inserting “Secretary of Homeland Se-  
25 curity”.



1           (3) ADMINISTRATIVE IMPOSITION OF PEN-  
2       ALTIES.—Section 46301(d) of such title is amend-  
3       ed—

4           (A) in the first sentence of paragraph (2)  
5       by striking “46302, 46303,” and inserting  
6       “46302 (for a violation relating to section  
7       46504),”; and

8           (B) in the second sentence of paragraph  
9       (2)—

10           (i) by striking “Under Secretary of  
11       Transportation for Security” and inserting  
12       “Secretary of Homeland Security”; and

13           (ii) by striking “44909)” and insert-  
14       ing “44909), 46302 (except for a violation  
15       relating to section 46504), 46303,”;

16           (C) in each of paragraphs (2), (3), and (4)  
17       by striking “Under Secretary or” and inserting  
18       “Secretary of Homeland Security”; and

19           (D) in paragraph (4)(A) by moving clauses  
20       (i), (ii), and (iii) 2 ems to the left.

21 **SEC. 12. FEDERAL AIR MARSHAL ANONYMITY.**

22       The Director of the Federal Air Marshal Service of  
23       the Department of Homeland Security shall continue to  
24       develop operational initiatives to protect the anonymity of  
25       Federal air marshals.

1 **SEC. 13. FEDERAL LAW ENFORCEMENT IN-FLIGHT**  
2 **COUNTERTERRORISM TRAINING.**

3 The Assistant Secretary for Immigration and Cus-  
4 toms Enforcement and the Director of Federal Air Mar-  
5 shal Service of the Department of Homeland Security, in  
6 coordination with the Assistant Secretary of Homeland  
7 Security (Transportation Security Administration), shall  
8 make available appropriate in-flight counterterrorism pro-  
9 cedures and tactics training to Federal law enforcement  
10 officers who fly while on duty.

11 **SEC. 14. FEDERAL FLIGHT DECK OFFICER WEAPON CAR-**  
12 **RIAGE PILOT PROGRAM.**

13 (a) IN GENERAL.—Not later than 90 days after the  
14 date of enactment of this Act, the Assistant Secretary of  
15 Homeland Security (Transportation Security Administra-  
16 tion) shall implement a pilot program to allow pilots par-  
17 ticipating in the Federal flight deck officer program to  
18 transport their firearms on their persons. The Assistant  
19 Secretary may prescribe any training, equipment, or pro-  
20 cedures that the Assistant Secretary determines necessary  
21 to ensure safety and maximize weapon retention.

22 (b) REVIEW.—Not later than 1 year after the date  
23 of initiation of the pilot program, the Assistant Secretary  
24 shall conduct a review of the safety record of the pilot  
25 program and transmit a report on the results of the review  
26 to the appropriate congressional committees.

1       (c) OPTION.—If the Assistant Secretary as part of  
2 the review under subsection (b) determines that the safety  
3 level obtained under the pilot program is comparable to  
4 the safety level determined under existing methods of pi-  
5 lots carrying firearms on aircraft, the Assistant Secretary  
6 shall allow all pilots participating in the Federal flight  
7 deck officer program the option of carrying their firearm  
8 on their person subject to such requirements as the Assist-  
9 ant Secretary determines appropriate.

10 **SEC. 15. INTERNATIONAL AGREEMENTS TO ALLOW MAX-**  
11 **IMUM DEPLOYMENT OF FEDERAL FLIGHT**  
12 **DECK OFFICERS.**

13       The President is encouraged to pursue aggressively  
14 international agreements with foreign governments to  
15 allow the maximum deployment of Federal air marshals  
16 and Federal flight deck officers on international flights.

17 **SEC. 16. REGISTERED TRAVELER PROGRAM.**

18       The Transportation Security Administration shall ex-  
19 pedite implementation of the registered traveler program.

20 **SEC. 17. WIRELESS COMMUNICATION.**

21       (a) STUDY.—The Transportation Security Adminis-  
22 tration, in consultation with the Federal Aviation Admin-  
23 istration, shall conduct a study to determine the viability  
24 of providing devices or methods, including wireless meth-  
25 ods, to enable a flight crew to discreetly notify the pilot

1 in the case of a security breach or safety issue occurring  
2 in the cabin.

3 (b) MATTERS TO BE CONSIDERED.—In conducting  
4 the study, the Transportation Security Administration  
5 and the Federal Aviation Administration shall consider  
6 technology that is readily available and can be quickly in-  
7 tegrated and customized for use aboard aircraft for flight  
8 crew communication.

9 (c) REPORT.—Not later than 180 days after the date  
10 of enactment of this Act, the Transportation Security Ad-  
11 ministration shall submit to the appropriate congressional  
12 committees a report on the results of the study.

13 **SEC. 18. SECONDARY FLIGHT DECK BARRIERS.**

14 Not later than 6 months after the date of enactment  
15 of this Act, the Assistant Secretary of Homeland Security  
16 (Transportation Security Administration) shall transmit  
17 to the appropriate congressional committees a report on  
18 the costs and benefits associated with the use of secondary  
19 flight deck barriers and whether the use of such barriers  
20 should be mandated for all air carriers. The Assistant Sec-  
21 retary may transmit the report in a classified format.

22 **SEC. 19. EXTENSION.**

23 Section 48301(a) of title 49, United States Code, is  
24 amended by striking “and 2005” and inserting “2005,  
25 and 2006”.

1 **SEC. 20. UNDER SECRETARY FOR LOCAL GOVERNMENT**  
2 **AND TOURISM OF THE DEPARTMENT OF**  
3 **HOMELAND SECURITY.**

4 (a) ESTABLISHMENT OF UNDER SECRETARY FOR  
5 LOCAL GOVERNMENT AND TOURISM.—Section 103(a) of  
6 the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is  
7 amended—

8 (1) by redesignating paragraphs (6) through  
9 (9) as paragraphs (7) through (10), respectively;  
10 and

11 (2) by inserting after paragraph (5) the fol-  
12 lowing:

13 “(6) An Under Secretary for Local Government  
14 and Tourism.”.

15 (b) FUNCTIONS.—Such Act is further amended—

16 (1) in section 102(c) (6 U.S.C. 112(c)) by strik-  
17 ing “through the Office of State and Local Coordi-  
18 nation (established under section 801)” and insert-  
19 ing “through the Under Secretary for Local Govern-  
20 ment and Tourism”;

21 (2) in section 102(f) (6 U.S.C. 112(f)) by strik-  
22 ing the subsection designator and all that precedes  
23 paragraph (1) and inserting the following:

24 “(f) UNDER SECRETARY FOR LOCAL GOVERNMENT  
25 AND TOURISM.—The Under Secretary for Local Govern-  
26 ment and Tourism shall be responsible for”;

1 (3) in section 801(a) (6 U.S.C. 361(a))—

2 (A) by striking “in the Office of the Sec-  
3 retary”; and

4 (B) by adding at the end the following:  
5 “The Under Secretary for Local Government  
6 and Tourism shall be the head of the Office.”;  
7 and

8 (4) in section 801(b) by striking “The Office  
9 established under this section” and inserting “The  
10 Under Secretary for Local Government and Tour-  
11 ism, acting through the Office,”.

12 **SEC. 21. FEDERAL AIR MARSHAL TRAINING.**

13 Section 44917 of title 49, United States Code, is  
14 amended by adding at the end the following:

15 “(d) TRAINING FOR FOREIGN LAW ENFORCEMENT  
16 PERSONNEL.—

17 “(1) IN GENERAL.—The Assistant Secretary for  
18 Immigration and Customs Enforcement of the De-  
19 partment of Homeland Security, after consultation  
20 with the Secretary of State, may direct the Federal  
21 Air Marshal Service to provide appropriate air mar-  
22 shal training to law enforcement personnel of foreign  
23 countries.

24 “(2) WATCHLIST SCREENING.—The Federal  
25 Air Marshal Service may only provide appropriate

1 air marshal training to law enforcement personnel of  
2 foreign countries after comparing the identifying in-  
3 formation and records of law enforcement personnel  
4 of foreign countries against appropriate records in  
5 the consolidated and integrated terrorist watchlists  
6 of the Federal Government.

7 “(3) FEES.—The Assistant Secretary shall es-  
8 tablish reasonable fees and charges to pay expenses  
9 incurred in carrying out this subsection. Funds col-  
10 lected under this subsection shall be credited to the  
11 account in the Treasury from which the expenses  
12 were incurred and shall be available to the Assistant  
13 Secretary for purposes for which amounts in such  
14 account are available.”.

15 **SEC. 22. PERIMETER SECURITY.**

16 (a) REPORT.—Not later than 180 days after the date  
17 of enactment of this Act, the Assistant Secretary of Home-  
18 land Security (Transportation Security Administration),  
19 in consultation with airport operators and law enforce-  
20 ment authorities, shall develop and submit to the appro-  
21 priate congressional committee a report on airport perim-  
22 eter security. The report may be submitted in a classified  
23 format.

24 (b) CONTENTS.—The report shall include—

1           (1) an examination of the feasibility of access  
 2           control technologies and procedures, including the  
 3           use of biometrics and other methods of positively  
 4           identifying individuals prior to entry into secure  
 5           areas of airports, and provide best practices for en-  
 6           hanced perimeter access control techniques; and

7           (2) an assessment of the feasibility of physically  
 8           screening all individuals prior to entry into secure  
 9           areas of an airport and additional methods for  
 10          strengthening the background vetting process for all  
 11          individuals credentialed to gain access to secure  
 12          areas of airports.

13 **SEC. 23. MAN-PORTABLE AIR DEFENSE SYSTEMS**  
 14 **(MANPADS).**

15          (a) UNITED STATES POLICY ON NONPROLIFERATION  
 16 AND EXPORT CONTROL.—

17           (1) TO LIMIT AVAILABILITY AND TRANSFER OF  
 18          MANPADS.—The President shall pursue, on an ur-  
 19          gent basis, further strong international diplomatic  
 20          and cooperative efforts, including bilateral and mul-  
 21          tilateral treaties, in the appropriate forum to limit  
 22          the availability, transfer, and proliferation of  
 23          MANPADSs worldwide.

24           (2) TO LIMIT THE PROLIFERATION OF  
 25          MANPADS.—The President is encouraged to seek to



1 enter into agreements with the governments of for-  
2 eign countries that, at a minimum, would—

3 (A) prohibit the entry into force of a  
4 MANPADS manufacturing license agreement  
5 and MANPADS co-production agreement, other  
6 than the entry into force of a manufacturing li-  
7 cense or co-production agreement with a coun-  
8 try that is party to such an agreement;

9 (B) prohibit, except pursuant to transfers  
10 between governments, the export of a  
11 MANPADS, including any component, part, ac-  
12 cessory, or attachment thereof, without an indi-  
13 vidual validated license; and

14 (C) prohibit the reexport or retransfer of a  
15 MANPADS, including any component, part, ac-  
16 cessory, or attachment thereof, to a third per-  
17 son, organization, or government unless the  
18 written consent of the government that ap-  
19 proved the original export or transfer is first  
20 obtained.

21 (3) TO ACHIEVE DESTRUCTION OF MANPADS.—

22 The President should continue to pursue further  
23 strong international diplomatic and cooperative ef-  
24 forts, including bilateral and multilateral treaties, in  
25 the appropriate forum to assure the destruction of

1 excess, obsolete, and illicit stocks of MANPADSs  
2 worldwide.

3 (4) REPORTING AND BRIEFING REQUIRE-  
4 MENT.—

5 (A) PRESIDENT’S REPORT.—Not later  
6 than 180 days after the date of enactment of  
7 this Act, the President shall transmit to the ap-  
8 propriate congressional committees a report  
9 that contains a detailed description of the sta-  
10 tus of diplomatic efforts under paragraphs (1),  
11 (2), and (3) and of efforts by the appropriate  
12 United States agencies to comply with the rec-  
13 ommendations of the General Accounting Office  
14 set forth in its report GAO–04–519, entitled  
15 “Nonproliferation: Further Improvements  
16 Needed in U.S. Efforts to Counter Threats  
17 from Man-Portable Air Defense Systems”.

18 (B) ANNUAL BRIEFINGS.—Annually after  
19 the date of submission of the report under sub-  
20 paragraph (A) and until completion of the dip-  
21 lomatic and compliance efforts referred to in  
22 subparagraph (A), the Secretary of State shall  
23 brief the appropriate congressional committees  
24 on the status of such efforts.

1 (b) FAA AIRWORTHINESS CERTIFICATION OF MIS-  
2 SILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

3 (1) IN GENERAL.—As soon as practicable, but  
4 not later than the date of completion of Phase II of  
5 the Department of Homeland Security’s counter-  
6 man-portable air defense system (MANPADS) devel-  
7 opment and demonstration program, the Adminis-  
8 trator of the Federal Aviation Administration shall  
9 establish a process for conducting airworthiness and  
10 safety certification of missile defense systems for  
11 commercial aircraft certified as effective and func-  
12 tional by the Department of Homeland Security.  
13 The process shall require a certification by the Ad-  
14 ministrator that such systems can be safely inte-  
15 grated into aircraft systems and ensure airworthi-  
16 ness and aircraft system integrity.

17 (2) CERTIFICATION ACCEPTANCE.—Under the  
18 process, the Administrator shall accept the certifi-  
19 cation of the Department of Homeland Security that  
20 a missile defense system is effective and functional  
21 to defend commercial aircraft against MANPADSs.

22 (3) EXPEDITIOUS CERTIFICATION.—Under the  
23 process, the Administrator shall expedite the air-  
24 worthiness and safety certification of missile defense

1 systems for commercial aircraft certified by the De-  
2 partment of Homeland Security.

3 (4) REPORTS.—Not later than 90 days after  
4 the first airworthiness and safety certification for a  
5 missile defense system for commercial aircraft is  
6 issued by the Administrator, and annually thereafter  
7 until December 31, 2008, the Federal Aviation Ad-  
8 ministration shall transmit to the Committee on  
9 Transportation and Infrastructure of the House of  
10 Representatives and the Committee on Commerce,  
11 Science, and Transportation of the Senate a report  
12 that contains a detailed description of each air-  
13 worthiness and safety certification issued for a mis-  
14 sile defense system for commercial aircraft.

15 (c) PROGRAMS TO REDUCE MANPADS.—

16 (1) IN GENERAL.—The President is encouraged  
17 to pursue strong programs to reduce the number of  
18 MANPADS worldwide so that fewer MANPADS will  
19 be available for trade, proliferation, and sale.

20 (2) REPORTING AND BRIEFING REQUIRE-  
21 MENTS.—Not later than 180 days after the date of  
22 enactment of this Act, the President shall transmit  
23 to the appropriate congressional committees a report  
24 that contains a detailed description of the status of  
25 the programs being pursued under subsection (a).

1       Annually thereafter until the programs are no longer  
2       needed, the Secretary of State shall brief the appro-  
3       priate congressional committees on the status of pro-  
4       grams.

5               (3) FUNDING.—There are authorized to be ap-  
6       propriated such sums as may be necessary to carry  
7       out this section.

8       (d) MANPADS VULNERABILITY ASSESSMENTS RE-  
9       PORT.—

10              (1) IN GENERAL.—Not later than one year  
11       after the date of enactment of this Act, the Sec-  
12       retary of Homeland Security shall transmit to the  
13       Committee on Transportation and Infrastructure of  
14       the House of Representatives and the Committee on  
15       Commerce, Science, and Transportation of the Sen-  
16       ate a report describing the Department of Homeland  
17       Security’s plans to secure airports and the aircraft  
18       arriving and departing from airports against  
19       MANPADS attacks.

20              (2) MATTERS TO BE ADDRESSED.—The Sec-  
21       retary’s report shall address, at a minimum, the fol-  
22       lowing:

23                      (A) The status of the Department’s efforts  
24       to conduct MANPADS vulnerability assess-

1           ments at United States airports at which the  
2           Department is conducting assessments.

3           (B) How intelligence is shared between the  
4           United States intelligence agencies and Federal,  
5           State, and local law enforcement to address the  
6           MANPADS threat and potential ways to im-  
7           prove such intelligence sharing.

8           (C) Contingency plans that the Depart-  
9           ment has developed in the event that it receives  
10          intelligence indicating a high threat of a  
11          MANPADS attack on aircraft at or near  
12          United States airports.

13          (D) The feasibility and effectiveness of im-  
14          plementing public education and neighborhood  
15          watch programs in areas surrounding United  
16          States airports in cases in which intelligence re-  
17          ports indicate there is a high risk of  
18          MANPADS attacks on aircraft.

19          (E) Any other issues that the Secretary  
20          deems relevant.

21          (3) FORMAT.—The report required by this sub-  
22          section may be submitted in a classified format.

23          (e) DEFINITIONS.—In this section, the following defi-  
24          nitions apply:

1           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
2       TEES.—The term “appropriate congressional com-  
3       mittees” means—

4           (A) the Committee on Armed Services, the  
5       Committee on International Relations, and the  
6       Committee on Transportation and Infrastruc-  
7       ture of the House of Representatives; and

8           (B) the Committee on Armed Services, the  
9       Committee on Foreign Relations, and the Com-  
10      mittee on Commerce, Science, and Transpor-  
11      tation of the Senate.

12          (2) MANPADS.—The term “MANPADS”  
13      means—

14          (A) a surface-to-air missile system de-  
15      signed to be man-portable and carried and fired  
16      by a single individual; and

17          (B) any other surface-to-air missile system  
18      designed to be operated and fired by more than  
19      one individual acting as a crew and portable by  
20      several individuals.

21 **SEC. 24. DEFINITIONS.**

22      In this Act (other than section 23), the following defi-  
23      nitions apply:

24          (1) APPROPRIATE CONGRESSIONAL COM-  
25      MITTEE.—The term “appropriate congressional com-

1        mittees” means the Committee on Transportation  
2        and Infrastructure of the House of Representatives  
3        and the Committee on Commerce, Science, and  
4        Transportation of the Senate.

5            (2) AIR CARRIER.—The term “air carrier” has  
6        the meaning such term has under section 40102 of  
7        title 49, United States Code.

8            (3) SECURE AREA OF AN AIRPORT.—The term  
9        “secure area of an airport” means the sterile area  
10       and the Secure Identification Display Area of an air-  
11       port (as such terms are defined in section 1540.5 of  
12       title 49, Code of Federal Regulations, or any suc-  
13       cessor regulation to such section).

○