

109TH CONGRESS
1ST SESSION

H. R. 4439

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2005

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transportation Secu-
5 rity Administration Reorganization Act of 2005”.

1 **TITLE I—TSA MANAGEMENT**
2 **REFORM**

3 **SEC. 101. AIRPORT SCREENING ORGANIZATION.**

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

6 **“TITLE XVIII—TRANSPORTATION**
7 **SECURITY ADMINISTRATION**

8 **“SEC. 1801. AIRPORT SCREENING ORGANIZATION.**

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

12 “(b) MISSION.—The Airport Screening Organization
13 shall seek to improve the delivery of Federal security
14 screening services for passenger air transportation by in-
15 creasing efficiency, taking better advantage of new tech-
16 nologies, reducing unit costs, and responding more effec-
17 tively to the needs of the traveling public, while enhancing
18 aviation security.

19 “(c) CHIEF OPERATING OFFICER.—

20 “(1) APPOINTMENT.—The head of the Airport
21 Screening Organization shall be the Chief Operating
22 Officer. The Chief Operating Officer shall be ap-
23 pointed by the Assistant Secretary for Homeland Se-
24 curity (Transportation Security Administration).
25 The Chief Operating Officer shall report directly to

1 the Assistant Secretary and be subject to the au-
2 thority of the Assistant Secretary.

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

8 “(3) BONUS.—In addition to the annual rate of
9 basic pay established under paragraph (2), the Chief
10 Operating Officer may receive a bonus for any cal-
11 endar year based on the Assistant Secretary’s eval-
12 uation of the Chief Operating Officer’s performance
13 in relation to the goals set forth in the agreement
14 described in subsection (d).

15 “(d) ANNUAL PERFORMANCE AGREEMENT.—The
16 Chief Operating Officer shall enter into an annual per-
17 formance agreement with the Assistant Secretary that sets
18 forth measurable organization and individual goals for the
19 Chief Operating Officer in key operational areas and de-
20 scribes specific targets and how the goals will be achieved.
21 The agreement shall be subject to review and renegotiation
22 on an annual basis.

23 “(e) RESPONSIBILITIES.—

24 “(1) IN GENERAL.—The responsibilities of the
25 Assistant Secretary to provide for the day-to-day

1 Federal security screening operations for passenger
2 air transportation, as specified in section 114(e)(1)
3 of title 49, United States Code, shall be carried out
4 by the Assistant Secretary acting through the Chief
5 Operating Officer.

6 “(2) LIMITATIONS.—The responsibilities of the
7 Chief Operating Officer shall be limited to oper-
8 ational activities and shall not include any regu-
9 latory or oversight function.

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

16 “(g) ELEMENTS OF AIRPORT SCREENING ORGANIZA-
17 TION.—

18 “(1) IN GENERAL.—The Airport Screening Or-
19 ganization shall be composed of those elements of
20 the Transportation Security Administration that
21 have a direct connection with or give support to the
22 provision of the day-to-day Federal security screen-
23 ing operations for passenger air transportation, as
24 determined by the Assistant Secretary.

1 “(2) FRAMEWORK AGREEMENT.—The Chief
2 Operating Officer shall enter into an agreement with
3 the Assistant Secretary that establishes the relation-
4 ship of the Airport Screening Organization with the
5 other organizations of the Transportation Security
6 Administration.

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

9 “(1) optimize use of existing management flexi-
10 bilities and authorities to improve the efficiency of
11 Federal security screening operations for passenger
12 air transportation and increase the capacity of the
13 system;

14 “(2) instill accountability for achieving perform-
15 ance goals at all levels of management;

16 “(3) develop methods to accelerate advancement
17 and deployment of technologies and equipment to
18 improve security, reduce passenger inconvenience,
19 and reduce costs related to Federal security screen-
20 ing operations for passenger air transportation;

21 “(4) develop agreements with the Assistant Sec-
22 retary and users of the products, services, and capa-
23 bilities that the Airport Screening Organization will
24 provide;

1 “(5) consult with customers and the traveling
2 public (including direct users such as airlines and
3 airports) and focus on producing results that satisfy
4 the Airport Screening Organization’s external cus-
5 tomer needs;

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

8 “(7) formulate and recommend to the Assistant
9 Secretary any management, fiscal, or legislative
10 changes necessary for the Airport Screening Organi-
11 zation to achieve its performance goals.

12 “(i) COST ACCOUNTING SYSTEM.—

13 “(1) DEVELOPMENT.—The Chief Operating Of-
14 ficer shall develop a cost accounting system that
15 adequately and accurately reflects the investments,
16 operating and overhead costs, revenues, and other fi-
17 nancial measurement and reporting aspects of the
18 operations, functions, and activities of the Airport
19 Screening Organization.

20 “(2) ANNUAL REPORT.—Not later than 90 days
21 after the date completion of the cost accounting sys-
22 tem under paragraph (1), and by March 1 of every
23 year thereafter, the Chief Operating Officer shall
24 submit to the Committee on Homeland Security of
25 the House of Representatives and the Committees

1 on Commerce, Science, and Transportation and
2 Homeland Security and Governmental Affairs of the
3 Senate a report on the annual cost of Federal secu-
4 rity screening services for passenger air transpor-
5 tation at each commercial service airport. The report
6 shall take into consideration existing direct and indi-
7 rect costs as determined by the cost accounting sys-
8 tem.

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

13 **SEC. 102. RISK MANAGEMENT.**

14 The Homeland Security Act of 2002 (6 U.S.C. 101
15 et sec.) is amended by adding after section 1801 (as added
16 by section 101 of this Act) the following:

17 **“SEC. 1802. RISK MANAGEMENT SYSTEM.**

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

24 “(b) CONSULTATION.—The Assistant Secretary shall
25 develop the risk management system in consultation with

1 State and local government agencies, industry stake-
2 holders, and other appropriate Federal agencies, including
3 Federal agencies outside the Department of Homeland Se-
4 curity.

5 “(c) NATIONAL TRANSPORTATION SECURITY POL-
6 ICY.—Upon completion of the risk management system,
7 the Assistant Secretary, to the extent feasible, shall de-
8 velop national transportation security policies in a manner
9 consistent with the system.

10 “(d) REVIEW OF REGULATIONS.—

11 “(1) REVIEW.—Not later than 90 days after
12 the date of development of the risk management sys-
13 tem, the Assistant Secretary shall conduct a review
14 of all regulations issued by the Transportation Secu-
15 rity Administration under interim final rule author-
16 ity.

17 “(2) MODIFICATIONS.—After completing the re-
18 view, the Assistant Secretary shall modify such regu-
19 lations in a manner consistent with the risk manage-
20 ment system.

21 “(e) REVIEW OF STATUTORY REQUIREMENTS.—

22 “(1) REVIEW.—Not later than 180 days after
23 the date of development of the risk management sys-
24 tem, the Assistant Secretary shall conduct a review
25 of chapter 449 of title 49, United States Code, and

1 other provisions of that title relating to transpor-
2 tation security.

3 “(2) REPORT.—After completing the review,
4 the Assistant Secretary submit to the Committee on
5 Homeland Security of the House of Representatives
6 and the Committees on Commerce, Science, and
7 Transportation and Homeland Security and Govern-
8 mental Affairs of the Senate a report on the results
9 of the review, including recommendations for amend-
10 ment of title 49, United States Code, in a manner
11 consistent with the risk management system.”.

12 **SEC. 103. TRANSPORTATION SECTOR ADVISORY COUNCILS.**

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

16 **“SEC. 1803. TRANSPORTATION SECTOR ADVISORY COUN-**
17 **CILS.**

18 “(a) ESTABLISHMENT.—Not later than 90 days after
19 the date of enactment of this section, the Assistant Sec-
20 retary for Homeland Security (Transportation Security
21 Administration) shall establish a transportation sector ad-
22 visory council for each mode of transportation under the
23 jurisdiction of the Transportation Security Administra-
24 tion.

25 “(b) FUNCTIONS.—

1 “(1) IN GENERAL.—An advisory council estab-
2 lished under this section for a transportation mode
3 shall provide advice and counsel to the Assistant
4 Secretary on issues related to the transportation
5 mode which affect or are affected by actions of the
6 Assistant Secretary, including actions relating to
7 management, policy, spending, and regulatory mat-
8 ters, including interim final rules, under the jurisdic-
9 tion of the Assistant Secretary.

10 “(2) REVIEW OF RULEMAKING AND COST-BEN-
11 EFIT ANALYSIS PROCESSES.—The advisory councils
12 established under this section shall conduct a coordi-
13 nated review of the rulemaking and cost-benefit
14 analysis processes of the Transportation Security
15 Administration and develop recommendations to im-
16 prove the processes and ensure that the public inter-
17 est is fully protected.

18 “(c) MEMBERSHIP.—An advisory council for a trans-
19 portation mode established under this section shall be
20 composed of members appointed by the Assistant Sec-
21 retary from among experts in the transportation mode, in-
22 cluding representatives of labor and management.

23 “(d) COMMENTS, RECOMMENDATIONS, AND DIS-
24 SENTING VIEWS.—An advisory council established under
25 this section for a transportation mode shall submit to the

1 Assistant Secretary comments, recommendations, and dis-
2 senting views with respect to actions of the Transportation
3 Security Administration on matters affecting the trans-
4 portation mode, including management, policy, spending,
5 funding, and regulatory matters.

6 “(e) SUBMISSIONS.—The Assistant Secretary shall
7 include in any submission to Congress, the Secretary for
8 Homeland Security, or the general public, and in any sub-
9 mission for publication in the Federal Register, a descrip-
10 tion of any comments, recommendations, or dissenting
11 views received from an advisory council established under
12 this section related to the submission, together with rea-
13 sons for any differences between views of the advisory
14 council and the Assistant Secretary.

15 “(f) FEDERAL ADVISORY COMMITTEE ACT.—The
16 Federal Advisory Committee Act (5 U.S.C. App.) shall not
17 apply to an advisory council established under this sec-
18 tion.”.

19 **SEC. 104. FUNDING ALLOCATIONS.**

20 (a) FORMULA.—The Assistant Secretary for Home-
21 land Security (Transportation Security Administration)
22 shall establish a methodology for allocating funds among
23 airports for operational costs related to the screening of
24 passengers and baggage under section 44901 of title 49,
25 United States Code. To the maximum extent practical, the

1 Assistant Secretary shall ensure that the methodology re-
2 flects costs as determined under section 1801(i) of the
3 Homeland Security Act of 2002.

4 (b) HOLD HARMLESS.—The Assistant Secretary
5 shall ensure that funding is available for operational costs
6 related to the screening of passengers and baggage at an
7 airport, as determined under subsection (a), without re-
8 gard to whether the operator of the airport is participating
9 in the Federal security screening partnership program es-
10 tablished under section 44920 of title 49, United States
11 Code.

12 **SEC. 105. NON-SCREENER PERSONNEL.**

13 (a) REPORT TO CONGRESS.—Not later than 180 days
14 after the date of enactment of this Act, the Comptroller
15 General shall submit to the Committee on Homeland Se-
16 curity of the House of Representatives and the Commit-
17 tees on Commerce, Science, and Transportation and
18 Homeland Security and Governmental Affairs of the Sen-
19 ate a report on personnel of the Transportation Security
20 Administration deployed at commercial service airports
21 not directly related to passenger and baggage screening.

22 (b) CONTENTS.—The report shall contain—

23 (1) information on the number of positions at
24 each airport and their functions;

- 1 (2) an analysis of the cost of non-screening re-
2 lated activities and the need for such activities; and
3 (3) recommendations on which positions, if any,
4 can be eliminated without degradation of security
5 screening activities.

6 **SEC. 106. PROCUREMENT.**

7 (a) REPORT TO CONGRESS.—Not later than 180 days
8 after the date of enactment of this Act, the Comptroller
9 General shall submit to the Committee on Homeland Se-
10 curity of the House of Representatives and the Commit-
11 tees on Commerce, Science, and Transportation and
12 Homeland Security and Governmental Affairs of the Sen-
13 ate a report on whether the acquisition management sys-
14 tem of the Transportation Security Administration au-
15 thorized under section 114(o) of title 49, United States
16 Code, has assisted the Transportation Security Adminis-
17 tration in meeting its overall security mission.

18 (b) CONTENTS.—The report shall contain—

- 19 (1) a comparison of the acquisition manage-
20 ment system of the Transportation Security Admin-
21 istration to the Federal Acquisition Regulation; and
22 (2) recommendations on whether to continue,
23 modify, or eliminate the acquisition management
24 system of the Transportation Security Administra-
25 tion.

1 **SEC. 107. CONFORMING AMENDMENT.**

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

“TITLE XVIII—TRANSPORTATION SECURITY ADMINISTRATION

“Sec. 1801. Airport Screening Organization.

“Sec. 1802. Risk management system.

“Sec. 1803. Transportation sector advisory councils.

“Sec. 1804. Passenger identification documents.”.

5 **TITLE II—AVIATION SECURITY**

6 **SEC. 201. FEDERAL SECURITY SCREENING PARTNERSHIP**
 7 **PROGRAM.**

8 (a) SCREENING ENTITIES.—Section 44920 of title
 9 49, United States Code, is amended—

10 (1) in the section heading by striking “**Secu-**
 11 **rity screening opt-out program**” and insert-
 12 ing “**Federal security screening partner-**
 13 **ship program**”;

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

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

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

21 (5) in the heading for subsection (d) by striking
 22 “PRIVATE SCREENING COMPANIES” and inserting
 23 “SCREENING ENTITIES”;

1 (6) in subsection (d)(2)—

2 (A) by striking “private screening compa-
3 nies” and inserting “screening entities”; and

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

7 (7) in subsection (f) by striking “the pilot pro-
8 gram”.

9 (b) PROGRAM MODIFICATIONS.—Section 44920 of
10 such title is amended by adding at the end the following:

11 “(g) STANDARD OPERATING PROCEDURES AND RE-
12 QUIREMENTS FOR SECURITY SCREENING.—

13 “(1) DEVELOPMENT AND UPDATING.—The As-
14 sistant Secretary for Homeland Security (Transpor-
15 tation Security Administration) shall—

16 “(A) develop, document, and update, as
17 necessary, minimum standard operating proce-
18 dures and requirements for the security screen-
19 ing of passengers in air transportation and
20 interstate air transportation; and

21 “(B) conduct safety and hazard analyses
22 of the standard operating procedures and re-
23 quirements developed under subparagraph (A).

1 “(2) SUBMISSION TO SECRETARY.—The Assist-
2 ant Secretary shall submit to the Secretary of
3 Homeland Security—

4 “(A) the procedures and requirements de-
5 veloped under paragraph (1)(A), together with
6 the results of the safety and hazard analysis
7 conducted under paragraph (1)(B) and any
8 other necessary information; and

9 “(B) any material update to the proce-
10 dures and requirements.

11 “(3) TECHNICAL REVIEW AND APPROVAL.—Not
12 later than 60 days after the date of receipt of the
13 procedures and requirements, or any update thereto,
14 under paragraph (2), the Secretary shall—

15 “(A) complete a technical review of the
16 procedures and requirements or update under
17 sections 862(b) and 863(d)(2) of the Homeland
18 Security Act of 2002 (6 U.S.C. 441(b);
19 442(d)(2)); and

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

22 “(4) EFFECT OF APPROVAL.—

23 “(A) ISSUANCE OF CERTIFICATES OF CON-
24 FORMANCE.—In accordance with section
25 863(d)(3) of that Act (6 U.S.C. 442(d)(3)), the

1 Secretary shall issue a certificate of conform-
2 ance to a screening entity providing screening
3 services at an airport under this section if the
4 screening entity—

5 “(i) demonstrates to the satisfaction
6 of the Secretary the ability to perform in
7 accordance with standard operating proce-
8 dures and requirements, and any update
9 thereto, approved by the Secretary under
10 paragraph (3); and

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

13 “(I) to perform in accordance
14 with the such standard operating pro-
15 cedures and requirements, and any
16 update thereto; and

17 “(II) maintain liability insurance
18 coverage at policy limits and in ac-
19 cordance with conditions to be estab-
20 lished at the time of contracting pur-
21 suant to section 864 of that Act (6
22 U.S.C. 443).

23 “(B) LITIGATION AND RISK MANAGEMENT
24 PROTECTIONS.—A screening entity that receives
25 a certificate of conformance under subpara-

graph (A) shall be entitled to all litigation and risk management protections applicable thereto.

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

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

“(5) INFORMATION FOR ESTABLISHING LIMITS OF LIABILITY INSURANCE.—A screening entity seeking a certificate of conformance under paragraph (4)(A) shall provide to the Secretary necessary information for establishing the limits of liability insur-

1 ance required to be maintained by the entity under
2 section 864(a) of that Act (6 U.S.C. 443(a)).

3 “(6) APPROVED PRODUCT LIST.—If the Sec-
4 retary issues a certificate of conformance to a
5 screening entity under paragraph (4)(A), the Sec-
6 retary shall, upon the request of the screening enti-
7 ty, place the entity’s screening services on an Ap-
8 proved Product List for Homeland Security as pro-
9 vided by section 863(d)(3) of that Act (6 U.S.C.
10 442(d)(3)).

11 “(7) MONITORING.—The Assistant Secretary
12 shall regularly monitor and inspect the operations of
13 a screening entity providing screening services at an
14 airport under this section to ensure that the entity
15 is meeting the minimum standard operating proce-
16 dures and requirements for the security screening of
17 passengers in air transportation and interstate air
18 transportation established under paragraph (1) and
19 all other applicable requirements for screening serv-
20 ices under this chapter.

21 “(h) PERFORMANCE GOALS.—

22 “(1) IN GENERAL.—The Assistant Secretary
23 shall develop performance goals for a screening enti-
24 ty providing screening services at an airport under
25 this section.

1 “(2) LEVEL OF SCREENING SERVICES AND PRO-
2 TECTION.—The performance goals developed under
3 paragraph (1) shall ensure that screening services
4 and protection provided by a screening entity at an
5 airport under this section will provide a greater level
6 of protection, and result in a lower unit cost, than
7 the screening services and protection that would be
8 provided at the airport by Federal Government per-
9 sonnel under this chapter.

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

14 “(i) DAILY OPERATIONAL DECISIONS.—The Assist-
15 ant Secretary shall not become involved in the daily oper-
16 ational decisions of a screening entity providing screening
17 services at an airport under this section, except as re-
18 quired under subsection (g)(7).

19 “(j) INVESTMENT.—The Assistant Secretary, in con-
20 sultation with the airport operator, may allow a screening
21 entity providing screening services at an airport under this
22 section to provide security screening equipment and modi-
23 fications to the physical infrastructure of the airport as
24 necessary to improve the efficiency or effectiveness of the
25 screening operations.

1 “(k) SHARE IN SAVINGS PROGRAM.—

2 “(1) AUTHORITY TO MAKE GRANTS.—Subject
3 to the availability of appropriations, the Secretary
4 shall make a grant to the operator of an airport at
5 which screening services are being provided under a
6 contract entered into under this section for a fiscal
7 year in an amount equal to not less than 90 percent
8 of the amount of annual cost savings (if any) real-
9 ized as a result of the contract, as compared to the
10 cost for such services when using Federal Govern-
11 ment employees.

12 “(2) AMOUNT OF GRANTS.—

13 “(A) IN GENERAL.—The amount of a
14 grant under paragraph (1) shall be determined
15 by the Assistant Secretary in accordance with
16 the cost accounting system developed under sec-
17 tion 1801(i) of the Homeland Security Act of
18 2002.

19 “(B) CREDIT FOR INVESTMENTS.—The
20 Assistant Secretary shall credit toward the cost
21 savings calculated under paragraph (1) the an-
22 nual cost savings in security services achieved
23 as a result of investments made under sub-
24 section (j).

25 “(3) PERIOD OF ELIGIBILITY.—

1 “(A) FIRST 5 FISCAL YEARS.—The Assist-
2 ant Secretary shall make a grant to an airport
3 operator under paragraph (1) for each of the
4 first 5 fiscal years for which the Assistant Sec-
5 retary calculates an annual cost savings in secu-
6 rity services for the airport under paragraph
7 (1).

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

17 “(4) USE OF GRANTS.—An airport operator re-
18 ceiving a grant under this subsection may use the
19 amounts of the grant for costs associated with avia-
20 tion security, including debt service related to air-
21 port security enhancements.”.

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

24 (1) in subsection (e) by striking “provide Fed-
25 eral Government supervisors to”; and

1 (2) in subsection (f) by striking “the pilot pro-
 2 gram” and inserting “, and revoke a certificate of
 3 conformance issued under subsection (g),”.

4 (d) CHAPTER ANALYSIS.—The analysis for chapter
 5 449 of such title is amended by striking the item relating
 6 to section 44920 and inserting the following:

“44920. Federal security screening partnership program.”.

7 **SEC. 202. DECLARATION ON PROVISION OF SCREENING**
 8 **SERVICES.**

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

12 **“§ 44926. Declaration on provision of screening serv-**
 13 **ices**

14 “Not later than March 31 of each year, the operator
 15 of each airport subject to the requirements of section
 16 44901 shall submit to the Assist Secretary for Homeland
 17 Security (Transportation Security Administration) a writ-
 18 ten notice on whether the operator intends to submit an
 19 application under section 44920 or to continue to allow
 20 the use of Federal employees to provided screening serv-
 21 ices for passenger air transportation for the subsequent
 22 fiscal year.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
 2 such subchapter is amended by adding at the end the fol-
 3 lowing:

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

4 **TITLE III—PASSENGER**
 5 **SCREENING**

6 **SEC. 301. PASSENGER IDENTIFICATION DOCUMENTS.**

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

10 **“SEC. 1804. PASSENGER IDENTIFICATION DOCUMENTS.**

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

19 “(b) ACCEPTABLE PERSONAL IDENTIFICATION DOC-
 20 UMENTS.—

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

24 “(2) MINIMUM REQUIREMENTS.—The Assistant
 25 Secretary may include a personal identification docu-

1 ment on the list to be established under paragraph
2 (1) only if the document is issued under the author-
3 ity of the United States Government, a State, or a
4 foreign government and includes each of the fol-
5 lowing:

6 “(A) The individual’s full legal name.

7 “(B) The individual’s date of birth.

8 “(C) The individual’s gender.

9 “(D) A photograph of the individual.

10 “(E) The individual’s signature.

11 “(F) Physical security features designed to
12 prevent tampering, counterfeiting, and duplica-
13 tion of the document for fraudulent purposes.

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

20 “(c) PROCEDURES AND STANDARDS.—In carrying
21 out subsection (a), the Assistant Secretary shall estab-
22 lish—

23 “(1) procedures to match the name on a per-
24 sonal identification document with the name on an
25 airline boarding document;

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

4 “(3) standards for training personnel who check
5 personal identification documents to recognize unac-
6 ceptable and false identification documents.

7 “(d) FAILURE TO PRESENT ACCEPTABLE IDENTI-
8 FICATION DOCUMENTS.—A passenger attempting to enter
9 a sterile area of an airport in the United States who does
10 not present an acceptable identification document shall be
11 subject to such additional security screening as the Assist-
12 ant Secretary determines to be appropriate before the pas-
13 senger may be admitted to the sterile area.

14 “(e) KNOWING PRESENTATION OF FALSE IDENTI-
15 FICATION DOCUMENTS; PENALTIES.—A passenger who
16 knowingly presents a false identification document in an
17 attempt to enter a sterile area of an airport in the United
18 States shall be fined under title 18, United States Code,
19 imprisoned for not more than 5 years, or both.

20 “(f) DEFINITIONS.—In this section, the following
21 definitions apply:

22 “(1) FALSE.—The term ‘false’ has the meaning
23 given such term by section 1028(d) of title 18,
24 United States Code.

1 “(2) PASSENGER.—The term ‘passenger’ means
2 an individual to be carried aboard a passenger air-
3 craft to be operated by an air carrier or foreign air
4 carrier in air transportation or intrastate air trans-
5 portation (as such terms are defined in section
6 40102 of title 49, United States Code).

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

11 **SEC. 302. IMMEDIATE INTERNATIONAL PASSENGER**
12 **PRESCREENING PILOT PROGRAM.**

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

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

24 (1) compare the passenger’s information
25 against the integrated and consolidated terrorist

1 watchlist maintained by the Federal Government
2 and provide the results of the comparison to the air
3 carrier or foreign air carrier before the passenger is
4 permitted board the flight;

5 (2) provide functions similar to the advanced
6 passenger information system established under sec-
7 tion 431 of the Tariff Act of 1930 (19 U.S.C.
8 1431); and

9 (3) make use of machine-readable data ele-
10 ments on passports and other travel and entry docu-
11 ments in a manner consistent with international
12 standards.

13 (c) OPERATION.—The pilot program shall be con-
14 ducted—

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

16 (2) in collaboration with not fewer than one air
17 carrier at each airport participating in the pilot pro-
18 gram.

19 (d) EVALUATION OF AUTOMATED SYSTEMS.—In con-
20 ducting the pilot program, the Secretary shall evaluate not
21 more than 3 automated systems. One or more of such sys-
22 tems shall be commercially available and currently in use
23 to prescreen passengers.

24 (e) PRIVACY PROTECTION.—The Secretary shall en-
25 sure that the passenger data is collected under the pilot

1 program in a manner consistent with the standards estab-
2 lished under section 552a of title 5, United States Code.

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

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

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

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

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

24 (3) Cost projections for implementation of each
25 tested system, including—

1 (A) projected costs to the Department of
2 Homeland Security; and

3 (B) projected costs of compliance to air
4 carriers operating flights described in sub-
5 section (a).

6 (4) A determination as to which tested system
7 is the best-performing and most efficient system to
8 ensure immediate prescreening of international pas-
9 sengers. Such determination shall be made after con-
10 sultation with individuals in the private sector hav-
11 ing expertise in airline industry, travel, tourism, pri-
12 vacy, national security, or computer security issues.

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

16 **SEC. 303. INTERNATIONAL COOPERATIVE EFFORTS.**

17 To ensure that the collection of passenger informa-
18 tion is standardized among nations, the Secretary of
19 Homeland Security is encouraged to pursue international
20 cooperative efforts in the appropriate forum to set tech-
21 nology standards for passenger data and collection sys-
22 tems.

1 **SEC. 304. COMPUTER ASSISTED PASSENGER**
2 **PRESCREENING SYSTEM.**

3 (a) REPORT.—Not later than 6 months after the date
4 of enactment of this Act, the Assistant Secretary for
5 Homeland Security (Transportation Security Administra-
6 tion) shall submit to the Committee on Homeland Security
7 of the House of Representatives and the Committees on
8 Homeland Security and Governmental Affairs and Com-
9 merce, Science, and Transportation of the Senate a report
10 containing—

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

16 (2) information on the percentage of such air-
17 line passengers that have been found to be terrorists
18 or associates of terrorists;

19 (3) information on the annual cost of admin-
20 istering CAPPS; and

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

24 (b) FORM OF REPORT.—The report prepared under
25 this section may be submitted in a classified form.

1 (c) LIMITATION ON SECONDARY SCREENING.—The
2 Assistant Secretary, in cooperation with appropriate Fed-
3 eral agencies and the representatives of the aviation indus-
4 try, shall develop a process to ensure that a passenger who
5 has successfully completed a finger-print based back-
6 ground check conducted by the Department of Homeland
7 Security, or holds a security clearance issued by the De-
8 partment of Homeland Security, is not subject to sec-
9 ondary screening as the result of a designation under
10 CAPPS.

11 **SEC. 305. SECURE FLIGHT PROGRAM.**

12 (a) NON-FEDERAL DATA.—Not later than 90 days
13 after the date of enactment of this Act, the Secretary of
14 Homeland Security shall begin to use data obtained from
15 non-Federal sources to instantaneously verify or disprove
16 the identity of an individual who as a result of implemen-
17 tation of the Secure Flight program (or any successor pro-
18 gram related to advanced passenger prescreening) is de-
19 layed or prohibited from boarding an aircraft or is other-
20 wise determined to pose a security threat.

21 (b) LIMITATION.—The Secretary shall not purchase,
22 compile, obtain, or otherwise possess any data obtained
23 from non-Federal sources to verify or disprove the identity
24 of an individual under subsection (a), other than data pro-

1 vided by an individual for the purpose of determining the
 2 individual's identity.

3 **TITLE IV—MISCELLANEOUS** 4 **PROVISIONS**

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

6 (a) TRAINING AND REQUALIFICATION TRAINING.—
 7 Section 44921(c) of title 49, United States Code, is
 8 amended by adding at the end the following:

9 “(3) DATES OF TRAINING.—The Secretary shall
 10 ensure that a pilot who is eligible to receive Federal
 11 flight deck officer training is offered, to the max-
 12 imum extent practicable, a choice of training dates
 13 and is provided at least 30 days advance notice of
 14 the dates.

15 “(4) TRAVEL TO TRAINING FACILITIES.—The
 16 Secretary shall establish a program to improve travel
 17 access to Federal flight deck officer training facili-
 18 ties through the use of charter flights or improved
 19 scheduled air carrier service.

20 “(5) REQUALIFICATION AND RECURRENT
 21 TRAINING.—

22 “(A) STANDARDS.—The Secretary shall es-
 23 tablish qualification standards for facilities
 24 where Federal flight deck officers can receive
 25 requalification and recurrent training.

1 “(B) LOCATIONS.—The Secretary shall
2 provide for requalification and recurrent train-
3 ing at geographically diverse facilities, including
4 Federal, State, and local law enforcement and
5 government facilities, and private training fa-
6 cilities that meet the qualification standards es-
7 tablished under subparagraph (A).

8 “(6) COSTS OF TRAINING.—

9 “(A) IN GENERAL.—The Secretary shall
10 provide Federal flight deck officer training, re-
11 qualification training, and recurrent training to
12 eligible pilots at no cost to the pilots or the air
13 carriers that employ the pilots.

14 “(B) TRANSPORTATION AND EXPENSES.—

15 The Secretary may provide travel expenses to a
16 pilot receiving Federal flight deck officer train-
17 ing, requalification training, or recurrent train-
18 ing.

19 “(7) COMMUNICATIONS.—Not later than 180
20 days after the date of enactment of this paragraph,
21 the Secretary shall establish a secure means for per-
22 sonnel of the Transportation Security Administra-
23 tion to communicate with Federal flight deck offi-
24 cers, and for Federal flight deck officers to commu-
25 nicate with each other, in support of the mission of

1 such officers. Such means of communication may in-
2 clude a secure Internet website.”.

3 (b) REVOCATION OF DEPUTIZATION OF PILOT AS
4 FEDERAL FLIGHT DECK OFFICER.—Section 44921(d)(4)
5 of title 49, United States Code, is amended to read as
6 follows:

7 “(4) REVOCATION.—

8 “(A) ORDERS.—The Assistant Secretary of
9 Homeland Security (Transportation Security
10 Administration) may issue, for good cause, an
11 order revoking the deputization of a Federal
12 flight deck officer under this section. The order
13 shall include the specific reasons for the revoca-
14 tion.

15 “(B) HEARINGS.—An individual who is ad-
16 versely affected by an order of the Assistant
17 Secretary under subparagraph (A) is entitled to
18 a hearing on the record. When conducting a
19 hearing under this section, the administrative
20 law judge shall not be bound by findings of fact
21 or interpretations of laws and regulations of the
22 Assistant Secretary.

23 “(C) APPEALS.—An appeal from a deci-
24 sion of an administrative law judge as a result
25 of a hearing under subparagraph (B) shall be

1 made to the Secretary or the Secretary's des-
2 ignee.

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

14 (c) FEDERAL FLIGHT DECK OFFICER FIREARM CAR-
15 RIAGE PILOT PROGRAM.—Section 44921(f) of title 49,
16 United States Code, is amended by adding at the end the
17 following:

18 “(4) PILOT PROGRAM.—

19 “(A) IN GENERAL.—Not later than 90
20 days after the date of enactment of this para-
21 graph, the Secretary shall implement a pilot
22 program to allow pilots participating in the
23 Federal flight deck officer program to transport
24 their firearms on their persons. The Secretary
25 may prescribe any training, equipment, or pro-

cedures that the Secretary determines necessary to ensure safety and maximize weapon retention.

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

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

(d) FEDERAL FLIGHT DECK OFFICERS ON INTERNATIONAL FLIGHTS.—

(1) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The President is encouraged to pursue aggressively agreements with foreign governments to

1 allow maximum deployment of Federal flight deck
2 officers on international flights.

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

9 (e) REFERENCES TO UNDER SECRETARY.—Section
10 44921 of title 49, United States Code, is amended—

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

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

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

○