

EXHIBIT 21

PUBLIC LAW 107–71—NOV. 19, 2001

115 STAT. 597

Public Law 107–71
107th Congress

An Act

To improve aviation security, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Aviation and Transportation
Security Act”.

Nov. 19, 2001

[S. 1447]

Aviation and
Transportation
Security Act.
49 USC 40101
note.

TITLE I—AVIATION SECURITY

SEC. 101. TRANSPORTATION SECURITY ADMINISTRATION.

(a) IN GENERAL.—Chapter 1 of title 49, United States Code,
is amended by adding at the end the following:

“§ 114. Transportation Security Administration

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

“(b) UNDER SECRETARY.—

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

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

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

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

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

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

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

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

“(2) security responsibilities over other modes of transpor-
tation that are exercised by the Department of Transportation.

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

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

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

“(3) train and test security screening personnel; and

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

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

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

“(2) assess threats to transportation;

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

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

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

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

“(7) enforce security-related regulations and requirements;

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

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

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

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

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

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

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

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

“(g) NATIONAL EMERGENCY RESPONSIBILITIES.—

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

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

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

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

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

“(2) AUTHORITY OF OTHER DEPARTMENTS AND AGENCIES.—

The authority of the Under Secretary under this subsection shall not supersede the authority of any other department or agency of the Federal Government under law with respect to transportation or transportation-related matters, whether or not during a national emergency.

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

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

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

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

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

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

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

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

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

“(j) ACQUISITIONS.—

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

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

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

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

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

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

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

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

“(l) REGULATIONS.—

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

“(2) EMERGENCY PROCEDURES.—

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

“(B) REVIEW BY TRANSPORTATION SECURITY OVERSIGHT BOARD.—Any regulation or security directive issued under this paragraph shall be subject to review by the Transportation Security Oversight Board established under section 115. Any regulation or security directive issued under this paragraph shall remain effective unless disapproved by the Board or rescinded by the Under Secretary.

“(3) FACTORS TO CONSIDER.—In determining whether to issue, rescind, or revise a regulation under this section, the Under Secretary shall consider, as a factor in the final determination, whether the costs of the regulation are excessive in relation to the enhancement of security the regulation will

provide. The Under Secretary may waive requirements for an analysis that estimates the number of lives that will be saved by the regulation and the monetary value of such lives if the Under Secretary determines that it is not feasible to make such an estimate.

“(4) AIRWORTHINESS OBJECTIONS BY FAA.—

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

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

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

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

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

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

“(o) ACQUISITION MANAGEMENT SYSTEM.—The acquisition management system established by the Administrator of the Federal Aviation Administration under section 40110 shall apply to acquisitions of equipment, supplies, and materials by the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary may make such modifications to the acquisition management system with respect to such acquisitions of equipment, supplies, and materials as the Under Secretary considers appropriate, such as adopting aspects of other acquisition management systems of the Department of Transportation.

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

“(q) LAW ENFORCEMENT POWERS.—

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

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

“(A) carry a firearm;

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

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

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

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

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

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following:

“114. Transportation Security Administration.”.

(c) POSITION OF UNDER SECRETARY IN EXECUTIVE SCHEDULE.—

(1) IN GENERAL.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

“The Under Secretary of Transportation for Security.”.

(2) BONUS ELIGIBILITY.—In addition to the annual rate of pay authorized by section 5313 of title 5, United States Code, the Under Secretary may receive a bonus for any calendar year not to exceed 30 percent of the annual rate of pay, based on the Secretary’s evaluation of the Under Secretary’s performance.

(3) CONFORMING CHANGE.—Section 106(r)(2)(A) of title 49, United States Code, is amended to read as follows:

“(A) IN GENERAL.—The Chief Operating Officer shall be paid at an annual rate of basic pay to be determined by the Administrator, with the approval of the Air Traffic Services Subcommittee of the Aviation Management Advisory Council. The annual rate may not exceed the annual compensation paid under section 102 of title 3. The Chief Operating Officer shall be subject to the post-employment provisions of section 207 of title 18 as if the position of Chief Operating Officer were described in section 207(c)(2)(A)(i) of that title.”.

(d) COOPERATION WITH OTHER AGENCIES.—The last sentence of section 106(m) of such title is amended by striking “supplies and” and inserting “supplies, personnel, services, and”.

(e) SECURITY AND RESEARCH AND DEVELOPMENT ACTIVITIES.—Section 40119 of such title is amended—

(1) in subsection (a) by striking “Administrator of the Federal Aviation Administration” and inserting “Under Secretary of Transportation for Security”;

(2) in subsections (b) and (c) by striking “Administrator” each place it appears and inserting “Under Secretary”; and

(3) in subsection (b)(1)(C) by striking “air”.

(f) REFERENCES TO FAA IN CHAPTER 449.—Chapter 449 of such title is amended—

(1) in section 44904(b)(5) by striking “the Administration” and inserting “the Transportation Security Administration”;

(2) in the second sentence of section 44913(a)(1) by striking “of the Administration” and inserting “of the Transportation Security Administration”;

(3) in section 44916(a)—

(A) in the first sentence by striking “Administrator” and inserting “Under Secretary of Transportation for Security”; and

(B) in the second sentence by striking “Administration” and inserting “Transportation Security Administration”;

(4) in each of sections 44933(a) and 44934(b) by striking “Assistant Administrator for Civil Aviation Security” and inserting “Under Secretary”;

(5) in section 44934(b)(1) by striking “Assistant Administrator” and inserting “Under Secretary”;

(6) by striking sections 44931 and 44932 and the items relating to such sections in the analysis for such chapter;

(7) by striking “Administrator” each place it appears in such chapter (except in subsections (f) and (h) of section 44936) and inserting “Under Secretary”;

(8) by striking “Administrator’s” each place it appears in such chapter and inserting “Under Secretary’s”; and

(9) by striking “of the Federal Aviation Administration” each place it appears in such chapter (except in section 44936(f)) and inserting “of Transportation for Security”.

(g) TRANSITION PROVISIONS.—

(1) SCHEDULE FOR ASSUMPTION OF CIVIL AVIATION SECURITY FUNCTIONS.—Not later than 3 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall assume civil aviation security functions and responsibilities under chapter 449 of title 49, United States Code, as amended by this Act, in accordance with a schedule to be developed by the Secretary of Transportation, in consultation with air carriers, foreign air carriers, and the Administrator of the Federal Aviation Administration. The Under Secretary shall publish an appropriate notice of the transfer of such security functions and responsibilities before assuming the functions and responsibilities.

(2) ASSUMPTION OF CONTRACTS.—As of the date specified in paragraph (1), the Under Secretary may assume the rights and responsibilities of an air carrier or foreign air carrier contract for provision of passenger screening services at airports in the United States described in section 44903(c), subject to

49 USC 44901–
44906, 44911–
44916, 44934–
44938.

49 USC 44903.

49 USC 44902–
44906, 44911–
44915, 44934–
44938.

49 USC 44901
note.

Deadline.

Notice.

payment of adequate compensation to parties to the contract, if any.

(3) ASSIGNMENT OF CONTRACTS.—

(A) IN GENERAL.—Upon request of the Under Secretary, an air carrier or foreign air carrier carrying out a screening or security function under chapter 449 of title 49, United States Code, may enter into an agreement with the Under Secretary to transfer any contract the carrier has entered into with respect to carrying out the function, before the Under Secretary assumes responsibility for the function.

(B) SCHEDULE.—The Under Secretary may enter into an agreement under subparagraph (A) as soon as possible, but not later than 90 days after the date of enactment of this Act. The Under Secretary may enter into such an agreement for one 180-day period and may extend such agreement for one 90-day period if the Under Secretary determines it necessary.

(4) TRANSFER OF OWNERSHIP.—In recognition of the assumption of the financial costs of security screening of passengers and property at airports, and as soon as practical after the date of enactment of this Act, air carriers may enter into agreements with the Under Secretary to transfer the ownership, at no cost to the United States Government, of any personal property, equipment, supplies, or other material associated with such screening, regardless of the source of funds used to acquire the property, that the Secretary determines to be useful for the performance of security screening of passengers and property at airports.

(5) PERFORMANCE OF UNDER SECRETARY'S FUNCTIONS DURING INTERIM PERIOD.—Until the Under Secretary takes office, the functions of the Under Secretary that relate to aviation security may be carried out by the Secretary or the Secretary's designee.

SEC. 102. TRANSPORTATION SECURITY OVERSIGHT BOARD.

(a) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

“§ 115. Transportation Security Oversight Board

“(a) IN GENERAL.—There is established in the Department of Transportation a board to be known as the ‘Transportation Security Oversight Board’.

“(b) MEMBERSHIP.—

“(1) NUMBER AND APPOINTMENT.—The Board shall be composed of 7 members as follows:

“(A) The Secretary of Transportation, or the Secretary's designee.

“(B) The Attorney General, or the Attorney General's designee.

“(C) The Secretary of Defense, or the Secretary's designee.

“(D) The Secretary of the Treasury, or the Secretary's designee.

“(E) The Director of the Central Intelligence Agency, or the Director's designee.

“(F) One member appointed by the President to represent the National Security Council.

Establishment.

“(G) One member appointed by the President to represent the Office of Homeland Security.

“(2) CHAIRPERSON.—The Chairperson of the Board shall be the Secretary of Transportation.

“(c) DUTIES.—The Board shall—

“(1) review and ratify or disapprove any regulation or security directive issued by the Under Secretary of Transportation for security under section 114(l)(2) within 30 days after the date of issuance of such regulation or directive;

“(2) facilitate the coordination of intelligence, security, and law enforcement activities affecting transportation;

“(3) facilitate the sharing of intelligence, security, and law enforcement information affecting transportation among Federal agencies and with carriers and other transportation providers as appropriate;

“(4) explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security;

“(5) review plans for transportation security;

“(6) make recommendations to the Under Secretary regarding matters reviewed under paragraph (5).

“(d) QUARTERLY MEETINGS.—The Board shall meet at least quarterly.

“(e) CONSIDERATION OF SECURITY INFORMATION.—A majority of the Board may vote to close a meeting of the Board to the public, except that meetings shall be closed to the public whenever classified, sensitive security information, or information protected in accordance with section 40119(b), will be discussed.”.

(b) POLICIES AND PROCEDURES.—Section 44911(b) of such title is amended by striking “international”.

(c) STRATEGIC PLANNING.—Section 44911(c) of such title is amended by striking “consider placing” and inserting “place”.

(d) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following:

“115. Transportation Security Oversight Board.”.

SEC. 103. FEDERAL SECURITY MANAGERS.

Section 44933 of title 49, United States Code, is amended to read as follows:

“§ 44933. Federal Security Managers

“(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Under Secretary of Transportation for Security shall establish the position of Federal Security Manager at each airport in the United States described in section 44903(c). The Under Secretary shall designate individuals as Managers for, and station those Managers at, those airports.

“(b) DUTIES AND POWERS.—The Manager at each airport shall—

“(1) oversee the screening of passengers and property at the airport; and

“(2) carry out other duties prescribed by the Under Secretary.”.

SEC. 104. IMPROVED FLIGHT DECK INTEGRITY MEASURES.

(a) IN GENERAL.—As soon as possible after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

49 USC 44903
note.

(1) issue an order (without regard to the provisions of chapter 5 of title 5, United States Code)—

(A) prohibiting access to the flight deck of aircraft engaged in passenger air transportation or intrastate air transportation that are required to have a door between the passenger and pilot compartments under title 14, Code of Federal Regulations, except to authorized persons;

(B) requiring the strengthening of the flight deck door and locks on any such aircraft operating in air transportation or intrastate air transportation that has a rigid door in a bulkhead between the flight deck and the passenger area to ensure that the door cannot be forced open from the passenger compartment;

(C) requiring that such flight deck doors remain locked while any such aircraft is in flight except when necessary to permit access and egress by authorized persons; and

(D) prohibiting the possession of a key to any such flight deck door by any member of the flight crew who is not assigned to the flight deck; and

(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the aircraft.

(b) IMPLEMENTATION OF OTHER METHODS.—As soon as possible after such date of enactment, the Administrator of the Federal Aviation Administration may develop and implement methods—

(1) to use video monitors or other devices to alert pilots in the flight deck to activity in the cabin, except that the use of such monitors or devices shall be subject to nondisclosure requirements applicable to cockpit video recordings under section 1114(c);

(2) to ensure continuous operation of an aircraft transponder in the event of an emergency; and

(3) to revise the procedures by which cabin crews of aircraft can notify flight deck crews of security breaches and other emergencies, including providing for the installation of switches or other devices or methods in an aircraft cabin to enable flight crews to discreetly notify the pilots in the case of a security breach occurring in the cabin.

(c) COMMUTER AIRCRAFT.—The Administrator shall investigate means of securing the flight deck of scheduled passenger aircraft operating in air transportation or intrastate air transportation that do not have a rigid fixed door with a lock between the passenger compartment and the flight deck and issue such an order as the Administrator deems appropriate to ensure the inaccessibility, to the greatest extent feasible, of the flight deck while the aircraft is so operating, taking into consideration such aircraft operating in regions where there is minimal threat to aviation security or national security.

SEC. 105. DEPLOYMENT OF FEDERAL AIR MARSHALS.

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

“§ 44917. Deployment of Federal air marshals

“(a) IN GENERAL.—The Under Secretary of Transportation for Security under the authority provided by section 44903(d)—

“(1) may provide for deployment of Federal air marshals on every passenger flight of air carriers in air transportation or intrastate air transportation;

“(2) shall provide for deployment of Federal air marshals on every such flight determined by the Secretary to present high security risks;

“(3) shall provide for appropriate training, supervision, and equipment of Federal air marshals;

“(4) shall require air carriers providing flights described in paragraph (1) to provide seating for a Federal air marshal on any such flight without regard to the availability of seats on the flight and at no cost to the United States Government or the marshal;

“(5) may require air carriers to provide, on a space-available basis, to an off-duty Federal air marshal a seat on a flight to the airport nearest the marshal’s home at no cost to the marshal or the United States Government if the marshal is traveling to that airport after completing his or her security duties;

“(6) may enter into agreements with Federal, State, and local agencies under which appropriately-trained law enforcement personnel from such agencies, when traveling on a flight of an air carrier, will carry a firearm and be prepared to assist Federal air marshals;

“(7) shall establish procedures to ensure that Federal air marshals are made aware of any armed or unarmed law enforcement personnel on board an aircraft; and

“(8) may appoint—

“(A) an individual who is a retired law enforcement officer;

“(B) an individual who is a retired member of the Armed Forces; and

“(C) an individual who has been furloughed from an air carrier crew position in the 1-year period beginning on September 11, 2001,

as a Federal air marshal, regardless of age, if the individual otherwise meets the background and fitness qualifications required for Federal air marshals.

“(b) LONG DISTANCE FLIGHTS.—In making the determination under subsection (a)(2), nonstop, long distance flights, such as those targeted on September 11, 2001, should be a priority.

“(c) INTERIM MEASURES.—Until the Under Secretary completes implementation of subsection (a), the Under Secretary may use, after consultation with and concurrence of the heads of other Federal agencies and departments, personnel from those agencies and departments, on a nonreimbursable basis, to provide air marshal service.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 449 of such title is amended by adding after the item relating to section 44916 the following:

“44917. Deployment of Federal air marshals.”.

(c) BASIC PAY DEFINED.—Section 8331(3)(E) of title 5, United States Code, is amended to read as follows:

“(E) availability pay—

“(i) received by a criminal investigator under section 5545a of this title; or

“(ii) received after September 11, 2001, by a Federal air marshal of the Department of Transportation, subject to all restrictions and earning limitations imposed on criminal investigators under section 5545a;”.

SEC. 106. IMPROVED AIRPORT PERIMETER ACCESS SECURITY.

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

“(h) IMPROVED AIRPORT PERIMETER ACCESS SECURITY.—

“(1) IN GENERAL.—The Under Secretary, in consultation with the airport operator and law enforcement authorities, may order the deployment of such personnel at any secure area of the airport as necessary to counter the risk of criminal violence, the risk of aircraft piracy at the airport, the risk to air carrier aircraft operations at the airport, or to meet national security concerns.

“(2) SECURITY OF AIRCRAFT AND GROUND ACCESS TO SECURE AREAS.—In determining where to deploy such personnel, the Under Secretary shall consider the physical security needs of air traffic control facilities, parked aircraft, aircraft servicing equipment, aircraft supplies (including fuel), automobile parking facilities within airport perimeters or adjacent to secured facilities, and access and transition areas at airports served by other means of ground or water transportation.

“(3) DEPLOYMENT OF FEDERAL LAW ENFORCEMENT PERSONNEL.—The Secretary may enter into a memorandum of understanding or other agreement with the Attorney General or the head of any other appropriate Federal law enforcement agency to deploy Federal law enforcement personnel at an airport in order to meet aviation safety and security concerns.

“(4) AIRPORT PERIMETER SCREENING.—The Under Secretary—

“(A) shall require, as soon as practicable after the date of enactment of this subsection, screening or inspection of all individuals, goods, property, vehicles, and other equipment before entry into a secured area of an airport in the United States described in section 44903(c);

“(B) shall prescribe specific requirements for such screening and inspection that will assure at least the same level of protection as will result from screening of passengers and their baggage;

“(C) shall establish procedures to ensure the safety and integrity of—

“(i) all persons providing services with respect to aircraft providing passenger air transportation or intrastate air transportation and facilities of such persons at an airport in the United States described in section 44903(c);

“(ii) all supplies, including catering and passenger amenities, placed aboard such aircraft, including the sealing of supplies to ensure easy visual detection of tampering; and

“(iii) all persons providing such supplies and facilities of such persons;

“(D) shall require vendors having direct access to the airfield and aircraft to develop security programs; and

“(E) may provide for the use of biometric or other technology that positively verifies the identity of each employee and law enforcement officer who enters a secure area of an airport.”.

(b) SMALL AND MEDIUM AIRPORTS.—

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note.

(1) TECHNICAL SUPPORT AND FINANCIAL ASSISTANCE.—The Under Secretary of Transportation for Security shall develop a plan to—

(A) provide technical support to airports, each of which had less than 1 percent of the total annual enplanements in the United States for the most recent calendar year for which data is available, to enhance security operations; and

(B) provide financial assistance to those airports to defray the costs of enhancing security.

(2) REMOVAL OF CERTAIN RESTRICTIONS.—

(A) CERTIFICATION BY OPERATOR.—If the operator of an airport described in paragraph (1), after consultation with the appropriate State and local law enforcement authorities, determines that safeguards are in place to sufficiently protect public safety, and so certifies in writing to the Under Secretary, then any security rule, order, or other directive restricting the parking of passenger vehicles shall not apply at that airport after the applicable time period specified in subparagraph (B), unless the Under Secretary, taking into account individual airport circumstances, notifies the airport operator that the safeguards in place do not adequately respond to specific security risks and that the restriction must be continued in order to ensure public safety.

(B) COUNTERMAND PERIOD.—The time period within which the Secretary may notify an airport operator, after receiving a certification under subparagraph (A), that a restriction must be continued in order to ensure public safety at the airport is—

(i) 15 days for a nonhub airport (as defined in section 41714(h) of title 49, United States Code);

(ii) 30 days for a small hub airport (as defined in such section);

(iii) 60 days for a medium hub airport (as defined in such section); and

(iv) 120 days for an airport that had at least 1 percent of the total annual enplanements in the United States for the most recent calendar year for which data is available.

(c) IMPROVEMENT OF SECURED-AREA ACCESS CONTROL.—Section 44903(g)(2) of title 49, United States Code, is amended—

(1) by striking “weaknesses by January 31, 2001;” in subparagraph (A) and inserting “weaknesses;”;

(2) by striking subparagraph (D) and inserting the following:

“(D) on an ongoing basis, assess and test for compliance with access control requirements, report annually findings of the assessments, and assess the effectiveness of penalties in ensuring compliance with security procedures and take any other appropriate enforcement actions when non-compliance is found;”;

(3) by striking “program by January 31, 2001,” in subparagraph (F) and inserting “program;”; and

(4) by striking subparagraph (G) and inserting the following:

“(G) work with airport operators to strengthen access control points in secured areas (including air traffic control operations areas, maintenance areas, crew lounges, baggage handling areas, concessions, and catering delivery areas) to ensure the security of passengers and aircraft and consider the deployment of biometric or similar technologies that identify individuals based on unique personal characteristics.”

(d) AIRPORT SECURITY PILOT PROGRAM.—Section 44903(c) of title 49, United States Code, is amended by adding at the end the following:

“(3) PILOT PROGRAMS.—The Administrator shall establish pilot programs in no fewer than 20 airports to test and evaluate new and emerging technology for providing access control and other security protections for closed or secure areas of the airports. Such technology may include biometric or other technology that ensures only authorized access to secure areas.”

49 USC 44903
note.

(e) AIRPORT SECURITY AWARENESS PROGRAMS.—The Under Secretary of Transportation for Security shall require scheduled passenger air carriers, and airports in the United States described in section 44903(c) to develop security awareness programs for airport employees, ground crews, gate, ticket, and curbside agents of the air carriers, and other individuals employed at such airports.

SEC. 107. CREW TRAINING.

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

“§ 44918. Crew training

Deadline.

“(a) IN GENERAL.—Not later than 60 days after the date of enactment of the Aviation and Transportation Security Act, the Administrator of the Federal Aviation Administration, in consultation with the Under Secretary of Transportation for Security, appropriate law enforcement, security, and terrorism experts, representatives of air carriers and labor organizations representing individuals employed in commercial aviation, shall develop detailed guidance for a scheduled passenger air carrier flight and cabin crew training program to prepare crew members for potential threat conditions.

“(b) PROGRAM ELEMENTS.—The guidance shall require such a program to include, at a minimum, elements that address the following:

“(1) Determination of the seriousness of any occurrence.

“(2) Crew communication and coordination.

“(3) Appropriate responses to defend oneself.

“(4) Use of protective devices assigned to crew members (to the extent such devices are required by the Administrator or Under Secretary).

“(5) Psychology of terrorists to cope with hijacker behavior and passenger responses.

“(6) Live situational training exercises regarding various threat conditions.

“(7) Flight deck procedures or aircraft maneuvers to defend the aircraft.

“(8) Any other subject matter deemed appropriate by the Administrator.

“(c) AIR CARRIER PROGRAMS.—Within 60 days after the Administrator issues the guidance under subsection (a) in final form, each air carrier shall develop a flight and cabin crew training program in accordance with that guidance and submit it to the Administrator for approval. Within 30 days after receiving an air carrier’s program under this subsection, the Administrator shall review the program and approve it or require the air carrier to make any revisions deemed necessary by the Administrator for the program to meet the guidance requirements. Deadline.

“(d) TRAINING.—Within 180 days after the Administrator approves the training program developed by an air carrier under this section, the air carrier shall complete the training of all flight and cabin crews in accordance with that program. Deadline.

“(e) UPDATES.—The Administrator shall update the training guidance issued under subsection (a) from time to time to reflect new or different security threats and require air carriers to revise their programs accordingly and provide additional training to their flight and cabin crews.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by inserting after the item relating to section 44917 the following:

“44918. Crew training.”.

SEC. 108. SECURITY SCREENING BY PRIVATE COMPANIES.

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

“§ 44919. Security screening pilot program

“(a) ESTABLISHMENT OF PROGRAM.—The Under Secretary shall establish a pilot program under which, upon approval of an application submitted by an operator of an airport, the screening of passengers and property at the airport under section 44901 will be carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary.

“(b) PERIOD OF PILOT PROGRAM.—The pilot program under this section shall begin on the last day of the 1-year period beginning on the date of enactment of this section and end on the last day of the 3-year period beginning on such date of enactment.

“(c) APPLICATIONS.—An operator of an airport may submit to the Under Secretary an application to participate in the pilot program under this section.

“(d) SELECTION OF AIRPORTS.—From among applications submitted under subsection (c), the Under Secretary may select for participation in the pilot program not more than 1 airport from each of the 5 airport security risk categories, as defined by the Under Secretary.

“(e) SUPERVISION OF SCREENED PERSONNEL.—The Under Secretary shall provide Federal Government supervisors to oversee all screening at each airport participating in the pilot program under this section and provide Federal Government law enforcement officers at the airport pursuant to this chapter.

“(f) QUALIFIED PRIVATE SCREENING COMPANY.—A private screening company is qualified to provide screening services at an airport participating in the pilot program under this section

if the company will only employ individuals to provide such services who meet all the requirements of this chapter applicable to Federal Government personnel who perform screening services at airports under this chapter and will provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel in accordance with this chapter.

“(g) STANDARDS FOR PRIVATE SCREENING COMPANIES.—The Under Secretary may enter into a contract with a private screening company to provide screening at an airport participating in the pilot program under this section only if the Under Secretary determines and certifies to Congress that the private screening company is owned and controlled by a citizen of the United States, to the extent that the Under Secretary determines that there are private screening companies owned and controlled by such citizens.

“(h) TERMINATION OF CONTRACTS.—The Under Secretary may terminate any contract entered into with a private screening company to provide screening services at an airport under the pilot program if the Under Secretary finds that the company has failed repeatedly to comply with any standard, regulation, directive, order, law, or contract applicable to the hiring or training of personnel to provide such services or to the provision of screening at the airport.

“(i) ELECTION.—If a contract is in effect with respect to screening at an airport under the pilot program on the last day of the 3-year period beginning on the date of enactment of this section, the operator of the airport may elect to continue to have such screening carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary under section 44920 or by Federal Government personnel in accordance with this chapter.

“§ 44920. Security screening opt-out program

“(a) IN GENERAL.—On or after the last day of the 2-year period beginning on the date on which the Under Secretary transmits to Congress the certification required by section 110(c) of the Aviation and Transportation Security Act, an operator of an airport may submit to the Under Secretary an application to have the screening of passengers and property at the airport under section 44901 to be carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary.

“(b) APPROVAL OF APPLICATIONS.—The Under Secretary may approve any application submitted under subsection (a).

“(c) QUALIFIED PRIVATE SCREENING COMPANY.—A private screening company is qualified to provide screening services at an airport under this section if the company will only employ individuals to provide such services who meet all the requirements of this chapter applicable to Federal Government personnel who perform screening services at airports under this chapter and will provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel in accordance with this chapter.

“(d) STANDARDS FOR PRIVATE SCREENING COMPANIES.—The Under Secretary may enter into a contract with a private screening company to provide screening at an airport under this section

only if the Under Secretary determines and certifies to Congress that—

“(1) the level of screening services and protection provided at the airport under the contract will be equal to or greater than the level that would be provided at the airport by Federal Government personnel under this chapter; and

“(2) the private screening company is owned and controlled by a citizen of the United States, to the extent that the Under Secretary determines that there are private screening companies owned and controlled by such citizens.

“(e) SUPERVISION OF SCREENED PERSONNEL.—The Under Secretary shall provide Federal Government supervisors to oversee all screening at each airport at which screening services are provided under this section and provide Federal Government law enforcement officers at the airport pursuant to this chapter.

“(f) TERMINATION OF CONTRACTS.—The Under Secretary may terminate any contract entered into with a private screening company to provide screening services at an airport under this section if the Under Secretary finds that the company has failed repeatedly to comply with any standard, regulation, directive, order, law, or contract applicable to the hiring or training of personnel to provide such services or to the provision of screening at the airport.”.

(b) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by adding after the item relating to section 44918 the following:

“44919. Security screening pilot program.

“44920. Security screening opt-out program.”.

SEC. 109. ENHANCED SECURITY MEASURES.

49 USC 114 note.

(a) IN GENERAL.—The Under Secretary of Transportation for Security may take the following actions:

(1) Require effective 911 emergency call capability for telephones serving passenger aircraft and passenger trains.

(2) Establish a uniform system of identification for all State and local law enforcement personnel for use in obtaining permission to carry weapons in aircraft cabins and in obtaining access to a secured area of an airport, if otherwise authorized to carry such weapons.

(3) Establish requirements to implement trusted passenger programs and use available technologies to expedite the security screening of passengers who participate in such programs, thereby allowing security screening personnel to focus on those passengers who should be subject to more extensive screening.

(4) In consultation with the Commissioner of the Food and Drug Administration, develop alternative security procedures under which a medical product to be transported on a flight of an air carrier would not be subject to an inspection that would irreversibly damage the product.

(5) Provide for the use of technologies, including wireless and wire line data technologies, to enable the private and secure communication of threats to aid in the screening of passengers and other individuals on airport property who are identified on any State or Federal security-related data base for the purpose of having an integrated response coordination of various authorized airport security forces.

(6) In consultation with the Administrator of the Federal Aviation Administration, consider whether to require all pilot

licenses to incorporate a photograph of the license holder and appropriate biometric imprints.

(7) Provide for the use of voice stress analysis, biometric, or other technologies to prevent a person who might pose a danger to air safety or security from boarding the aircraft of an air carrier or foreign air carrier in air transportation or intrastate air transportation.

(8) Provide for the use of technology that will permit enhanced instant communications and information between airborne passenger aircraft and appropriate individuals or facilities on the ground.

Deadline.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, and annually thereafter until the Under Secretary has implemented or decided not to take each of the actions specified in subsection (a), the Under Secretary shall transmit to Congress a report on the progress of the Under Secretary in evaluating and taking such actions, including any legislative recommendations that the Under Secretary may have for enhancing transportation security.

SEC. 110. SCREENING.

(a) REVIEW AND DEVELOPMENT OF WAYS TO STRENGTHEN SECURITY.—Section 44932(c) of title 49, United States Code, is amended—

(1) by striking “x-ray” in paragraph (4);

(2) by striking “and” at the end of paragraph (4);

(3) by striking “passengers.” in paragraph (5) and inserting “passengers;”; and

(4) by adding at the end the following:

“(6) to strengthen and enhance the ability to detect or neutralize nonexplosive weapons, such as biological, chemical, or similar substances; and

“(7) to evaluate such additional measures as may be appropriate to enhance inspection of passengers, baggage, and cargo.”.

(b) PASSENGERS AND PROPERTY.—Section 44901 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (h); and

(2) by striking subsections (a) and (b) and inserting the following:

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

“(b) SUPERVISION OF SCREENING.—All screening of passengers and property at airports in the United States where screening is required under this section shall be supervised by uniformed Federal personnel of the Transportation Security Administration

who shall have the power to order the dismissal of any individual performing such screening.

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

“(d) EXPLOSIVE DETECTION SYSTEMS.—

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

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

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

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

“(e) MANDATORY SCREENING WHERE EDS NOT YET AVAILABLE.—As soon as practicable but not later than the 60th day following the date of enactment of the Aviation and Transportation Security Act and until the requirements of subsection (b)(1)(A) are met, the Under Secretary shall require alternative means for screening any piece of checked baggage that is not screened by an explosive detection system. Such alternative means may include 1 or more of the following: Deadline.

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

“(2) Manual search.

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

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

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

“(g) DEPLOYMENT OF ARMED PERSONNEL.—

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

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

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

(c) DEADLINE FOR DEPLOYMENT OF FEDERAL SCREENERS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Under Secretary of Transportation for Security shall deploy at all airports in the United States where screening is required under section 44901 of title 49, United States Code, a sufficient number of Federal screeners, Federal Security Managers, Federal security personnel, and Federal law enforcement officers to conduct the screening of all passengers and property under section 44901 of such title at such airports.

(2) CERTIFICATION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Under Secretary shall transmit to Congress a certification that the requirement of paragraph (1) has been met.

(d) REPORTS.—

(1) DEPLOYMENT.—Within 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security shall report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives on the deployment of the systems required by section 44901(c) of title 49, United States Code. The Under Secretary shall include in the report—

(A) an installation schedule;

(B) the dates of installation of each system; and

(C) the date on which each system installed is operational.

(2) SCREENING OF SMALL AIRCRAFT.—Within 1 year after the date of enactment of this Act, the Under Secretary of Transportation for Security shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives on the screening requirements applicable to passengers boarding, and property being carried aboard, aircraft with 60 seats or less used in scheduled passenger service with recommendations for any necessary changes in those requirements.

SEC. 111. TRAINING AND EMPLOYMENT OF SECURITY SCREENING PERSONNEL.

(a) IN GENERAL.—Section 44935 of title 49, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (i); and

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

“(e) SECURITY SCREENERS.—

“(1) TRAINING PROGRAM.—The Under Secretary of Transportation for Security shall establish a program for the hiring and training of security screening personnel.

“(2) HIRING.—

“(A) QUALIFICATIONS.—Within 30 days after the date of enactment of the Aviation and Transportation Security Act, the Under Secretary shall establish qualification standards for individuals to be hired by the United States as security screening personnel. Notwithstanding any

49 USC 44901
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provision of law, those standards shall require, at a minimum, an individual—

“(i) to have a satisfactory or better score on a Federal security screening personnel selection examination;

“(ii) to be a citizen of the United States;

“(iii) to meet, at a minimum, the requirements set forth in subsection (f);

“(iv) to meet such other qualifications as the Under Secretary may establish; and

“(v) to have the ability to demonstrate daily a fitness for duty without any impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

“(B) BACKGROUND CHECKS.—The Under Secretary shall require that an individual to be hired as a security screener undergo an employment investigation (including a criminal history record check) under section 44936(a)(1).

“(C) DISQUALIFICATION OF INDIVIDUALS WHO PRESENT NATIONAL SECURITY RISKS.—The Under Secretary, in consultation with the heads of other appropriate Federal agencies, shall establish procedures, in addition to any background check conducted under section 44936, to ensure that no individual who presents a threat to national security is employed as a security screener.

“(3) EXAMINATION; REVIEW OF EXISTING RULES.—The Under Secretary shall develop a security screening personnel examination for use in determining the qualification of individuals seeking employment as security screening personnel. The Under Secretary shall also review, and revise as necessary, any standard, rule, or regulation governing the employment of individuals as security screening personnel.

“(f) EMPLOYMENT STANDARDS FOR SCREENING PERSONNEL.—

“(1) SCREENER REQUIREMENTS.—Notwithstanding any provision of law, an individual may not be deployed as a security screener unless that individual meets the following requirements:

“(A) The individual shall possess a high school diploma, a general equivalency diploma, or experience that the Under Secretary has determined to be sufficient for the individual to perform the duties of the position.

“(B) The individual shall possess basic aptitudes and physical abilities, including color perception, visual and aural acuity, physical coordination, and motor skills, to the following standards:

“(i) Screeners operating screening equipment shall be able to distinguish on the screening equipment monitor the appropriate imaging standard specified by the Under Secretary.

“(ii) Screeners operating any screening equipment shall be able to distinguish each color displayed on every type of screening equipment and explain what each color signifies.

“(iii) Screeners shall be able to hear and respond to the spoken voice and to audible alarms generated by screening equipment in an active checkpoint environment.

“(iv) Screeners performing physical searches or other related operations shall be able to efficiently and thoroughly manipulate and handle such baggage, containers, and other objects subject to security processing.

“(v) Screeners who perform pat-downs or hand-held metal detector searches of individuals shall have sufficient dexterity and capability to thoroughly conduct those procedures over an individual’s entire body.

“(C) The individual shall be able to read, speak, and write English well enough to—

“(i) carry out written and oral instructions regarding the proper performance of screening duties;

“(ii) read English language identification media, credentials, airline tickets, and labels on items normally encountered in the screening process;

“(iii) provide direction to and understand and answer questions from English-speaking individuals undergoing screening; and

“(iv) write incident reports and statements and log entries into security records in the English language.

“(D) The individual shall have satisfactorily completed all initial, recurrent, and appropriate specialized training required by the security program, except as provided in paragraph (3).

“(2) VETERANS PREFERENCE.—The Under Secretary shall provide a preference for the hiring of an individual as a security screener if the individual is a member or former member of the armed forces and if the individual is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member of the armed forces.

“(3) EXCEPTIONS.—An individual who has not completed the training required by this section may be deployed during the on-the-job portion of training to perform functions if that individual—

“(A) is closely supervised; and

“(B) does not make independent judgments as to whether individuals or property may enter a sterile area or aircraft without further inspection.

“(4) REMEDIAL TRAINING.—No individual employed as a security screener may perform a screening function after that individual has failed an operational test related to that function until that individual has successfully completed the remedial training specified in the security program.

“(5) ANNUAL PROFICIENCY REVIEW.—The Under Secretary shall provide that an annual evaluation of each individual assigned screening duties is conducted and documented. An individual employed as a security screener may not continue to be employed in that capacity unless the evaluation demonstrates that the individual—

“(A) continues to meet all qualifications and standards required to perform a screening function;

“(B) has a satisfactory record of performance and attention to duty based on the standards and requirements in the security program; and

“(C) demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

“(6) OPERATIONAL TESTING.—In addition to the annual proficiency review conducted under paragraph (5), the Under Secretary shall provide for the operational testing of such personnel.

“(g) TRAINING.—

“(1) USE OF OTHER AGENCIES.—The Under Secretary may enter into a memorandum of understanding or other arrangement with any other Federal agency or department with appropriate law enforcement responsibilities, to provide personnel, resources, or other forms of assistance in the training of security screening personnel.

“(2) TRAINING PLAN.—Within 60 days after the date of enactment of the Aviation and Transportation Security Act, the Under Secretary shall develop a plan for the training of security screening personnel. The plan shall require, at a minimum, that a security screener—

“(A) has completed 40 hours of classroom instruction or successfully completed a program that the Under Secretary determines will train individuals to a level of proficiency equivalent to the level that would be achieved by such classroom instruction;

“(B) has completed 60 hours of on-the-job instructions; and

“(C) has successfully completed an on-the-job training examination prescribed by the Under Secretary.

“(3) EQUIPMENT-SPECIFIC TRAINING.—An individual employed as a security screener may not use any security screening device or equipment in the scope of that individual’s employment unless the individual has been trained on that device or equipment and has successfully completed a test on the use of the device or equipment.

“(h) TECHNOLOGICAL TRAINING.—

“(1) IN GENERAL.—The Under Secretary shall require training to ensure that screeners are proficient in using the most up-to-date new technology and to ensure their proficiency in recognizing new threats and weapons.

“(2) PERIODIC ASSESSMENTS.—The Under Secretary shall make periodic assessments to determine if there are dual use items and inform security screening personnel of the existence of such items.

“(3) CURRENT LISTS OF DUAL USE ITEMS.—Current lists of dual use items shall be part of the ongoing training for screeners.

“(4) DUAL USE DEFINED.—For purposes of this subsection, the term ‘dual use’ item means an item that may seem harmless but that may be used as a weapon.

“(i) LIMITATION ON RIGHT TO STRIKE.—An individual that screens passengers or property, or both, at an airport under this section may not participate in a strike, or assert the right to strike, against the person (including a governmental entity) employing such individual to perform such screening.

“(j) UNIFORMS.—The Under Secretary shall require any individual who screens passengers and property pursuant to section

44901 to be attired while on duty in a uniform approved by the Under Secretary.”

(b) CONFORMING AMENDMENTS.—Section 44936(a)(1) of title 49, United States Code, is amended—

(1) in subparagraph (A) by inserting “as a security screener under section 44935(e) or a position” after “a position”; and

(2) in subparagraph (E) by striking clause (iv).

49 USC 44935
note.

(c) TRANSITION.—The Under Secretary of Transportation for Security shall complete the full implementation of section 44935 (e), (f), (g), and (h) of title 49, United States Code, as amended by subsection (a), as soon as is practicable. The Under Secretary may make or continue such arrangements for the training of security screeners under that section as the Under Secretary determines necessary pending full implementation of that section as so amended.

49 USC 44935
note.

(d) SCREENER PERSONNEL.—Notwithstanding any other provision of law, the Under Secretary of Transportation for Security may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of individuals as the Under Secretary determines to be necessary to carry out the screening functions of the Under Secretary under section 44901 of title 49, United States Code. The Under Secretary shall establish levels of compensation and other benefits for individuals so employed.

SEC. 112. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 44912(b)(1) of title 49, United States Code, is amended—

(1) by striking “complete an intensive review of” and inserting “periodically review”;

(2) by striking “commercial aircraft in service and expected to be in service in the 10-year period beginning on November 16, 1990;” in subparagraph (B) and inserting “aircraft in air transportation;” and

(3) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively, and inserting after subparagraph (C) the following:

“(D) the potential release of chemical, biological, or similar weapons or devices either within an aircraft or within an airport;”

(b) ADDITIONAL MATTERS REGARDING RESEARCH AND DEVELOPMENT.—

(1) ADDITIONAL PROGRAM REQUIREMENTS.—Subsection (a) of section 44912 of title 49, United States Code, is amended—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

“(4)(A) In carrying out the program established under this subsection, the Administrator shall designate an individual to be responsible for engineering, research, and development with respect to security technology under the program.

“(B) The individual designated under subparagraph (A) shall use appropriate systems engineering and risk management models in making decisions regarding the allocation of funds for engineering, research, and development with respect to security technology under the program.

“(C) The individual designated under subparagraph (A) shall, on an annual basis, submit to the Research, Engineering and Development Advisory Committee a report on activities under this paragraph during the preceding year. Each report shall include, for the year covered by such report, information on—

Reports.

“(i) progress made in engineering, research, and development with respect to security technology;

“(ii) the allocation of funds for engineering, research, and development with respect to security technology; and

“(iii) engineering, research, and development with respect to any technologies drawn from other agencies, including the rationale for engineering, research, and development with respect to such technologies.”.

(2) REVIEW OF THREATS.—Subsection (b)(1) of that section is further amended—

(A) by redesignating subparagraphs (A) through (G) as subparagraphs (B) through (H) respectively; and

(B) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

“(A) a comprehensive systems analysis (employing vulnerability analysis, threat attribute definition, and technology roadmaps) of the civil aviation system, including—

“(i) the destruction, commandeering, or diversion of civil aircraft or the use of civil aircraft as a weapon; and

“(ii) the disruption of civil aviation service, including by cyber attack;”.

(3) SCIENTIFIC ADVISORY PANEL.—Subsection (c) of that section is amended to read as follows:

“(c) SCIENTIFIC ADVISORY PANEL.—(1) The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering, and Development Advisory Committee, to review, comment on, advise the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft, commercial aviation facilities, commercial aviation personnel and passengers, and other components of the commercial aviation system by the next generation of terrorist weapons.

Establishment.

“(2)(A) The advisory panel shall consist of individuals who have scientific and technical expertise in—

“(i) the development and testing of effective explosive detection systems;

“(ii) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective explosive detection technology must be capable of detecting;

“(iii) technologies involved in minimizing airframe damage to aircraft from explosives; and

“(iv) other scientific and technical areas the Administrator considers appropriate.

“(B) In appointing individuals to the advisory panel, the Administrator should consider individuals from academia and the national laboratories, as appropriate.

“(3) The Administrator shall organize the advisory panel into teams capable of undertaking the review of policies and technologies upon request.

“(4) Not later than 90 days after the date of the enactment of the Aviation and Transportation Security Act, and every two

Deadline.

years thereafter, the Administrator shall review the composition of the advisory panel in order to ensure that the expertise of the individuals on the panel is suited to the current and anticipated duties of the panel.”.

SEC. 113. FLIGHT SCHOOL SECURITY.

(a) **IN GENERAL.**—Subchapter II of chapter 449 of title 49, United States Code, is amended by adding at the end the following new section:

“§ 44939. Training to operate certain aircraft

“(a) **WAITING PERIOD.**—A person subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of 12,500 pounds or more to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Under Secretary of Transportation for Security only if—

“(1) that person has first notified the Attorney General that the individual has requested such training and furnished the Attorney General with that individual’s identification in such form as the Attorney General may require; and

Deadline.

“(2) the Attorney General has not directed, within 45 days after being notified under paragraph (1), that person not to provide the requested training because the Attorney General has determined that the individual presents a risk to aviation or national security.

“(b) **INTERRUPTION OF TRAINING.**—If the Attorney General, more than 45 days after receiving notification under subsection (a) from a person providing training described in subsection (a), determines that the individual presents a risk to aviation or national security, the Attorney General shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

“(c) **COVERED TRAINING.**—For the purposes of subsection (a), training includes in-flight training, training in a simulator, and any other form or aspect of training.

“(d) **SECURITY AWARENESS TRAINING FOR EMPLOYEES.**—The Under Secretary shall require flight schools to conduct a security awareness program for flight school employees to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“44939. Training to operate certain aircraft.”.

49 USC 44939
note.

(c) **INTERNATIONAL COOPERATION.**—The Secretary of Transportation, in consultation with the Secretary of State, shall work with the International Civil Aviation Organization and the civil aviation authorities of other countries to improve international aviation security through screening programs for flight instruction candidates.

49 USC 44939
note.

(d) **EFFECTIVE DATE.**—The amendment made by subsection (a) applies to applications for training received after the date of enactment of this Act.

SEC. 114. INCREASED PENALTIES FOR INTERFERENCE WITH SECURITY PERSONNEL.

(a) IN GENERAL.—Chapter 465 of title 49, United States Code, is amended by inserting after section 46502 the following:

“§ 46503. Interference with security screening personnel

“An individual in an area within a commercial service airport in the United States who, by assaulting a Federal, airport, or air carrier employee who has security duties within the airport, interferes with the performance of the duties of the employee or lessens the ability of the employee to perform those duties, shall be fined under title 18, imprisoned for not more than 10 years, or both. If the individual used a dangerous weapon in committing the assault or interference, the individual may be imprisoned for any term of years or life imprisonment.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 465 of such title is amended by inserting after the item relating to section 46502 the following:

“46503. Interference with security screening personnel.”

SEC. 115. PASSENGER MANIFESTS.

Section 44909 is amended by adding at the end the following: 49 USC 44909.

“(c) FLIGHTS IN FOREIGN AIR TRANSPORTATION TO THE UNITED STATES.—

“(1) IN GENERAL.—Not later than 60 days after the date of enactment of the Aviation and Transportation Security Act, each air carrier and foreign air carrier operating a passenger flight in foreign air transportation to the United States shall provide to the Commissioner of Customs by electronic transmission a passenger and crew manifest containing the information specified in paragraph (2). Carriers may use the advanced passenger information system established under section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) to provide the information required by the preceding sentence. Deadline.

“(2) INFORMATION.—A passenger and crew manifest for a flight required under paragraph (1) shall contain the following information:

“(A) The full name of each passenger and crew member.

“(B) The date of birth and citizenship of each passenger and crew member.

“(C) The sex of each passenger and crew member.

“(D) The passport number and country of issuance of each passenger and crew member if required for travel.

“(E) The United States visa number or resident alien card number of each passenger and crew member, as applicable.

“(F) Such other information as the Under Secretary, in consultation with the Commissioner of Customs, determines is reasonably necessary to ensure aviation safety.

“(3) PASSENGER NAME RECORDS.—The carriers shall make passenger name record information available to the Customs Service upon request.

“(4) TRANSMISSION OF MANIFEST.—Subject to paragraph (5), a passenger and crew manifest required for a flight under paragraph (1) shall be transmitted to the Customs Service in advance of the aircraft landing in the United States in such manner, time, and form as the Customs Service prescribes.

“(5) TRANSMISSION OF MANIFESTS TO OTHER FEDERAL AGENCIES.—Upon request, information provided to the Under Secretary or the Customs Service under this subsection may be shared with other Federal agencies for the purpose of protecting national security.”.

49 USC 41309
note.

SEC. 116. AIR TRANSPORTATION ARRANGEMENTS IN CERTAIN STATES.

(a) **IN GENERAL.**—Notwithstanding any provision of section 41309(a) of title 49, United States Code, to the contrary, air carriers providing air transportation on flights which both originate and terminate at points within the same State may file an agreement, request, modification, or cancellation of an agreement within the scope of that section with the Secretary of Transportation upon a declaration by the Governor of the State that such agreement, request, modification, or cancellation is necessary to ensure the continuing availability of such air transportation within that State.

(b) **APPROVAL OF SECRETARY.**—The Secretary may approve any such agreement, request, modification, or cancellation and grant an exemption under section 41308(c) of title 49, United States Code, to the extent necessary to effectuate such agreement, request, modification, or cancellation, without regard to the provisions of section 41309(b) or (c) of that title.

(c) **PUBLIC INTEREST REQUIREMENT.**—The Secretary may approve such an agreement, request, modification, or cancellation if the Secretary determines that—

(1) the State to which it relates has extraordinary air transportation needs and concerns; and

(2) approval is in the public interest.

(d) **TERMINATION.**—An approval under subsection (b) and an exemption under section 41308(c) of title 49, United States Code, granted under subsection (b) shall terminate on the earlier of the 2 following dates:

(1) A date established by the Secretary in the Secretary’s discretion.

(2) October 1, 2002.

(e) **EXTENSION.**—Notwithstanding subsection (d), if the Secretary determines that it is in the public interest, the Secretary may extend the termination date under subsection (d)(2) until a date no later than October 1, 2003.

(f) **REPORTS.**—If the Secretary approves any such agreement, request, modification, or cancellation under this section and grants an exemption, the Secretary shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives within 6 months describing what actions have been taken by the air carriers to which the exemption was granted. The Secretary shall also notify those committees if the Secretary extends the termination date under subsection (e).

49 USC 44903
note.

SEC. 117. AIRLINE COMPUTER RESERVATION SYSTEMS.

In order to ensure that all airline computer reservation systems maintained by United States air carriers are secure from unauthorized access by persons seeking information on reservations, passenger manifests, or other nonpublic information, the Secretary of Transportation shall require all such air carriers to utilize to the maximum extent practicable the best technology available to secure their computer reservation system against such unauthorized access.

SEC. 118. SECURITY SERVICE FEE.

(a) IN GENERAL.—Subchapter II of chapter 449 is amended by adding at the end the following:

“§ 44940. Security service fee

49 USC 44940
note.

“(a) GENERAL AUTHORITY.—

“(1) PASSENGER FEES.—The Under Secretary of Transportation for Security shall impose a uniform fee, on passengers of air carriers and foreign air carriers in air transportation and intrastate air transportation originating at airports in the United States, to pay for the following costs of providing civil aviation security services:

“(A) Salary, benefits, overtime, retirement and other costs of screening personnel, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations under section 44901.

“(B) The costs of training personnel described in subparagraph (A), and the acquisition, operation, and maintenance of equipment used by such personnel.

“(C) The costs of performing background investigations of personnel described in subparagraphs (A), (D), (F), and (G).

“(D) The costs of the Federal air marshals program.

“(E) The costs of performing civil aviation security research and development under this title.

“(F) The costs of Federal Security Managers under section 44903.

“(G) The costs of deploying Federal law enforcement personnel pursuant to section 44903(h).

The amount of such costs shall be determined by the Under Secretary and shall not be subject to judicial review.

“(2) AIR CARRIER FEES.—

“(A) AUTHORITY.—In addition to the fee imposed pursuant to paragraph (1), and only to the extent that the Under Secretary estimates that such fee will be insufficient to pay for the costs of providing civil aviation security services described in paragraph (1), the Under Secretary may impose a fee on air carriers and foreign air carriers engaged in air transportation and intrastate air transportation to pay for the difference between any such costs and the amount collected from such fee, as estimated by the Under Secretary at the beginning of each fiscal year. The estimates of the Under Secretary under this subparagraph are not subject to judicial review.

“(B) LIMITATIONS.—

“(i) OVERALL LIMIT.—The amounts of fees collected under this paragraph for each fiscal year may not exceed, in the aggregate, the amounts paid in calendar year 2000 by carriers described in subparagraph (A) for screening passengers and property, as determined by the Under Secretary.

“(ii) PER-CARRIER LIMIT.—The amount of fees collected under this paragraph from an air carrier described in subparagraph (A) for each of fiscal years 2002, 2003, and 2004 may not exceed the amount paid in calendar year 2000 by that carrier for screening

passengers and property, as determined by the Under Secretary.

“(iii) ADJUSTMENT OF PER-CARRIER LIMIT.—For fiscal year 2005 and subsequent fiscal years, the per-carrier limitation under clause (ii) may be determined by the Under Secretary on the basis of market share or any other appropriate measure in lieu of actual screening costs in calendar year 2000.

“(iv) FINALITY OF DETERMINATIONS.—Determinations of the Under Secretary under this subparagraph are not subject to judicial review.

“(C) SPECIAL RULE FOR FISCAL YEAR 2002.—The amount of fees collected under this paragraph from any carrier for fiscal year 2002 may not exceed the amounts paid by that carrier for screening passengers and property for a period of time in calendar year 2000 proportionate to the period of time in fiscal year 2002 during which fees are collected under this paragraph.

“(b) SCHEDULE OF FEES.—In imposing fees under subsection (a), the Under Secretary shall ensure that the fees are reasonably related to the Transportation Security Administration’s costs of providing services rendered.

“(c) LIMITATION ON FEE.—Fees imposed under subsection (a)(1) may not exceed \$2.50 per enplanement in air transportation or intrastate air transportation that originates at an airport in the United States, except that the total amount of such fees may not exceed \$5.00 per one-way trip.

“(d) IMPOSITION OF FEE.—

“(1) IN GENERAL.—Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Under Secretary shall impose the fee under subsection (a)(1), and may impose a fee under subsection (a)(2), through the publication of notice of such fee in the Federal Register and begin collection of the fee within 60 days of the date of enactment of this Act, or as soon as possible thereafter.

“(2) SPECIAL RULES PASSENGER FEES.—A fee imposed under subsection (a)(1) through the procedures under subsection (d) shall apply only to tickets sold after the date on which such fee is imposed. If a fee imposed under subsection (a)(1) through the procedures under subsection (d) on transportation of a passenger of a carrier described in subsection (a)(1) is not collected from the passenger, the amount of the fee shall be paid by the carrier.

“(3) SUBSEQUENT MODIFICATION OF FEE.—After imposing a fee in accordance with paragraph (1), the Under Secretary may modify, from time to time through publication of notice in the Federal Register, the imposition or collection of such fee, or both.

“(4) LIMITATION ON COLLECTION.—No fee may be collected under this section except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

“(e) ADMINISTRATION OF FEES.—

“(1) FEES PAYABLE TO UNDER SECRETARY.—All fees imposed and amounts collected under this section are payable to the Under Secretary.

Federal Register,
publication.
Deadline.

Federal Register,
publication.

“(2) FEES COLLECTED BY AIR CARRIER.—A fee imposed under subsection (a)(1) shall be collected by the air carrier or foreign air carrier that sells a ticket for transportation described in subsection (a)(1).

“(3) DUE DATE FOR REMITTANCE.—A fee collected under this section shall be remitted on the last day of each calendar month by the carrier collecting the fee. The amount to be remitted shall be for the calendar month preceding the calendar month in which the remittance is made.

“(4) INFORMATION.—The Under Secretary may require the provision of such information as the Under Secretary decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

“(5) FEE NOT SUBJECT TO TAX.—For purposes of section 4261 of the Internal Revenue Code of 1986 (26 U.S.C. 4261), a fee imposed under this section shall not be considered to be part of the amount paid for taxable transportation.

“(6) COST OF COLLECTING FEE.—No portion of the fee collected under this section may be retained by the air carrier or foreign air carrier for the costs of collecting, handling, or remitting the fee except for interest accruing to the carrier after collection and before remittance.

“(f) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this section—

“(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

“(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

“(3) shall remain available until expended.

“(g) REFUNDS.—The Under Secretary may refund any fee paid by mistake or any amount paid in excess of that required.

“(h) EXEMPTIONS.—The Under Secretary may exempt from the passenger fee imposed under subsection (a)(1) any passenger enplaning at an airport in the United States that does not receive screening services under section 44901 for that segment of the trip for which the passenger does not receive screening.”.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

“44940. Security service fee.”.

(c) SPECIFIC AUTHORIZATION OF APPROPRIATIONS.—

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

“CHAPTER 483—AVIATION SECURITY FUNDING

“Sec.

“48301. Aviation security funding.

“§ 48301. Aviation security funding

“(a) IN GENERAL.—There are authorized to be appropriated for fiscal years 2002, 2003, 2004, and 2005 such sums as may be necessary to carry out chapter 449 and related aviation security activities under this title. Any amounts appropriated pursuant to

this section for fiscal year 2002 shall remain available until expended.

“(b) GRANTS FOR AIRCRAFT SECURITY.—There is authorized to be appropriated \$500,000,000 for fiscal year 2002 to the Secretary of Transportation to make grants to or other agreements with air carriers (including intrastate air carriers) to—

“(1) fortify cockpit doors to deny access from the cabin to the pilots in the cockpit;

“(2) provide for the use of video monitors or other devices to alert the cockpit crew to activity in the passenger cabin;

“(3) ensure continuous operation of the aircraft transponder in the event the crew faces an emergency; and

“(4) provide for the use of other innovative technologies to enhance aircraft security.”.

(2) CONFORMING AMENDMENT.—The subtitle analysis for subtitle VII of title 49, United States Code, is amended by inserting after the item relating to chapter 482 the following:

“483. Aviation Security Funding 48301”.

SEC. 119. INCREASED FUNDING FLEXIBILITY FOR AVIATION SECURITY.

(a) LIMITED USE OF AIRPORT IMPROVEMENT PROGRAM FUNDS.—

(1) AIRPORT DEVELOPMENT FUNDS.—Section 47102(3) of title 49, United States Code, is amended by adding at the end the following:

“(J) in fiscal year 2002, any additional security related activity required by law or by the Secretary after September 11, 2001, and before October 1, 2002.

“(K) in fiscal year 2002 with respect to funds apportioned under section 47114 in fiscal years 2001 and 2002, any activity, including operational activities, of an airport that is not a primary airport if that airport is located within the confines of enhanced class B airspace, as defined by Notice to Airmen FDC 1/0618 issued by the Federal Aviation Administration and the activity was carried out when any restriction in the Notice is in effect.

“(L) in fiscal year 2002, payments for debt service on indebtedness incurred to carry out a project at an airport owned or controlled by the sponsor or at a privately owned or operated airport passenger terminal financed by indebtedness incurred by the sponsor if the Secretary determines that such payments are necessary to prevent a default on the indebtedness.”.

(2) ALLOWABLE COSTS.—Section 47110(b)(2) of title 49, United States Code, is amended—

(A) by striking “or” in subparagraph (B);

(B) by inserting “or” after “executed;” in subparagraph

(C); and

(C) by adding at the end the following:

“(D) if the cost is incurred after September 11, 2001, for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L) and shall not depend upon the date of execution of a grant agreement made under this subchapter;”.

(3) DISCRETIONARY GRANTS.—Section 47115 of title 49, United States Code, is amended by adding at the end the following:

“(i) CONSIDERATIONS FOR PROJECT UNDER EXPANDED SECURITY ELIGIBILITY.—In order to assure that funding under this subchapter is provided to the greatest needs, the Secretary, in selecting a project described in section 47102(3)(J) for a grant, shall consider the non-federal resources available to sponsor, the use of such non-federal resources, and the degree to which the sponsor is providing increased funding for the project.”.

(4) FEDERAL SHARE.—Section 47109(a) of title 49, United States Code, is amended—

(A) by striking “and” in paragraph (3);

(B) by striking “47134.” in paragraph (4) and inserting “47134; and”; and

(C) by adding at the end the following:

“(5) for fiscal year 2002, 100 percent for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L).”.

(5) AIRPORT DEVELOPMENT.—Section 47102(3)(B) of title 49, United States Code, is amended—

(A) by striking “and” at the end of clause (viii);

(B) by striking the period at the end of clause (ix) and inserting “; and”; and

(C) by inserting after clause (ix) the following new clause:

“(x) replacement of baggage conveyor systems, and reconfiguration of terminal baggage areas, that the Secretary determines are necessary to install bulk explosive detection devices.”.

(b) APPORTIONED FUNDS.—For the purpose of carrying out section 47114 of title 49, United States Code, for fiscal year 2003, the Secretary shall use, in lieu of passenger boardings at an airport during the prior calendar year, the greater of—

49 USC 47114
note.

(1) the number of passenger boardings at that airport during 2000; or

(2) the number of passenger boardings at that airport during 2001.

(c) EXPEDITED PROCESSING OF SECURITY-RELATED PFC REQUESTS.—The Administrator of the Federal Aviation Administration shall, to the extent feasible, expedite the processing and approval of passenger facility fee requests under subchapter I of chapter 471 of title 49, United States Code, for projects described in section 47192(3)(J) of title 49, United States Code.

(d) AMENDMENT OF GENERAL FEE SCHEDULE PROVISION.—Section 45301(b)(1)(B) of title 49, United States Code, is amended—

(1) by striking “directly” and inserting “reasonably”;

(2) by striking “Administration’s costs” and inserting “Administration’s costs, as determined by the Administrator,”; and

(3) by adding at the end “The Determination of such costs by the Administrator is not subject to judicial review.”.

SEC. 120. CHEMICAL AND BIOLOGICAL WEAPON DETECTION.

Section 44903(c)(2)(C) of title 49, United States Code, is amended to read as follows:

“(C) MAXIMUM USE OF CHEMICAL AND BIOLOGICAL WEAPON DETECTION EQUIPMENT.—The Secretary of Transportation may require airports to maximize the use of technology and equipment that is designed to detect or neutralize potential chemical or biological weapons.”.

49 USC 44903
note.

SEC. 121. AUTHORIZATION OF FUNDS FOR REIMBURSEMENT OF AIRPORTS FOR SECURITY MANDATES.

(a) **AIRPORT SECURITY.**—There is authorized to be appropriated to the Secretary of Transportation for fiscal years 2002 and 2003 a total of \$1,500,000,000 to reimburse airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers for direct costs incurred by such operators to comply with new, additional, or revised security requirements imposed on such operators by the Federal Aviation Administration or Transportation Security Administration on or after September 11, 2001. Such sums shall remain available until expended.

(b) **DOCUMENTATION OF COSTS; AUDIT.**—The Secretary may not reimburse an airport operator, on-airport parking lot, or vendor of on-airfield direct services to air carriers under this section for any cost for which the airport operator, on-airport parking lot, or vendor of on-airfield direct services does not demonstrate to the satisfaction of the Secretary, using sworn financial statements or other appropriate data, that—

(1) the cost is eligible for reimbursement under subsection (a); and

(2) the cost was incurred by the airport operator, on-airport parking lot, or vendor of on-airfield direct services to air carriers.

The Inspector General of the Department of Transportation and the Comptroller General of the United States may audit such statements and may request any other information necessary to conduct such an audit.

Deadline.

(c) **CLAIM PROCEDURE.**—Within 30 days after the date of enactment of this Act, the Secretary, after consultation with airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers, shall publish in the Federal Register the procedures for filing claims for reimbursement under this section of eligible costs incurred by airport operators.

SEC. 122. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) an airport receiving Federal financial assistance should meet with the tenants of the airport (other than air carriers and foreign air carriers) to discuss adjustments of the rent of the tenants to account for losses in revenue incurred by the tenants on and after September 11, 2001;

(2) an air carrier that received financial assistance under the Air Transportation Safety and System Stabilization Act or under title 49, United States Code, since September 11, 2001, should meet with airport operators to discuss payment of applicable rates, charges, and fees; and

(3) the Federal Aviation Administration should maintain its current restriction on carry-on baggage of 1 bag and 1 personal item.

SEC. 123. AIRPORT IMPROVEMENT PROGRAMS.

49 USC 47106.

(a) **COMPETITION PLAN.**—Section 47106(f) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

“(3) **SPECIAL RULE FOR FISCAL YEAR 2002.**—This subsection does not apply to any passenger facility fee approved, or grant

made, in fiscal year 2002 if the fee or grant is to be used to improve security at a covered airport.”.

(b) CONFORMING AMENDMENT TO AIRPORT AND AIRWAY TRUST FUND.—Section 9502(d)(1)(A) of the Internal Revenue Code of 1986 (relating to airport and airway program) is amended by inserting “or the Aviation and Transportation Security Act” after “21st Century”.

26 USC 9502.

SEC. 124. TECHNICAL CORRECTIONS.

(a) REPORT DEADLINE.—Section 106(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107–42) is amended by striking “February 1, 2001” and inserting “February 1, 2002”.

49 USC 40101 note.

(b) INSURANCE AND REINSURANCE OF AIRCRAFT.—Section 44306(c) (as redesignated by section 201(d) of such Act) is amended by inserting “in the interest of air commerce or national security or” before “to carry out foreign policy”.

49 USC 44306.

(c) FEDERAL CREDIT INSTRUMENTS.—Section 102(c)(2)(A) of such Act is amended by striking “representatives” and inserting “representations”.

49 USC 40101 note.

(d) MAXIMUM AMOUNT OF COMPENSATION PAYABLE PER AIR CARRIER.—Section 103 of such Act is amended by adding at the end the following:

49 USC 40101 note.

“(d) COMPENSATION FOR CERTAIN AIR CARRIERS.—

President.

“(1) SET-ASIDE.—The President may set aside a portion of the amount of compensation payable to air carriers under section 101(a)(2) to provide compensation to classes of air carriers, such as air tour operators and air ambulances (including hospitals operating air ambulances) for whom the application of a distribution formula containing available seat miles as a factor would inadequately reflect their share of direct and incremental losses. The President shall reduce the \$4,500,000,000 specified in subsection (b)(2)(A)(i) by the amount set aside under this subsection.

“(2) DISTRIBUTION OF AMOUNTS.—The President shall distribute the amount set aside under this subsection proportionally among such air carriers based on an appropriate auditable measure, as determined by the President.”.

SEC. 125. ENCOURAGING AIRLINE EMPLOYEES TO REPORT SUSPICIOUS ACTIVITIES.

(a) IN GENERAL.—Subchapter II of chapter 449 of title 49, United States Code, is amended by inserting at the end the following:

“§ 44941. Immunity for reporting suspicious activities

“(a) IN GENERAL.—Any air carrier or foreign air carrier or any employee of an air carrier or foreign air carrier who makes a voluntary disclosure of any suspicious transaction relevant to a possible violation of law or regulation, relating to air piracy, a threat to aircraft or passenger safety, or terrorism, as defined by section 3077 of title 18, United States Code, to any employee or agent of the Department of Transportation, the Department of Justice, any Federal, State, or local law enforcement officer, or any airport or airline security officer shall not be civilly liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, for such disclosure.

“(b) APPLICATION.—Subsection (a) shall not apply to—

“(1) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

“(2) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

“44941. Immunity for reporting suspicious activities.”.

SEC. 126. LESS-THAN-LETHAL WEAPONRY FOR FLIGHT DECK CREWS.

Deadline.

(a) NATIONAL INSTITUTE OF JUSTICE STUDY.—The National Institute of Justice shall assess the range of less-than-lethal weaponry available for use by a flight deck crewmember temporarily to incapacitate an individual who presents a clear and present danger to the safety of the aircraft, its passengers, or individuals on the ground and report its findings and recommendations to the Secretary of Transportation within 90 days after the date of enactment of this Act.

(b) ARMING FLIGHT DECK CREW.—Section 44903 of title 49, United States Code, is amended by adding at the end the following:

“(h) AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.—

“(1) IN GENERAL.—If the Secretary, after receiving the recommendations of the National Institute of Justice, determines, with the approval of the Attorney General and the Secretary of State, that it is appropriate and necessary and would effectively serve the public interest in avoiding air piracy, the Secretary may authorize members of the flight deck crew on any aircraft providing air transportation or intrastate air transportation to carry a less-than-lethal weapon while the aircraft is engaged in providing such transportation.

“(2) USAGE.—If the Secretary grants authority under paragraph (1) for flight deck crew members to carry a less-than-lethal weapon while engaged in providing air transportation or intrastate air transportation, the Secretary shall—

Regulations.

“(A) prescribe rules requiring that any such crew member be trained in the proper use of the weapon; and

Guidelines.

“(B) prescribe guidelines setting forth the circumstances under which such weapons may be used.”.

49 USC 40101 note.

SEC. 127. MAIL AND FREIGHT WAIVERS.

(a) IN GENERAL.—During a national emergency affecting air transportation or intrastate air transportation, the Secretary of Transportation, after consultation with the Transportation Security Oversight Board, may grant a complete or partial waiver of any restrictions on the carriage by aircraft of freight, mail, emergency medical supplies, personnel, or patients on aircraft, imposed by the Department of Transportation (or other Federal agency or department) that would permit such carriage of freight, mail, emergency medical supplies, personnel, or patients on flights, to, from, or within a State if the Secretary determines that—

(1) extraordinary air transportation needs or concerns exist; and

(2) the waiver is in the public interest, taking into consideration the isolation of and dependence on air transportation of the State.

(b) **LIMITATIONS.**—The Secretary may impose reasonable limitations on any such waiver.

SEC. 128. FLIGHT DECK SECURITY.

49 USC 44903
note.

The pilot of a passenger aircraft operated by an air carrier in air transportation or intrastate air transportation is authorized to carry a firearm into the cockpit if—

- (1) the Under Secretary of Transportation for Security approves;
- (2) the air carrier approves;
- (3) the firearm is approved by the Under Secretary; and
- (4) the pilot has received proper training for the use of the firearm, as determined by the Under Secretary.

SEC. 129. AMENDMENTS TO AIRMEN REGISTRY AUTHORITY.

Section 44703(g) of title 49, United States Code, is amended—

- (1) in the first sentence of paragraph (1)—

(A) by striking “pilots” and inserting “airmen”; and

(B) by striking the period and inserting “and related to combating acts of terrorism.”; and

- (2) by adding at the end, the following new paragraphs:

“(3) For purposes of this section, the term ‘acts of terrorism’ means an activity that involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State, and appears to be intended to intimidate or coerce a civilian population to influence the policy of a government by intimidation or coercion or to affect the conduct of a government by assassination or kidnapping.

“(4) The Administrator is authorized and directed to work with State and local authorities, and other Federal agencies, to assist in the identification of individuals applying for or holding airmen certificates.”.

SEC. 130. RESULTS-BASED MANAGEMENT.

Subchapter II of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“§ 44942. Performance goals and objectives

“(a) **SHORT TERM TRANSITION.**—

“(1) **IN GENERAL.**—Within 180 days after the date of enactment of the Aviation and Transportation Security Act, the Under Secretary for Transportation Security may, in consultation with Congress—

Deadline.

“(A) establish acceptable levels of performance for aviation security, including screening operations and access control, and

“(B) provide Congress with an action plan, containing measurable goals and milestones, that outlines how those levels of performance will be achieved.

“(2) **BASICS OF ACTION PLAN.**—The action plan shall clarify the responsibilities of the Transportation Security Administration, the Federal Aviation Administration and any other agency or organization that may have a role in ensuring the safety and security of the civil air transportation system.

“(b) **LONG-TERM RESULTS-BASED MANAGEMENT.**—

“(1) **PERFORMANCE PLAN AND REPORT.**—

“(A) PERFORMANCE PLAN.—

“(i) Each year, consistent with the requirements of the Government Performance and Results Act of 1993 (GPRA), the Secretary and the Under Secretary for Transportation Security shall agree on a performance plan for the succeeding 5 years that establishes measurable goals and objectives for aviation security. The plan shall identify action steps necessary to achieve such goals.

“(ii) In addition to meeting the requirements of GPRA, the performance plan should clarify the responsibilities of the Secretary, the Under Secretary for Transportation Security and any other agency or organization that may have a role in ensuring the safety and security of the civil air transportation system.

“(B) PERFORMANCE REPORT.—Each year, consistent with the requirements of GPRA, the Under Secretary for Transportation Security shall prepare and submit to Congress an annual report including an evaluation of the extent goals and objectives were met. The report shall include the results achieved during the year relative to the goals established in the performance plan.

“§ 44943. Performance management system

“(a) ESTABLISHING A FAIR AND EQUITABLE SYSTEM FOR MEASURING STAFF PERFORMANCE.—The Under Secretary for Transportation Security shall establish a performance management system which strengthens the organization’s effectiveness by providing for the establishment of goals and objectives for managers, employees, and organizational performance consistent with the performance plan.

“(b) ESTABLISHING MANAGEMENT ACCOUNTABILITY FOR MEETING PERFORMANCE GOALS.—

“(1) IN GENERAL.—Each year, the Secretary and Under Secretary of Transportation for Security shall enter into an annual performance agreement that shall set forth organizational and individual performance goals for the Under Secretary.

“(2) GOALS.—Each year, the Under Secretary and each senior manager who reports to the Under Secretary shall enter into an annual performance agreement that sets forth organization and individual goals for those managers. All other employees hired under the authority of the Under Secretary shall enter into an annual performance agreement that sets forth organization and individual goals for those employees.

“(c) PERFORMANCE-BASED SERVICE CONTRACTING.—To the extent contracts, if any, are used to implement the Aviation Security Act, the Under Secretary for Transportation Security shall, to the extent practical, maximize the use of performance-based service contracts. These contracts should be consistent with guidelines published by the Office of Federal Procurement Policy.”.

SEC. 131. VOLUNTARY PROVISION OF EMERGENCY SERVICES DURING COMMERCIAL FLIGHTS.

(a) IN GENERAL.—Subchapter II of chapter 449 of title 49, United States Code, is amended by adding at the end the following new section:

“§ 44944. Voluntary provision of emergency services

“(a) PROGRAM FOR PROVISION OF VOLUNTARY SERVICES.—

“(1) PROGRAM.—The Under Secretary of Transportation for Transportation Security shall carry out a program to permit qualified law enforcement officers, firefighters, and emergency medical technicians to provide emergency services on commercial air flights during emergencies.

“(2) REQUIREMENTS.—The Under Secretary shall establish such requirements for qualifications of providers of voluntary services under the program under paragraph (1), including training requirements, as the Under Secretary considers appropriate.

“(3) CONFIDENTIALITY OF REGISTRY.—If as part of the program under paragraph (1) the Under Secretary requires or permits registration of law enforcement officers, firefighters, or emergency medical technicians who are willing to provide emergency services on commercial flights during emergencies, the Under Secretary shall take appropriate actions to ensure that the registry is available only to appropriate airline personnel and otherwise remains confidential.

“(4) CONSULTATION.—The Under Secretary shall consult with appropriate representatives of the commercial airline industry, and organizations representing community-based law enforcement, firefighters, and emergency medical technicians, in carrying out the program under paragraph (1), including the actions taken under paragraph (3).

“(b) EXEMPTION FROM LIABILITY.—An individual shall not be liable for damages in any action brought in a Federal or State court that arises from an act or omission of the individual in providing or attempting to provide assistance in the case of an in-flight emergency in an aircraft of an air carrier if the individual meets such qualifications as the Under Secretary shall prescribe for purposes of this section.

“(c) EXCEPTION.—The exemption under subsection (b) shall not apply in any case in which an individual provides, or attempts to provide, assistance described in that paragraph in a manner that constitutes gross negligence or willful misconduct.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“44944. Voluntary provision of emergency services.”.

(c) CONSTRUCTION REGARDING POSSESSION OF FIREARMS.—Nothing in this section may be construed to require any modification of regulations of the Department of Transportation governing the possession of firearms while in aircraft or air transportation facilities or to authorize the possession of a firearm in an aircraft or any such facility not authorized under those regulations.

SEC. 132. GENERAL AVIATION AND AIR CHARTERS.

(a) AIR CHARTER PROGRAM.—Within 90 days after the date of enactment of this Act, the Under Secretary of Transportation

49 USC 44944
note.

Deadline.
49 USC 44903
note.

for Transportation Security shall implement an aviation security program for charter air carriers (as defined in section 40102(a)(13) of title 49, United States Code) with a maximum certificated takeoff weight of 12,500 pounds or more.

Deadline.
Reports.

(b) **GENERAL AVIATION PROGRAM.**—Within 30 days after the date of enactment of this Act, the Under Secretary of Transportation for Transportation Security shall transmit a report on airspace and other security measures that can be deployed, as necessary, to improve general aviation security to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The Under Secretary may submit the report in both classified and redacted forms.

49 USC 40102
note.

SEC. 133. DEFINITIONS.

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

SEC. 134. SENSE OF CONGRESS ON CERTAIN AVIATION MATTERS.

(a) **FLIGHT SERVICE STATION EMPLOYEES.**—It is the sense of Congress that the Administrator of the Federal Aviation Administration should continue negotiating in good faith with flight service station employees of the Administration with a goal of reaching agreement on a contract as soon as possible.

(b) **WAR RISK INSURANCE.**—It is the sense of Congress that the Secretary of Transportation should implement section 202 of the Air Transportation Safety and System Stabilization Act (Public Law 107-42) so as to make war risk insurance directly available to vendors, agents, and subcontractors of air carriers for all of their domestic operations.

SEC. 135. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that—

(1) the Under Secretary of Transportation for Security should develop security procedures to allow passengers transporting a musical instrument on a flight of an air carrier to transport the instrument in the passenger cabin of the aircraft, notwithstanding any size or other restriction on carry-on baggage but subject to such other reasonable security procedures, terms, and conditions as may be established by the Under Secretary or the air carrier, including imposing additional charges by the air carrier; and

(2) an air carrier that transports mail under a contract with the United States Postal Service should transport any animal that the Postal Service allows to be shipped through the mail.

SEC. 136. SHORT-TERM ASSESSMENT AND DEPLOYMENT OF EMERGING SECURITY TECHNOLOGIES AND PROCEDURES.

Section 44903 of title 49, United States Code, is amended by adding at the end the following:

“(i) **SHORT-TERM ASSESSMENT AND DEPLOYMENT OF EMERGING SECURITY TECHNOLOGIES AND PROCEDURES.**—

Deadline.

“(1) **IN GENERAL.**—The Under Secretary of Transportation for Security shall recommend to airport operators, within 6 months after the date of enactment of the Aviation and Transportation Security Act, commercially available measures

or procedures to prevent access to secure airport areas by unauthorized persons. As part of the 6-month assessment, the Under Secretary for Transportation Security shall—

“(A) review the effectiveness of biometrics systems currently in use at several United States airports, including San Francisco International;

“(B) review the effectiveness of increased surveillance at access points;

“(C) review the effectiveness of card- or keypad-based access systems;

“(D) review the effectiveness of airport emergency exit systems and determine whether those that lead to secure areas of the airport should be monitored or how breaches can be swiftly responded to; and

“(E) specifically target the elimination of the “piggy-backing” phenomenon, where another person follows an authorized person through the access point.

The 6-month assessment shall include a 12-month deployment strategy for currently available technology at all category X airports, as defined in the Federal Aviation Administration approved air carrier security programs required under part 108 of title 14, Code of Federal Regulations. Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall conduct a review of reductions in unauthorized access at these airports.

Deadline.

“(2) COMPUTER-ASSISTED PASSENGER PRESCREENING SYSTEM.—

“(A) IN GENERAL.—The Secretary of Transportation shall ensure that the Computer-Assisted Passenger Prescreening System, or any successor system—

“(i) is used to evaluate all passengers before they board an aircraft; and

“(ii) includes procedures to ensure that individuals selected by the system and their carry-on and checked baggage are adequately screened.

“(B) MODIFICATIONS.—The Secretary of Transportation may modify any requirement under the Computer-Assisted Passenger Prescreening System for flights that originate and terminate within the same State, if the Secretary determines that—

“(i) the State has extraordinary air transportation needs or concerns due to its isolation and dependence on air transportation; and

“(ii) the routine characteristics of passengers, given the nature of the market, regularly triggers primary selectee status.”.

SEC. 137. RESEARCH AND DEVELOPMENT OF AVIATION SECURITY TECHNOLOGY.

49 USC 44912 note.

(a) FUNDING.—To augment the programs authorized in section 44912(a)(1) of title 49, United States Code, there is authorized to be appropriated an additional \$50,000,000 for each of fiscal years 2002 through 2006 and such sums as are necessary for each fiscal year thereafter to the Transportation Security Administration, for research, development, testing, and evaluation of the following technologies which may enhance aviation security in the future. Grants to industry, academia, and Government entities to

carry out the provisions of this section shall be available for fiscal years 2002 and 2003 for—

(1) the acceleration of research, development, testing, and evaluation of explosives detection technology for checked baggage, specifically, technology that is—

(A) more cost-effective for deployment for explosives detection in checked baggage at small- to medium-sized airports, and is currently under development as part of the Argus research program at the Transportation Security Administration;

(B) faster, to facilitate screening of all checked baggage at larger airports; or

(C) more accurate, to reduce the number of false positives requiring additional security measures;

(2) acceleration of research, development, testing, and evaluation of new screening technology for carry-on items to provide more effective means of detecting and identifying weapons, explosives, and components of weapons of mass destruction, including advanced x-ray technology;

(3) acceleration of research, development, testing, and evaluation of threat screening technology for other categories of items being loaded onto aircraft, including cargo, catering, and duty-free items;

(4) acceleration of research, development, testing, and evaluation of threats carried on persons boarding aircraft or entering secure areas, including detection of weapons, explosives, and components of weapons of mass destruction;

(5) acceleration of research, development, testing and evaluation of integrated systems of airport security enhancement, including quantitative methods of assessing security factors at airports selected for testing such systems;

(6) expansion of the existing program of research, development, testing, and evaluation of improved methods of education, training, and testing of key airport security personnel; and

(7) acceleration of research, development, testing, and evaluation of aircraft hardening materials, and techniques to reduce the vulnerability of aircraft to terrorist attack.

(b) GRANTS.—Grants awarded under this subtitle shall identify potential outcomes of the research, and propose a method for quantitatively assessing effective increases in security upon completion of the research program. At the conclusion of each grant, the grant recipient shall submit a final report to the Transportation Security Administration that shall include sufficient information to permit the Under Secretary of Transportation for Security to prepare a cost-benefit analysis of potential improvements to airport security based upon deployment of the proposed technology. The Under Secretary shall begin awarding grants under this subtitle within 90 days of the date of enactment of this Act.

Deadline.

(c) BUDGET SUBMISSION.—A budget submission and detailed strategy for deploying the identified security upgrades recommended upon completion of the grants awarded under subsection (b), shall be submitted to Congress as part of the Department of Transportation's annual budget submission.

Appropriation authorization.

(d) DEFENSE RESEARCH.—There is authorized to be appropriated \$20,000,000 to the Transportation Security Administration to issue research grants in conjunction with the Defense Advanced

Research Projects Agency. Grants may be awarded under this section for—

- (1) research and development of longer-term improvements to airport security, including advanced weapons detection;
- (2) secure networking and sharing of threat information between Federal agencies, law enforcement entities, and other appropriate parties;
- (3) advances in biometrics for identification and threat assessment; or
- (4) other technologies for preventing acts of terrorism in aviation.

SEC. 138. EMPLOYMENT INVESTIGATIONS AND RESTRICTIONS.

(a) IN GENERAL.—Section 44936 of title 49, United States Code, is amended—

(1) by inserting “and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security,” after “check” in subsection (a)(1)(A);

(2) by striking “in any case described in subparagraph (C)” in subsection (a)(1)(B) and inserting “and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security”;

(3) by striking “will be” in subsection (a)(1)(B)(i) and inserting “are”;

(4) by striking “and” after the semicolon in clause (ii) of subsection (a)(1)(B);

(5) by redesignating clause (iii) of subsection (a)(1)(B) as clause (iv);

(6) by inserting after clause (ii) of subsection (a)(1)(B) the following:

“(iii) individuals who regularly have escorted access to aircraft of an air carrier or foreign air carrier or a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier; and”;

(7) by striking subparagraphs (C), (D), and (E) of subsection (a)(1) and redesignating subparagraph (F) as subparagraph (D);

(8) by inserting after subparagraph (B) of subsection (a)(1) the following:

“(C) BACKGROUND CHECKS OF CURRENT EMPLOYEES.—

“(i) A new background check (including a criminal history record check and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security shall be required for any individual who is employed in a position described in subparagraphs (A) and (B) on the date of enactment of the Aviation and Transportation Security Act.

“(ii) The Under Secretary may provide by order (without regard to the provisions of chapter 5 of title

5, United States Code) for a phased-in implementation of the requirements of this subparagraph.”;

(9) by striking “107.31(m)” in subparagraph (D), as redesignated, and inserting “107.31(m)(1) or (2)”;

(10) by striking “the date of enactment of this subparagraph.” in subparagraph (D), as redesignated, and inserting “November 22, 2000. The Under Secretary shall work with the International Civil Aviation Organization and with appropriate authorities of foreign countries to ensure that individuals exempted under this subparagraph do not pose a threat to aviation or national security.”;

(11) by striking “carrier, or airport operator” in subsection (a)(2) and inserting “carrier, airport operator, or government”;

(12) by striking “carrier, or airport operator” in subsection (b)(1) and inserting “carrier, airport operator, or government”;

(13) by striking “carrier, or airport operator” in subsection (b)(3) and inserting “carrier, airport operator, or government”; and

(14) by adding at the end of subsection (c)(1) “All Federal agencies shall cooperate with the Under Secretary and the Under Secretary’s designee in the process of collecting and submitting fingerprints.”.

(b) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—Part A of subtitle VII of title 49, United States Code, is amended—

(1) by moving subsections (f), (g), and (h) of section 44936 from section 44936, inserting them at the end of section 44703, and redesignating them as subsections (h), (i), and (j), respectively; and

(2) in subsections (i) and (j) of section 44703 (as moved to the end of section 44703 by paragraph (1) of this subsection), by striking “subsection (f)” each place it appears and inserting “subsection (h)”.

SEC. 139. ALCOHOL AND CONTROLLED SUBSTANCE TESTING.

Chapter 451 of title 49, United States Code, is amended—

49 USC 45102. (1) by striking “contract personnel” each place it appears and inserting “personnel”;

49 USC 45103. (2) by striking “contract employee” each place it appears and inserting “employee”;

(3) in section 45106(c) by striking “contract employees” and inserting “employees”;

(4) by inserting after section 45106 the following:

“§ 45107. Transportation Security Administration

“(a) TRANSFER OF FUNCTIONS RELATING TO TESTING PROGRAMS WITH RESPECT TO AIRPORT SECURITY SCREENING PERSONNEL.—The authority of the Administrator of the Federal Aviation Administration under this chapter with respect to programs relating to testing of airport security screening personnel are transferred to the Under Secretary of Transportation for Security. Notwithstanding section 45102(a), the regulations prescribed under section 45102(a) shall require testing of such personnel by their employers instead of by air carriers and foreign air carriers.

“(b) APPLICABILITY OF CHAPTER WITH RESPECT TO EMPLOYEES OF ADMINISTRATION.—The provisions of this chapter that apply with respect to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions

shall apply with respect to employees of the Transportation Security Administration whose duties include responsibility for security-sensitive functions. The Under Secretary of Transportation for Security, the Transportation Security Administration, and employees of the Transportation Security Administration whose duties include responsibility for security-sensitive functions shall be subject to and comply with such provisions in the same manner and to the same extent as the Administrator of the Federal Aviation Administration, the Federal Aviation Administration, and employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions, respectively.”; and

(5) in the analysis for such chapter by inserting after the item relating to section 45106 the following:

“45107. Transportation Security Administration.”.

SEC. 140. CONFORMING AMENDMENTS TO SUBTITLE VII.

(a) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—Part A of subtitle VII of title 49, United States Code, is amended—

(1) by moving subsections (f), (g), and (h) of section 44936 from section 44936, inserting them at the end of section 44703, and redesignating them as subsections (h), (i), and (j), respectively; and

(2) in subsections (i) and (j) of section 44703 (as moved to the end of section 44703 by paragraph (1) of this subsection), by striking “subsection (f)” each place it appears and inserting “subsection (h)”.

(b) INVESTIGATIONS AND PROCEDURES.—Chapter 461 of such title is amended—

(1) in each of sections 46101(a)(1), 46102(a), 46103(a), 46104(a), 46105(a), 46106, 46107(b), and 46110(a) by inserting after “(or)” the following: “the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or”;

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

(3) in section 46101(a)(2) by striking “of Transportation or the” and inserting “, Under Secretary, or”;

(4) in section 46102(b) by striking “and the Administrator” and inserting “, the Under Secretary, and the Administrator”;

(5) in section 46102(c) by striking “and Administrator” each place it appears and inserting “, Under Secretary, and Administrator”;

(6) in each of sections 46102(d) and 46104(b) by inserting “the Under Secretary,” after “Secretary,”;

(7) in the heading to section 46106 by striking “**Secretary of Transportation and Administrator of the Federal Aviation Administration**” and inserting “**Department of Transportation**”; and

(8) in the item relating to section 46106 of the analysis for such chapter by striking “Secretary of Transportation and Administrator of the Federal Aviation Administration” and inserting “Department of Transportation”.

(c) ADMINISTRATIVE.—Section 40113 of such title is amended—

(1) in subsection (a)—

(A) by inserting after “(or)” the following: “the Under Secretary of Transportation for Security with respect to

49 USC 46101–
46105, 46107,
46110.

security duties and powers designated to be carried out by the Under Secretary or”; and

(B) by striking “or Administrator” and inserting “, Under Secretary, or Administrator”; and

(2) in subsection (d)—

(A) by inserting after “The” the following: “Under Secretary of Transportation for Security or the”;
 (B) by striking “Administration” the second place it appears and inserting “Transportation Security Administration or Federal Aviation Administration, as the case may be,”; and

(C) by striking “the Administrator decides” and inserting “the Under Secretary or Administrator, as the case may be, decides”.

(d) PENALTIES.—Chapter 463 of such title is amended—

(1) in section 46301(d)(2)—

(A) by striking “, chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909),”;
 (B) by inserting after the first sentence the following: “The Under Secretary of Transportation for Security may impose a civil penalty for a violation of chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909) or a regulation prescribed or order issued under such chapter 449.”; and

(C) by inserting “Under Secretary or” before “Administrator shall”;

(2) in each of paragraphs (3) and (4) of section 46301(d) by striking “Administrator” each place it appears and inserting “Under Secretary or Administrator”;

(3) in section 46301(d)(8) by striking “Administrator” and inserting “Under Secretary, Administrator,”;

(4) in section 46301(h)(2) by inserting after “(or” the following: “the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or”;

(5) in section 46303(c)(2) by inserting “or the Under Secretary of Transportation for Security” after “Federal Aviation Administration”;

(6) in section 46311—

(A) by inserting after “Transportation,” the following: “the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary,”;

(B) by inserting after “Secretary,” each place it appears the following: “Under Secretary,”; and

(C) by striking “or Administrator” each place it appears and inserting “, Under Secretary, or Administrator”;

(7) in each of sections 46313 and 46316 by inserting after “(or” the following: “the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or”;

(8) in section 46505(d)(2) by inserting “or the Under Secretary of Transportation for Security” after “Federal Aviation Administration”.

SEC. 141. SAVINGS PROVISION.49 USC 44901
note.

(a) **TRANSFER OF ASSETS AND PERSONNEL.**—Except as otherwise provided in this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Transportation Security Administration by this Act shall be transferred to the Transportation Security Administration for use in connection with the functions transferred. Unexpended balances of appropriations, allocations, and other funds made available to the Federal Aviation Administration to carry out such functions shall also be transferred to the Transportation Security Administration for use in connection with the functions transferred.

(b) **LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Federal Aviation Administration, any officer or employee thereof, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Under Secretary of Transportation for Security, any other authorized official, a court of competent jurisdiction, or operation of law.

(c) **PROCEEDINGS.**—

(1) **IN GENERAL.**—The provisions of this Act shall not affect any proceedings or any application for any license pending before the Federal Aviation Administration at the time this Act takes effect, insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(2) **STATUTORY CONSTRUCTION.**—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) **ORDERLY TRANSFER.**—The Secretary of Transportation is authorized to provide for the orderly transfer of pending proceedings from the Federal Aviation Administration.

(d) **SUITS.**—

(1) **IN GENERAL.**—This Act shall not affect suits commenced before the date of the enactment of this Act, except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) **SUITS BY OR AGAINST FAA.**—Any suit by or against the Federal Aviation Administration begun before the date of the enactment of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Transportation Security Administration (to the extent the suit involves functions transferred to the Transportation Security Administration under this Act) substituted for the Federal Aviation Administration.

(3) **REMANDED CASES.**—If the court in a suit described in paragraph (1) remands a case to the Transportation Security Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

(e) **CONTINUANCE OF ACTIONS AGAINST OFFICERS.**—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Federal Aviation Administration shall abate by reason of the enactment of this Act. No cause of action by or against the Federal Aviation Administration, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

(f) **EXERCISE OF AUTHORITIES.**—Except as otherwise provided by law, an officer or employee of the Transportation Security Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act.

(g) **ACT DEFINED.**—In this section, the term “Act” includes the amendments made by this Act.

31 USC 1105
note.

SEC. 142. BUDGET SUBMISSIONS.

The President’s budget submission for fiscal year 2003 and each fiscal year thereafter shall reflect the establishment of the Transportation Security Administration.

49 USC 47108
note.

SEC. 143. LAND ACQUISITION COSTS.

In the case of a grant for land acquisition issued to an airport under chapter 471 of title 49, United States Code, prior to January 1, 1995, the Secretary of Transportation may waive the provisions of section 47108 of such title and provide an upward adjustment in the maximum obligation of the United States under that chapter to assist the airport in funding land acquisition costs (and associated eligible costs) that increased as a result of a judicial order.

SEC. 144. LIMITATION ON LIABILITY FOR ACTS TO THWART CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.

49 USC 44903.

Section 44903 is amended by adding at the end the following: “(h) **LIMITATION ON LIABILITY FOR ACTS TO THWART CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.**—An individual shall not be liable for damages in any action brought in a Federal or State court arising out of the acts of the individual in attempting to thwart an act of criminal violence or piracy on an aircraft if that individual reasonably believed that such an act of criminal violence or piracy was occurring or was about to occur.”.

SEC. 145. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE. 49 USC 40101 note.

(a) **IN GENERAL.**—Each air carrier that provides scheduled air transportation on a route shall provide, to the extent practicable, air transportation to passengers ticketed for air transportation on that route by any other air carrier that suspends, interrupts, or discontinues air passenger service on the route by reason of insolvency or bankruptcy of the other air carrier.

(b) **PASSENGER OBLIGATION.**—An air carrier is not required to provide air transportation under subsection (a) to a passenger unless that passenger makes alternative arrangements with the air carrier for such transportation within 60 days after the date on which that passenger's air transportation was suspended, interrupted, or discontinued (without regard to the originally scheduled travel date on the ticket). Deadline.

(c) **SUNSET.**—This section does not apply to air transportation the suspension, interruption, or discontinuance of which occurs more than 18 months after the date of enactment of this Act.

SEC. 146. AIRCRAFT OPERATIONS IN ENHANCED CLASS B AIRSPACE. *Federal Register, publication.*

Upon request of an operator of an aircraft affected by the restrictions imposed under Notice to Airmen FDC 1/0618 issued by the Federal Aviation Administration, or any other notice issued after September 11, 2001, and prior to the date of enactment of this Act that restricts the ability of United States registered aircraft to conduct operations under part 91 of title 14, Code of Federal Regulations, in enhanced class B airspace (as defined by such Notice), such restrictions shall cease to be in effect for the affected class of operator beginning on the 30th day following the request, unless the Secretary of Transportation publishes a notice in the Federal Register before such 30th day reimposing the restriction and explaining the reasons for the restriction.

SEC. 147. AVIATION WAR RISK INSURANCE.

Section 44306(b) of title 49, United States Code, is amended by striking “60 days” each place it appears and inserting “1 year”.

TITLE II—LIABILITY LIMITATION

SEC. 201. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT AMENDMENTS.

(a) **RECOVERY OF COLLATERAL SOURCE OBLIGATIONS OF TERRORISTS.**—Section 405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended by striking “obligations.” and inserting “obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act.”.

(b) **EXTENSION OF LIABILITY RELIEF TO AIRCRAFT MANUFACTURERS AND OTHERS.**—Section 408 of that Act is amended—

(1) by striking “**air carrier**” in the section heading;

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

49 USC 40101 note.

“(a) IN GENERAL.—

“(1) LIABILITY LIMITED TO INSURANCE COVERAGE.—Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity, arising from the terrorist-related aircraft crashes of September 11, 2001, against an air carrier, aircraft manufacturer, airport sponsor, or person with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect, or their directors, officers, employees, or agents, shall not be in an amount greater than the limits of liability insurance coverage maintained by that air carrier, aircraft manufacturer, airport sponsor, or person.

“(2) WILLFUL DEFAULTS ON REBUILDING OBLIGATION.—Paragraph (1) does not apply to any such person with a property interest in the World Trade Center if the Attorney General determines, after notice and an opportunity for a hearing on the record, that the person has defaulted willfully on a contractual obligation to rebuild, or assist in the rebuilding of, the World Trade Center.

“(3) LIMITATIONS ON LIABILITY FOR NEW YORK CITY.—Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city’s insurance coverage or \$350,000,000. If a claimant who is eligible to seek compensation under section 405 of this Act, submits a claim under section 405, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, including any such action against the City of New York. The preceding sentence does not apply to a civil action to recover collateral source obligations.”; and

(3) by adding at the end of subsection (c) the following: “Subsections (a) and (b) do not apply to civil actions to recover collateral source obligations. Nothing in this section shall in any way limit any liability of any person who is engaged in the business of providing air transportation security and who is not an airline or airport sponsor or director, officer, or employee of an airline or airport sponsor.”.

(c) LIMITATION OF UNITED STATES SUBROGATION RIGHT.—Section 409 of that Act is amended by striking “title.” and inserting “title, subject to the limitations described in section 408.”.

(d) DEFINITIONS.—Section 402 of that Act is amended—

(1) by adding at the end of paragraph (1) the following: “The term ‘air carrier’ does not include a person, other than an air carrier, engaged in the business of providing air transportation security.”.

(2) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively; and

49 USC 40101
note.

49 USC 40101
note.

(3) by inserting after paragraph (2) the following:

“(3) AIRCRAFT MANUFACTURER.—The term ‘aircraft manufacturer’ means any entity that manufactured the aircraft or any parts or components of the aircraft involved in the terrorist related aircraft crashes of September 11, 2001, including employees and agents of that entity.

“(4) AIRPORT SPONSOR.—The term ‘airport sponsor’ means the owner or operator of an airport (as defined in section 40102 of title 49, United States Code).”.

Approved November 19, 2001.

LEGISLATIVE HISTORY—S. 1447 (H.R. 3150):

HOUSE REPORTS: No. 107–296 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 147 (2001):

Oct. 10, 11, considered and passed Senate.

Nov. 6, considered and passed House, amended, in lieu of H.R. 3150.

Nov. 16, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 37 (2001):

Nov. 19, Presidential statement.

