

**Calendar No. 68**

110TH CONGRESS }  
*1st Session*

SENATE

{ REPORT  
110-31

AVIATION SECURITY IMPROVEMENT ACT

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 509



MARCH 5, 2007.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

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### AVIATION SECURITY IMPROVEMENT ACT

MARCH 5, 2007.—Ordered to be printed

Mr. INOUE, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### REPORT

[To accompany S. 509]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 509) to provide improved aviation security, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

#### PURPOSE OF THE BILL

The Aviation Security Improvement Act, S. 509, as reported, would strengthen aviation security by addressing unimplemented air transportation security recommendations of the National Commission on Terrorist Attack Upon the United States (9/11 Commission). The legislation proposes new security measures, assessments and programs focused on air cargo, baggage and checkpoint screening, passenger pre-screening, and general aviation.

#### BACKGROUND AND NEEDS

Following the terrorist attacks of September 11, 2001 (9/11), Congress acted promptly to address immediate threats to our Nation's transportation infrastructure system and passed the Aviation and Transportation Security Act (ATSA) (P.L. 107-71). ATSA was signed into law on November 19, 2001, and created the Transportation Security Administration within the Department of Transportation (TSA), which took control over all aspects of transportation security. On November 25, 2002, Congress passed the Homeland Security Act of 2002 (P.L. 107-296), which created the Department of Homeland Security (DHS) into which TSA was incorporated.

On November 27, 2002, Congress passed H.R. 4628, the Intelligence Authorization Act for Fiscal Year 2003 (P.L. 107–306). Title VI of P.L. 107–306 created the National Commission on Terrorist Attacks Upon the United States, now known as the “9/11 Commission”. The 9/11 Commission was established as an independent, bipartisan commission tasked with preparing a complete account of the circumstances surrounding the terrorist attacks of September 11, 2001, including analysis of the preparedness for, and the immediate response to, the attacks. The 9/11 Commission’s mandate was to provide recommendations designed to guard against future terrorist attacks.

On July 22, 2004, the 9/11 Commission released its public report on the events of 9/11. Among its key findings, the 9/11 Commission concluded that al Qaeda operatives had exploited known weaknesses in U.S. aviation security to carry out the terrorist attacks of September 11, 2001. Although legislative and administrative actions to strengthen aviation security were implemented immediately following the terrorist attacks, the 9/11 Commission concluded that several weaknesses continued to exist. These weaknesses included inadequate screening and access controls at airports and perceived vulnerabilities in cargo and general aviation security.

As part of its initial report, the 9/11 Commission issued a variety of recommendations designed to strengthen aviation security by: enhancing passenger pre-screening, improving measures to detect explosives on passengers, addressing human factors issues at screening checkpoints, expediting deployment of in-line baggage screening systems, intensifying efforts to identify, track, and screen potentially dangerous cargo, and deploying hardened cargo containers on passenger aircraft. In addition to these specific recommendations, an overarching recommendation for transportation security policy asserted that priorities should be based on risk, and the most practical and cost-effective deterrents should be implemented, assigning appropriate roles and missions to Federal, State, and local authorities, as well as private stakeholders.

After the 9/11 Commission formally ceased on August 21, 2004, its 10 members initiated a nationwide public education campaign known as the “9/11 Public Discourse Project”. This effort was aimed at fulfilling the 9/11 Commission’s original mandate of guarding against future terrorist attacks. On December 5, 2005, through the 9/11 Public Discourse Project, the 9/11 Commission published a report card on the Federal Government’s efforts to implement the 41 primary recommendations of the Commission. Of those 41 recommendations, only 3 focused specifically on aviation security and a fourth called for a national strategy for transportation security. The 9/11 Public Discourse Project issued the following grades on Federal implementation of the 9/11 Commission’s aviation security recommendations: checked baggage and cargo screening received a “D”, airline passenger explosive screening received a “C”, and airline passenger prescreening received an “F”.

All of the 9/11 Commission’s primary recommendations on aviation security focus on key elements of the layered approach that TSA adopted to defend the U.S. airspace system following the terrorist attacks of September 11, 2001. The TSA has continued working to address the 9/11 Commission’s primary recommendations on

aviation security, but the agency has faced significant challenges in moving forward on aspects of these recommendations.

Checked baggage and cargo screening requirements have placed a considerable burden on the security regime due to the sheer volume of items that need to be processed on a daily basis. Currently, TSA uses 2 types of devices in U.S. airports to screen the annual 535 million parcels of checked baggage for explosives: explosive detection systems (EDS), and explosive trace detection machines (ETD). Since TSA's creation in November 2001, more than 1,678 EDS machines, and 7,478 ETDs have been installed in airports nationwide.

#### **Explosive Detection Systems**

EDS machines are the primary method used to screen checked baggage for threat items. One of the advantages of this technology is that it is able to screen up to 500 bags per hour. However, the bulky size of the equipment also makes it a burden to install in airports, usually requiring considerable adjustment of the layout of the airport, thus triggering additional cost expenditures.

To meet the deadline imposed by ATSA for the electronic screening of all checked baggage transported by commercial passenger aircraft, TSA placed many EDS machines in airport lobbies, which resulted in overcrowding, inefficient service, and generally unsafe conditions. Analysis by the Government Accountability Office (GAO) has suggested that a practical solution would involve the integration of EDS equipment into the checked baggage conveyor system, or "in-line" EDS. This, however, only has occurred at a limited number of airports due to the high cost of reconfiguring airports, including reinforced floors, electrical upgrades, information technology (IT) networking, and new conveyor systems.

The TSA's own reviews indicate broader application of in-line EDS at the majority of commercial airports could provide significant savings and other cost and personnel benefits through the integration of such systems into an airport's baggage conveyor process. Research conducted on the airports that have undergone this transition indicates that the government would recoup these implementation costs in 1 to 5 years, primarily through lower TSA staffing and maintenance costs. In February 2006, TSA delivered a Strategic Planning Framework for the Electronic Baggage Screening Program (EBSP). That framework details TSA's long-term planning philosophy for the development and implementation of optimal baggage screening solutions at the Nation's top 250 airports, where over 99 percent checked baggage originates, and guides TSA's investment and deployment decisions. Currently, 51 airports are either operational or deploying some form of advanced in-line baggage screening system.

The GAO and the 9/11 Commission both called for more rapid integration of in-line baggage systems as part of a streamlined screening methodology. The installment of such in-line systems, however, has been hindered by funding constraints, despite the fact that Congress envisioned a cost-sharing and reimbursement program conducted through letters of intent (LOI).

Under the LOI program, airports fund EDS projects and are subsequently reimbursed by TSA for their non-match amount over a 3 to 5 year period, subject to the availability of Federal funds. Congress first authorized LOIs for security projects in the fiscal year

(FY) 2003 Omnibus Appropriations bill (P.L. 108–7) for 5 years, at \$500 million annually. The Vision-100 Federal Aviation Administration (FAA) reauthorization bill (P.L. 108–176) established a security capital fund also authorized at \$500 million per year, of which \$250 million was mandatory spending for 4 years to fund LOIs and to meet other airport security-related capital improvements. To date, TSA has issued LOIs to nine airports.

#### **Explosive Trace Detection**

In comparison to the EDS equipment, ETD machines are smaller and relatively cheaper. Instead of using radiation to scan a piece of baggage, these machines are able to detect vapors and residue from explosives. A screener is able to collect a sample by rubbing a bag or piece of luggage with a swab, and the sample is then chemically analyzed for traces of explosive material. While ETD devices have higher detection rates and a lower number of false positives than EDS, the screening process is much slower. Therefore, ETD machines ideally would be best deployed in low baggage throughput airports. Currently, ETDs are used as a major screening method in over 300 airports nationwide, but are located at most airports as a secondary screening method for both passengers and baggage.

S. 509 would improve and expedite the deployment of in-line baggage systems at our Nation's airports by providing TSA with a stable and long-term funding stream which would significantly improve the current LOI process. Congress, TSA, and airports have all struggled to find a workable funding solution to the in-line baggage problem. By utilizing and extending the current mandatory funding process established through the Aviation Security Capital Fund, the bill would strengthen TSA's ability to improve aviation security.

#### **Air Cargo Screening**

While all passenger baggage is screened prior to placement in airplane cargo, this is not the case for shipped cargo on passenger planes. The vast amount of air cargo, the speed at which it is required to be delivered, and the numerous entry points to the supply chain have created a difficult environment in which to develop a comprehensive cargo security system. The U.S. supply chain handles more than 50,000 tons of air cargo each day, of which approximately one quarter is designated for passenger air carriers.

Currently, TSA relies on a "Known Shipper" program for which shipping companies may qualify if they meet certain security requirements. The TSA prohibits passenger aircraft from transporting cargo not from a Known Shipper. A recent GAO report highlighted weaknesses in this program, citing unreliability of shipper data, and questioned TSA's methodology of identifying risky shippers. Some members of Congress have called for screening of all cargo on passenger planes.

In November 2004, TSA issued a Notice of Proposed Rulemaking (NPRM) in the Federal Register for enhanced air cargo security requirements throughout the air cargo supply chain. The Air Cargo Final Rule, published on May 26, 2006, affects the air cargo supply chain by consolidating approximately 4,000 private industry Known Shipper lists into 1 central database managed by TSA. The rule also requires background checks of approximately 51,000 off-airport

freight forwarder employees and extends secure areas of airports to include ramps and cargo facilities.

As with its other programs, TSA has followed a layered approach to air cargo security, by: allowing only known shippers to offer cargo for passenger-carrying aircraft, using canine teams throughout the cargo system, screening the most high-risk cargo with electronic EDS, deploying hundreds of dedicated cargo-only aviation security inspectors to conduct scheduled and unscheduled compliance inspections in cargo facilities, requiring air carriers to physically inspect some cargo, and utilizing transportation security officers at over 250 small airports to screen all cargo at these airports, and requiring random screening in addition to the above measures.

In November 2006, TSA implemented new rules were to require 100 percent of high risk cargo to be screened with the same degree of scrutiny as checked baggage before being placed on passenger aircraft. This includes packages presented to air carriers at the airport or other facilities and packages requested to be placed on a specific flight. Additionally, TSA removed all exceptions for screening air cargo on passenger planes.

S. 509 would require TSA to provide for the screening of all cargo being carried on commercial passenger aircraft within 3 years after the date of enactment of this Act. The system must allow for a level of screening "comparable" to that of checked baggage screening and ensure the security of all cargo that is shipped on passenger aircraft. The bill also included language directing TSA to evaluate the use of blast resistant cargo containers and develop a program to make such containers available to air carriers as needed to address threats, as recommended by the 9/11 Commission.

The Committee believes TSA should consider establishing a system whereby aviation ground service providers that perform cargo security screening services for passenger aircraft are compensated for costs incurred as a result of increased cargo security requirements.

#### **Passenger Checkpoint Screening Technology**

Over the past year, evolving security threats have increased the urgency of screening air passengers for explosives at checkpoints. A terrorist plot that targeted several U.S. air carriers with liquid explosives was foiled in London on August 10, 2006. The TSA responded to the scheme by enacting enhanced security measures at all airports to limit the amount of liquid materials that could be carried on commercial aircraft. This step was necessary because the agency had, and continues to have, only a limited ability to use advanced technology to detect such threat items.

Congress sought to establish a framework in ATSA for enhanced aviation security measures that incorporate advanced technology. Among the mandates included in ATSA are several provisions that are noteworthy, including stipulations for research, development, and deployment of technologies that would advance aviation security, especially explosive detection technology used for both people and baggage. In addition, ATSA establishes Federal requirements for airports to maximize the use of technology and equipment designed to detect or neutralize chemical or biological weapons.

The Committee believes the best way to provide for the research and development of technologies and techniques to prevent explosives from being placed onto passenger aircraft is to pilot these

technologies at a diverse group of airports. The Committee directs the Secretary to give priority for these pilot projects to airports that have demonstrated their expertise as pilot sites and were selected by TSA as model airports for the deployment of technology to detect explosives.

In implementing ATSA, TSA proposed layers of security, such as advanced screener training and installation of new machinery, that have demonstrated some progress; nevertheless, assessments by the 9/11 Commission, the DHS Office of Inspector General (OIG), as well as GAO, indicate that more improvement is still necessary. In addition to screening checked baggage, TSA has awarded contracts to private companies to create technology capable of detecting explosives, weapons, and other items carried by passengers on commercial aircraft. These devices include “backscatter” machines that screen individuals for hidden items, “puffer” machines that analyze air particles for explosives, document scanners, advanced checkpoint x-ray devices, and enhanced metal detectors.

The 9/11 Commission commented that while more advanced screening technology is being developed, Congress needs to provide the funding for, and TSA needs to move as expeditiously as possible with, the appropriate installation of explosives detection trace portals or other appropriate technology at more of the Nation’s commercial airports. Backscatter technology evaluated by DHS over the last few years has demonstrated that it can provide significant improvements in threat detection at airport passenger screening checkpoints for both carry-on baggage and the screening of passengers. The Committee urges TSA to deploy this technology quickly and broadly to address security shortcomings at passenger screening checkpoints.

The Committee believes steps must be taken to improve the survivability of Flight Data and Cockpit Voice Recorders (FDRs, CVRs) to assure that complete flight information is quickly available to investigators following civil aviation accidents to determine the potential role of terrorism. Most of the FDRs and CVRs on the 9/11 flights did not survive, depriving investigators, policymakers, and the public of valuable information. The Committee also is concerned that locating and recovering FDRs and CVRs from civilian air accidents over water have proven time consuming and difficult, often taking days and weeks to recover from the ocean depths. The Committee understands deployable FDRs and CVRs avoid the crash site, and can float indefinitely over water, increasing their survivability and recoverability. Therefore, S. 509 directs the DHS Secretary, in conjunction with the Secretary of Transportation, to establish a grant program to test and certify deployable flight data, cockpit voice recorder, and emergency locator beacon technology on a civilian passenger aircraft.

S. 509 recognizes the threat presented by passengers transporting explosives through security checkpoints and addresses this risk. Under the bill, TSA must produce and fully implement a strategic plan to deploy explosive detection equipment at airport checkpoints within 1 year of its submission. The agency also must provide specialized training to the screener workforce in the areas of behavior observation, and explosives detection.

In addressing the 9/11 Commission’s recommendations, TSA has been subject to harsh criticism for its efforts to develop a new, ad-



vanced system to improve passenger prescreening, which have experienced consistent delays and confronted numerous privacy concerns.

Following the attacks of September 11, 2001, ATSA required the DOT to ensure that all commercial aviation passengers were prescreened using a system that evaluated the security risks of each passenger and potential need for additional screening upon the passenger's arrival at the airport. In accordance with that mandate, TSA began to develop a "second generation" prescreening program known as Computer Assisted Passenger Prescreening System II (CAPPS II). In contrast to its predecessor program, CAPPS II was intended to be operated by the Government, rather than by the air carriers. In 2004, 3 years after ATSA was passed, and after numerous delays and challenges, DHS was compelled to cancel the CAPPS II program and continued to utilize its existing passenger prescreening system.

Upon termination of the CAPPS II project, TSA began development of a successor program known as Secure Flight, a modified version of CAPPS II. In August 2004, TSA announced that Secure Flight would be utilized to compare passenger information, provided by aircraft operators to the agency whenever reservations for domestic flights are made, against data from consolidated watchlist databases maintained by the government. Like its predecessor, Secure Flight has faced numerous challenges and has encountered major opposition from privacy advocates.

Under the Secure Flight program, TSA plans to take over from commercial air carriers the responsibility for comparing identifying information on passengers against the records of known or suspected terrorists. However, TSA took steps to reassess or "re-baseline" Secure Flight in February of 2006, and has not yet completed that process. Under the current system, TSA has indicated that over 30,000 individuals have contacted the agency with verification forms and supporting documentation under this process.

In its original design, Secure Flight was an amalgamation of components from CAPPS I, CAPPS II and recommendations from the 9/11 Commission report. Secure Flight is intended only to prescreen passengers flying within the United States; a separate program for screening international flights exists within the Customs & Border Protection (CBP) division of DHS.

The DHS Appropriations Act of 2005 (Public Law 108-334) identified 10 critical aspects of the development and implementation of Secure Flight, and mandated that GAO assess and report on TSA's progress. The GAO report, published in March 2005, indicated that TSA only had accomplished 1 out of the 10 goals, with various stages of progress on the remaining nine. Overall, the report was fairly critical of TSA's slow action and expressed concern that overarching policies, technical frameworks, and cost structures had yet to be developed.

Over the course of 2006, both TSA and GAO have reported informally that progress is being made with respect to each of the 10 goals. Among the significant problems hindering the implementation of Secure Flight are the following: privacy, redress, management oversight, management policies, operations and performance goals, and life-cycle costs.

To address ongoing problems in developing an advanced passenger pre-screening system, S. 509 would ensure that a system is in place to coordinate passenger redress for those individuals misidentified against the “No-Fly” or “Selectee” watchlists, and also would require TSA to submit a strategic plan to Congress for the testing and implementation of its advanced passenger prescreening system.

In addition, to address general aviation (GA) security, S. 509 would direct TSA to develop a threat assessment program that is standardized and focused on GA facilities. The bill also would require foreign-based GA aircraft entering U.S. airspace to have their passengers checked against appropriate watch lists.

#### SUMMARY OF PROVISIONS

S. 509 would seek to fully address the 9/11 Commission’s recommendations on aviation security with a focus on improving TSA’s layered aviation security approach and available tools. As such, the bill authorizes an extension of funding for key aviation security programs to assist with aviation security research and development (R&D) and EDS installation.

S. 509 further would require TSA to develop and implement a system to provide for the screening of all cargo being carried on passenger aircraft, and develop a system by which TSA would provide blast-resistant cargo containers to such air carriers at the discretion of the agency.

The bill directs DHS to expedite R&D pilot projects that advance technologies that can more effectively protect passenger planes from the threat of explosive devices, and requires the establishment of a grant program to fund projects the agency develops through this process.

S. 509 would mandate the continued annual dedication of \$250 million of the amounts currently collected in aviation security fees to the Aviation Security Capital Fund for the installation of in-line screening systems for the enhanced screening of checked baggage at airports. The bill would bolster the existing LOI program through changes in funding allocation requirements and by requiring a prioritization schedule for planned projects, and requiring the submission of an overdue cost-sharing study on in-line EDS.

S. 509 also would remove the existing screener cap of 45,000 full-time equivalent (FTE) employees that is currently imposed on TSA’s screener workforce, and require TSA to provide specialized training to Transportation Security Officers (TSOs) for the development of advanced security skills, including behavior observation, explosives detection, and document verification.

The bill would direct DHS to issue a strategic plan for the deployment of explosive detection equipment at airport checkpoints and would require TSA to implement the strategic plan within 1 year of its submission.

To address ongoing concerns about passenger pre-screening redress procedures, S. 509 would require DHS to create an Office of Appeals and Redress to establish and administer a timely and fair process for airline passengers who believe they been misidentified against the “No-Fly” or “Selectee” watchlists. DHS also would be required to submit a strategic plan to Congress that would include

timelines for the testing and implementation of its advanced passenger prescreening system.

S. 509 would require that security rules be put in place at foreign aircraft repair stations, and that TSA develop a program under which foreign registered GA aircraft must submit passenger information to TSA to be checked against appropriate watch list databases prior to entering the United States. TSA also would be directed to develop a standardized threat and vulnerability assessment program for GA airports, to perform such assessments at GA airports in the United States on a risk-assessed basis, and to study the feasibility of a grant program for GA airport operators to fund key projects to upgrade security at such facilities.

The bill would require a report on efforts to institute a sterile area access system that would grant flight deck and cabin crews expedited access to secure areas through screening checkpoints, and to deploy such system within 1 year of the report's submission.

S. 509 further would require a doubling of DHS's existing dog team capacity to be used for explosive detection across the Nation's transportation network.

#### LEGISLATIVE HISTORY

Chairman Inouye, along with Vice-Chairman Stevens, and Senators Rockefeller, Lott and Lautenberg, introduced S. 509, the Aviation Security Improvement Act, on February 6, 2007.

On January 17, 2007, the Senate Commerce Committee held a hearing to review the status of TSA's efforts to address the 9/11 Commission's air security recommendations and to consider options for strengthening the Nation's aviation security system. The Committee received testimony from Mr. Edmund "Kip" Hawley, Assistant Secretary for Homeland Security for TSA.

During the 109th Congress, the Committee held several other hearings related to aviation security. On February 15, 2005, the Committee held a hearing to examine the President's FY 2006 budget request for TSA, during which the Committee heard testimony from TSA, GAO, and various trade associations. On Thursday, June 9, 2005, the Committee held a hearing to review GA security with witnesses from DHS, FAA, and GA industry interests. The Committee held a hearing on December 12, 2005, to review TSA's proposal to implement enhanced aviation security procedures and remove some previous objects from the agency's "Prohibited Items List" with witnesses representing TSA, the air carriers and labor interests. On February 9, 2006, the Committee held a hearing on the status of TSA's primary passenger pre-screening programs, Secure Flight and Registered Traveler (RT) at which TSA and various stakeholder representatives testified. The Committee also held a hearing on April 4, 2006, to review TSA's physical screening of airline passengers and baggage at which TSA, GAO, and a representative of domestic airports testified.

On February 13, 2007, the Committee met in Executive Session during which S. 509 was considered. Three additional amendments were filed to the bill, but only 2 were offered at the Executive Session and subsequently accepted. An amendment offered by Senator Hutchison to maximize the use of DHS's National Explosives Detection Canine Team Program, and an amendment offered by Senator Kerry to require a GAO assessment of the Secure Flight pro-

gram. S. 509, as amended, was adopted unanimously by the Committee and the bill as amended was ordered reported.

#### ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

MARCH 2, 2007.

Hon. DANIEL K. INOUE,  
*Chairman, Committee on Commerce, Science, and Transportation,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has completed the enclosed cost estimate for S. 509, the Aviation Security Improvement Act.

The CBO staff contacts for this estimate are Megan Carroll (for federal costs), Sarah Puro (for the state and local impact), and Paige Piper/Bach (for the private-sector impact).

Sincerely,

PETER R. ORSZAG.

Enclosure.

#### *S. 509—Aviation Security Improvement Act*

Summary: S. 509 would extend and reauthorize certain federal programs related to aviation security that are primarily implemented by the Transportation Security Administration (TSA) within the Department of Homeland Security (DHS). CBO estimates that implementing the legislation would result in new discretionary spending of \$6.8 billion over the 2008–2012 period, assuming appropriation of the necessary amounts.

In addition, S. 509 would affect direct spending by authorizing TSA to collect, over the 2008–2028 period, \$250 million annually in fees from airline passengers and spend those amounts to improve security measures at airports. CBO estimates that such fees would initially exceed spending, resulting in a net reduction in direct spending of \$225 million in 2008 and \$500 million over the next 10 years. Those savings would eventually be fully offset by corresponding increases in direct spending after the agency's authority to collect fees expires in 2028, resulting in no net change in direct spending over the long run.

S. 509 would authorize airports to leverage, by issuing tax-exempt bonds, certain funds they receive as grants from TSA. The Joint Committee on Taxation (JCT) estimates that resulting reductions in revenues would total \$98 million over the 2008–2017 period.

S. 509 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 509 could impose private-sector mandates as defined in UMRA. The bill would require DHS to implement a system to screen all cargo transported on passenger aircraft operated by certain air carriers. The requirements established under the bill could impose mandates on entities that send cargo on passenger aircraft

or certain air carriers. Because the screening system has not been established, CBO does not have enough information to determine whether the system would impose mandates or whether the direct cost would exceed the annual threshold established by UMRA for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 509 is shown in Table 1. The costs of this legislation fall within budget function 400 (transportation).

TABLE 1.—BUDGETARY EFFECTS OF S. 509

	By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2011	2012
SPENDING SUBJECT TO APPROPRIATION						
Net Spending Under Current Law for Aviation Security:						
Estimated Budget Authority <sup>a</sup> .....	2,367	0	0	0	0	0
Estimated Outlays .....	3,075	773	221	97	30	20
Proposed Changes:						
Net Funding for Aviation Security:						
Estimated Authorization Level .....	0	2,493	2,571	0	0	0
Estimated Outlays .....	0	1,255	2,286	1,169	252	102
In-Line Baggage Screening:						
Authorization Level .....	0	450	450	0	0	0
Estimated Outlays .....	0	45	150	248	248	158
Cargo Security Provisions:						
Estimated Authorization Level .....	0	102	114	106	98	100
Estimated Outlays .....	0	72	111	104	97	99
Other Activities:						
Estimated Authorization Level .....	0	72	79	87	96	104
Estimated Outlays .....	0	47	72	86	95	104
Total Changes:						
Estimated Authorization Level .....	0	3,117	3,214	193	194	204
Estimated Outlays .....	0	1,419	2,619	1,607	692	463
Net Spending Under S. 509 for Aviation Security:						
Estimated Authorization Level <sup>a</sup> .....	2,367	3,117	3,214	193	194	204
Estimated Outlays .....	3,075	2,192	2,840	1,704	722	483
CHANGES IN DIRECT SPENDING AND REVENUES						
Net Aviation Security Fees and Spending <sup>b</sup> :						
Estimated Budget Authority .....	0	0	0	0	0	0
Estimated Outlays .....	0	– 225	– 162	– 88	– 25	0
Estimated Revenues .....	0	*	*	– 2	– 4	– 8

Note: Negative numbers indicate reductions in spending or reductions in revenues; \* = between –\$500,000 and zero.

<sup>a</sup>The 2007 level is the net amount appropriated for that year for aviation security.

<sup>b</sup>The legislation's changes in direct spending would have no net effect over time.

Sources: Congressional Budget Office; Joint Committee on Taxation.

Basis of estimate: CBO estimates that implementing S. 509 would cost \$6.8 billion over the 2008–2012 period, assuming appropriation of the amounts authorized and estimated to be necessary. In addition, over the next 10 years, CBO estimates that the bill would increase both offsetting receipts and direct spending by about \$2.5 billion, resulting in a net reduction in direct spending of \$500 million over that time. (Over the long run, however, we estimate that the bill would have no net effect on direct spending.) Finally, S. 509 would result in forgone revenues totaling \$98 million over the next 10 years. For this estimate, we assume that the legislation will be enacted before the end of fiscal year 2007 and that the necessary amounts will be appropriated each year. Estimated outlays are based on historical spending patterns for existing or similar programs.

*Spending subject to appropriation*

CBO estimates that implementing S. 509 would cost about \$6.8 billion over the 2008–2012 period, assuming appropriation of the necessary amounts. Most of that funding would be used to continue TSA's existing aviation security programs. Other amounts would be used for in-line baggage screening systems at airports, activities related to cargo security, and other aviation security activities.

Aviation Security. The bill would authorize the appropriation of sums necessary for TSA's aviation security programs for fiscal years 2008 and 2009, particularly for salaries for screeners of passengers and baggage, and for related expenses. CBO estimates that implementing those programs would require gross appropriations totaling \$10.1 billion over the next two years. (The gross appropriation level for aviation security programs in 2007 is \$4.8 billion.) That estimate is based on information from TSA regarding the cost of continuing existing programs and implementing certain new provisions of S. 509. Those provisions would lift the existing cap on the number of full-time equivalent staff TSA may employ and require TSA or DHS to:

- Strengthen passenger prescreening and security at airport checkpoints;
- Establish certain appeal and redress procedures for passengers wrongly delayed or prohibited from boarding a flight;
- Certify aviation security programs at foreign repair stations; and
- Implement systems to grant airline crews expedited access through airport screening checkpoints.

CBO assumes that a portion of the \$10.1 billion authorized for aviation security over the 2008–2009 period would come from certain fees that TSA is authorized to collect to offset the agency's costs. Most of those collections would result from fees charged on tickets sold by commercial airlines. Additional collections would result from security fees paid directly to TSA by air carriers. Under existing law, TSA's authority to collect and spend such fees is subject to appropriation.

Based on information from TSA about the anticipated numbers of airline passengers and travel patterns, CBO estimates that such fees would offset nearly \$5 billion of the amounts provided for aviation security over the 2008–2009 period, thus reducing the net appropriation that would be necessary to implement the legislation.

Accordingly, we estimate that fully funding aviation security programs under S. 509 would require net appropriations totaling about \$5.1 billion over the 2008–2009 period—averaging about \$2.5 billion a year. (By comparison, net appropriations totaled a little under \$2.4 billion for 2007.) We estimate that the net outlays resulting from such funding would total \$5.1 billion over the 2008–2009 period.

*In-Line Baggage Screening.* S. 509 would authorize the appropriation of \$450 million in each of fiscal years 2008 and 2009 for grants to airports. Airports would use those amounts to install in-line systems to screen checked baggage. (These systems allow checked baggage to be screened within an airport’s baggage conveyor system.) Based on information from TSA and historical spending patterns for such grants, CBO estimates that fully funding this provision would cost \$45 million in 2008 and \$849 million over the 2008–2012 period, with additional spending of \$51 million occurring in later years.

*Cargo Security.* S. 509 would direct TSA and DHS to undertake efforts to enhance the security of cargo transported aboard passenger aircraft. Specifically, the legislation would require the TSA to establish a system for screening such cargo that provides a level of security comparable to the level of effort for passenger-checked baggage. The legislation also would require DHS to expedite certain research and establish a pilot program to support projects to improve the safety of cargo transported aboard passenger aircraft. Finally, S. 509 would direct TSA to purchase blast-resistant cargo containers and distribute them to certain air carriers. Taken together, CBO estimates that those provisions would cost \$72 million in 2008 and \$483 million over the next five years.

*Enhanced Cargo Screening.* S. 509 does not specify how TSA should enhance cargo screening. According to the agency, it is currently in the process of evaluating a range of technologies and systems that could be used to strengthen its current risk-based techniques to selectively screen air cargo. For this estimate, CBO assumes that, under S. 509, the agency would double its current level of effort related to screening air cargo. Under the legislation, the agency would hire more cargo inspectors and program managers and develop a program to certify cargo shippers. Based on current levels of spending for cargo screening, CBO estimates that those activities would cost \$45 million in 2008 and \$298 million over the next five years.

*DHS research programs.* The bill would require DHS to establish a program to fund projects to deploy and test certain technologies, particularly to mitigate the risk of explosions aboard passenger aircraft. S. 509 specifies that technologies studied should include blast-resistant cargo containers and other technologies to enhance the security of cargo. Based on information from DHS about the cost of similar programs, CBO estimates the proposed projects would cost \$15 million in 2008 and \$135 million over the next five years.

*Blast-Resistant Cargo Containers.* Based on information from TSA, CBO estimates that purchasing and distributing blast-resistant cargo containers to air carriers would cost \$12 million in 2008 and \$50 million over the 2008–2012 period, with additional spending continuing beyond that time. That estimate assumes that the



containers are provided to nearly 600 wide-body aircraft over a three-year period and includes annual costs to repair and maintain them.

Other Provisions. CBO estimates that implementing other provisions of S. 509 would require appropriations totaling \$438 million over the next five years. That amount includes:

- \$258 million for DHS programs to conduct research and develop technologies related to transportation security;
- \$105 million to train and expand the use of canine teams in detecting explosives at airports, and;
- \$75 million for grants to enhance security at general aviation airports.

Those estimates are based on information from TSA regarding costs of existing or similar programs. Based on historical spending patterns, CBO estimates that fully funding those activities would cost \$47 million in 2008 and \$404 million over the next five years, assuming appropriation of the necessary amounts.

#### *Direct spending and revenues*

The legislation's effect on direct spending and revenues over the next 10 years is shown in Table 2.

Direct Spending. S. 509 would authorize TSA to spend, without further appropriation, \$250 million annually over the 2008–2028 period from TSA's aviation security capital fund. TSA would use amounts in that fund to help airports install certain equipment to screen checked baggage. CBO estimates that this provision would increase direct spending by \$25 million in 2008 and \$2 billion over the next 10 years.

To offset the cost of those activities, the legislation would authorize the agency to collect passenger fees totaling \$250 million a year over the 2008–2028 period. Under current law, such fees may be collected only to the extent provided for in advance in appropriations acts, and income from those fees is recorded as an offset to appropriated spending for TSA's existing aviation security programs. S. 509 would require TSA to collect \$2.5 billion over the 2008–2017 period from passengers without subsequent legislation. Because S. 509 would cause such fees to be used to finance activities related to installing screening equipment and improving explosives detection at airport checkpoints, such fees would not be available to reduce the costs of other TSA spending. In other words, the collections under S. 509 would lead to a reduction in the amount of fees recorded as offsets to appropriated spending—essentially changing some discretionary offsetting collections into mandatory offsetting receipts. By doing so, those collections would no longer be available to offset annual discretionary appropriations.

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING AND REVENUES UNDER S. 509

	By fiscal year, in millions of dollars—									
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
CHANGES IN DIRECT SPENDING <sup>a</sup>										
Aviation Security Capital Fund: Gross Spending:										
Estimated Budget Authority .....	250	250	250	250	250	250	250	250	250	250
Estimated Outlays .....	25	88	162	225	250	250	250	250	250	250
Offsetting Receipts:										
Estimated Budget Authority .....	– 250	– 250	– 250	– 250	– 250	– 250	– 250	– 250	– 250	– 250
Estimated Outlays .....	– 250	– 250	– 250	– 250	– 250	– 250	– 250	– 250	– 250	– 250
Net Spending:										
Estimated Budget Authority .....	0	0	0	0	0	0	0	0	0	0
Estimated Outlays .....	– 225	– 163	– 88	– 25	0	0	0	0	0	0
CHANGES IN REVENUES										
Estimated Revenues ..	*	*	– 2	– 4	– 8	– 11	– 14	– 17	– 19	– 22

Note: Negative numbers indicate reductions in spending or reductions in revenues. \* = between – \$500,000 and zero.

<sup>a</sup> The legislation's changes in direct spending would have no net effect over time.

Sources: Congressional Budget Office; Joint Committee on Taxation.

Based on historical spending patterns for similar activities, CBO estimates that fees collected under this provision would exceed the amounts spent for installation of screening equipment over the next few years. Hence, we estimate that enacting S. 509 would reduce net direct spending by \$225 million in 2008 and \$500 million over the next 10 years. (After TSA's authority to collect fees expires in 2028, those savings would eventually be offset by corresponding increases in direct spending.)

Revenues. S. 509 would authorize airports to leverage certain funds they receive as grants from TSA. The Joint Committee on Taxation estimates that, under the legislation, airports would use this authority to issue additional tax-exempt bonds, and that consequent reductions in revenues would total \$98 million over the 2008–2017 period.

Estimated impact on state, local, and tribal governments: S. 509 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would authorize grants for which state and local governments would be eligible to apply. Any resulting costs to those entities would result from complying with conditions of aid.

Estimated impact on the private sector: S. 509 could impose private-sector mandates as defined in UMRA. The bill would require DHS to implement a system to screen all cargo transported on passenger aircraft within three years of enactment. The system would be required, at a minimum, to provide a level of security comparable to the level of security in effect for passenger checked baggage. The requirements established under the bill could impose mandates on entities that send cargo on passenger aircraft or certain air carriers. Under current law, DHS is required to provide for

the screening of all property, including cargo and other articles, that are carried aboard a passenger aircraft. According to government sources, however, DHS would have to enhance its current screening system to meet the requirements of the bill and such enhancements could impose mandates on the private sector.

Because the screening system has not been established, CBO does not have enough information to determine whether the system would impose new mandates or whether the direct cost would exceed the annual threshold established by UMRA for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

Previous CBO estimate: On February 2, 2007, CBO transmitted a cost estimate for H.R. 1, the Implementing the 9/11 Commission Recommendations Act of 2007, as passed by the House of Representatives on January 9, 2007. Title IV of that legislation contains provisions that would affect aviation security programs.

Differences in our estimates of discretionary spending under title IV of H.R. 1 and S. 509 result primarily because H.R. 1 would authorize appropriations to continue existing aviation programs over a longer period of time. In addition, we estimate that implementing provisions of H.R. 1 that would require TSA to inspect 100 percent of all cargo transported aboard passenger aircraft would cost significantly more than provisions of S. 509 related to air cargo security.

Differences in the estimates of direct spending under H.R. 1 and S. 509 result because the two pieces of legislation would extend TSA's Aviation Capital Security Fund for different periods of time.

S. 509 contains provisions that the Joint Committee on Taxation estimates would increase the level of tax-exempt bonds, causing reductions in revenues. Title IV of H.R. 1 would not affect revenues.

Neither title IV of H.R. 1 nor S. 509 contain intergovernmental mandates as defined in UMRA. H.R. 1 would require DHS to establish a system to inspect 100 percent of cargo carried aboard certain passenger aircraft by the end of fiscal year 2009. Because the system has not been established, CBO did not have enough information to determine if the system would impose new mandates on private-sector entities or whether the direct cost would exceed the annual threshold.

Estimate prepared by: Federal Costs: Megan Carroll; Impact on State, local, and tribal governments: Sarah Puro; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

#### NUMBER OF PERSONS COVERED

The reported bill would take steps to improve aviation security in the United States through the development of new Federal programs and modification of existing law. The bill affects DHS, TSA, FAA, and other entities already subject to DHS and FAA rules and regulations, thus the number of persons covered should be con-

sistent with the current levels of individuals impacted under existing DHS and FAA regulations.

#### ECONOMIC IMPACT

S. 509 is not expected to have a negative impact on the U.S. economy. Proper application of the key provisions of the legislation on cargo security should not impede the movement of air cargo while providing a significantly heightened level of security. The bill would authorize the necessary funding in key areas to establish a more secure system by requiring DHS to take steps to protect the system.

#### PRIVACY

The reported bill would have a minimal impact on the privacy rights of individuals, and provisions that seek to improve the redress process for the commercial airline passenger prescreening system should provide improved government support for individuals who have been falsely identified as a potential threat against existing passenger watchlists.

#### PAPERWORK

It is not anticipated that there would be a major increase in paperwork burdens resulting from the enactment of S. 509. In those areas where the legislation requires additional paperwork, such as reporting requirements for general aviation aircraft entering the United States from foreign locations, it is aimed at improving the security of the national air transportation system.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title; Table of contents*

This section would provide a title for the bill, the “Aviation Security Improvement Act”, and a table of contents.

##### *Section 2. Extension of authorization for aviation security funding*

This section would provide an extension of funding for aviation security at a level of such sums as necessary through FY 2009.

##### *Section 3. Passenger aircraft cargo screening*

This section would require the Secretary of Homeland Security, within 3 years, to act through the TSA Administrator to develop a system that would provide for the screening of all cargo being transported on passenger aircraft. This system would be required to meet minimum standards using equipment, technology, procedures, personnel, or other methods identified by TSA that would provide a level of security comparable to that used for passenger checked baggage. The Secretary of Homeland Security also would be directed to provide a report to Congress that details the system within 1 year of its implementation.

Under this section, the Secretary of Homeland Security would be permitted to issue an interim final rule as a temporary regulation to implement the cargo screening system without regard to standard administrative rulemaking procedures. If an interim final rule is issued, the Secretary of Homeland Security then would be required to issue a final rule that is in accordance with standard ad-

ministrative rulemaking procedures within 1 year of the effective date of the interim final rule. If the Secretary of Homeland Security does not issue a final rule within the mandated period, the Secretary would be required to submit a report to Congress explaining why the final rule was not issued and continue to issue reports to Congress every 2 months until a final rule is implemented. Upon its issuance, the final rule would displace the interim final rule.

This section further would require the Secretary of Homeland Security, working through TSA Administrator, to submit a report to Congress and to GAO that provides an assessment of the exemptions granted from the required screening under the agency's passenger aircraft cargo security system. This report would be required to be submitted within 6 months of the bill's enactment, and GAO would be required to review the report and provide Congress an assessment of the exemptions.

#### *Section 4. Blast resistant cargo containers*

This section would require the TSA Administrator to evaluate the results of its blast resistant cargo container pilot program and develop a system under which TSA would make such containers available for use by commercial passenger aircraft on a random or risk-assessed basis as determined by the TSA Administrator. The Administrator, based on the pilot feasibility results, must implement the program before January 1, 2008, and acquire, provide for the storage, maintenance and distribution of the blast-resistant containers to air carriers as necessary within 3 months of the system's development.

#### *Section 5. Protection of air cargo on passenger planes from explosives*

This section would require the Secretary of Homeland Security to expedite research and development for technology that can more effectively address the threat of explosives to passenger aircraft. The Secretary of Homeland Security, working with the Department of Transportation, would be directed to establish a grant program to fund pilot projects to deploy such advanced technologies, and to test technology that may improve the ability to recover and analyze information from aircraft accidents. This section would authorize such sums as necessary to carry out the section for FY 2008.

#### *Section 6. In-line baggage screening*

This section would extend the authorization for discretionary spending on in-line baggage screening systems at a level of \$450,000,000 through FY 2009, and require the Secretary of Homeland Security to submit a report on alternative funding concepts within 30 days.

#### *Section 7. Enhancement of in-line baggage system deployment*

This section would extend the Aviation Security Capital Fund through FY 2028 at a level of \$250,000,000, and adjust the allocation amounts to provide 80 percent of the annual funding to fulfill letters of intent (LOIs) for in-line baggage screening projects and 20 percent to be distributed on a discretionary basis with priority consideration for small and non-hub airports. The TSA Adminis-

trator would be directed to create a priority schedule for airport security projects permitted under this section and report that schedule, a timeline, and proposed funding allocations for each project to the Senate Commerce Committee, the Homeland Security Committee and Transportation and Infrastructure Committee of the House of Representatives within 180 days. Airports that have already initiated such projects would be eligible to receive a grant under the program, and grants would be permitted to service obligations for airports that receive such grants under this program.

*Section 8. Research and development of aviation and transportation security technology*

This section would extend the authorization of research and development for aviation security technology at the current level of \$50,000,000 through FY 2009, and would allow for a broadened application of these technologies to transportation security where applicable, although the grants would remain focused on aviation threats.

*Section 9. Certain TSA personnel limitations not to apply*

This section would remove any limitations on the number of employees permitted to be employed by TSA after FY 2007, and require the Secretary of Homeland Security to recruit and hire the necessary workforce to provide appropriate levels of aviation security while ensuring that the average security delay at airports is fewer than 10 minutes.

*Section 10. Specialized training*

This section would require TSA to provide advanced training to its screener workforce for the development of specialized security skills such as behavior observation, explosive detection, and document verification to improve the effectiveness of the aviation security system.

*Section 11. Explosive detection at passenger screening checkpoints*

This section would require the Secretary of Homeland Security, within 3 months after the date of enactment, to issue a strategic plan regarding the utilization of advanced explosive detection screening systems at passenger checkpoints. The agency would be further directed to fully deploy the strategic plan within 1 year of the date of enactment of the legislation.

*Section 12. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight*

This section would direct the Secretary of Homeland Security to create the Office of Appeals and Redress to establish and administer a timely and fair process for airline passengers who believe they have been delayed or prohibited from boarding a flight because that individual was misidentified against the “No Fly” and “Selectee” watch lists. The office must establish a method for maintaining records of those misidentified by the watch list process, ensure that the record keeping includes information to determine the identity of such individuals, and provide such information to the necessary agencies to assist in the clearance of passengers.

*Section 13. Strategic plan to test and implement advance passenger prescreening system*

This section would direct the Secretary of Homeland Security, in consultation with the TSA Administrator, to submit a plan to Congress within 6 months after the date of enactment that describes the agency's intended advanced passenger prescreening system, provides a timeline for each phase of testing and implementation, explains how it would be integrated into international flights, and describes how it complies with existing Federal requirements for maintaining records on individuals.

*Section 14. Repair station security*

This section would preclude the Administrator of the FAA from certifying any new foreign repair stations under part 145 of title 14, Code of Federal Regulations (CFR), if the TSA Administrator does not issue the regulations required by section 44924(e) of title 49, U.S.C., within 90 days of the enactment of this Act.

*Section 15. General aviation security*

This section would require the TSA Administrator to develop a standardized threat and vulnerability assessment program for GA airports and implement a program within 1 year to perform such assessments on a risk-assessed basis at GA airports in the United States. The TSA Administrator is further directed, within 6 months after the date of enactment, to study the feasibility of a grant program to provide grants to GA airport operators for projects to upgrade security at their facilities, and if determined to be feasible, to establish such a program.

This section also would require the TSA Administrator to develop a system, within 6 months, under which foreign-registered GA aircraft that are identified through risk-based assessment, in conjunction with FAA, are required to submit passenger information to TSA and have that information checked against appropriate terrorist databases prior to entering U.S. airspace.

This section would authorize such sums as necessary to carry out any GA grant program.

*Section 16. Security credentials for airline crews*

This section would direct TSA to work with airline, airport, and flight crew representatives to transmit a report to the Senate Commerce Committee and the House of Representatives Transportation and Infrastructure Committee on the status of efforts to develop a sterile area access system to more effectively identify airline flight deck and cabin crew representatives to grant them more efficient access through screening checkpoints. The report must include recommendations on the feasibility of implementing the system for the domestic airline industry within 1 year of the report being submitted, and the TSA Administrator must begin full implementation of the system not later than 1 year after the report is transmitted to Congress.

*Section 17. National explosive detection canine team training center*

This section would direct the Secretary of Homeland Security, as soon as practicable, to enhance the National Explosive Detection Canine Team Program (NEDCTP) and maximize canine training

capacity so that up to 100 additional dogs can be certified each year. The Secretary would be given flexibility across transportation modes to use as needed and deemed necessary and encourages the Secretary to review potential benefits of potential benefits of establishing new canine training partnerships throughout the United States.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

### TITLE 49, UNITED STATES CODE

#### SUBTITLE VII—AVIATION PROGRAMS

##### PART A—AIR COMMERCE AND SAFETY

##### SUBPART III—SAFETY

##### CHAPTER 449. SECURITY

##### SUBCHAPTER I. REQUIREMENTS

#### **§ 44901. Screening passengers and property**

[49 U.S.C. 44901]

(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.

(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 sys-



tems 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.

(2) DEADLINE.—

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

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

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

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

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

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

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

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

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

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

(ii) make security projects a priority for the obligation or expenditure of funds made available under chapter 417 or 471 until explosive detection systems required to be deployed under paragraph (1) have been deployed at that airport.

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

(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:

(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) **AIR CARGO ON PASSENGER AIRCRAFT.**—

(1) **IN GENERAL.**—*Not later than 3 years after the date of enactment of the Aviation Security Improvement Act, the Secretary of Homeland Security, acting through the Administrator of the Transportation Security Administration, shall establish a system to screen all cargo transported on passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation to ensure the security of all such passenger aircraft carrying cargo.*

(2) **MINIMUM STANDARDS.**—*The system referred to in paragraph (1) shall require, at a minimum, that the equipment, technology, procedures, personnel, or other methods determined by the Administrator of the Transportation Security Administration, provide a level of security comparable to the level of security in effect for passenger checked baggage.*

(3) **REGULATIONS.**—

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

(B) **FINAL RULE.**—

(i) *IN GENERAL.*—If the Secretary issues an interim final rule under subparagraph (A), the Secretary shall issue, not later than 1 year after the effective date of the interim final rule, a final rule as a permanent regulation to implement this subsection in accordance with the provisions of chapter 5 of title 5.

(ii) *FAILURE TO ACT.*—If the Secretary does not issue a final rule in accordance with clause (i) on or before the last day of the 1-year period referred to in clause (i), the Secretary shall submit a report to the Congress explaining why the final rule was not timely issued and providing an estimate of the earliest date on which the final rule will be issued. The Secretary shall submit the first such report within 10 days after such last day and submit a report to the Congress containing updated information every 60 days thereafter until the final rule is issued.

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

(4) *REPORT.*—Not later than 1 year after the date on which the system required by paragraph (1) is established, the Secretary shall transmit a report to Congress that details and explains the system.

**[(g)] (h) 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.

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

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

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

**(j) BLAST-RESISTANT CARGO CONTAINERS.—**

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

(A) evaluate the results of the blast-resistant cargo container pilot program instituted before the date of enactment of the Aviation Security Improvement Act;

(B) based on that evaluation, begin the acquisition of a sufficient number of blast-resistant cargo containers to meet the requirements of the Transportation Security Administration's cargo security program under paragraph (2); and

(C) develop a system under which the Administrator—

(i) will make such containers available for use by passenger aircraft operated by air carriers or foreign air carriers in air transportation or intrastate air transportation on a random or risk-assessment basis as determined by the Administrator, in sufficient number to enable the carriers to meet the requirements of the Administration's cargo security system; and

(ii) provide for the storage, maintenance, and distribution of such containers.

(2) *DISTRIBUTION TO AIR CARRIERS.*—Within 90 days after the date on which the Administrator completes development of the system required by paragraph (1)(C), the Administrator of the Transportation Security Administration shall implement that system and begin making blast-resistant cargo containers available to such carriers as necessary.

⇔ (k) *GENERAL AVIATION AIRPORT SECURITY PROGRAM.*—

(1) *IN GENERAL.*—Within 1 year after the date of enactment of the Aviation Security Improvement Act the Administrator of the Transportation Security Administration shall—

(A) develop a standardized threat and vulnerability assessment program for general aviation airports (as defined in section 47135(m)); and

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

(2) *GRANT PROGRAM.*—Within 6 months after date of enactment of the Aviation Security Improvement Act the Administrator shall initiate and complete a study of the feasibility of a program, based on a risk-managed approach, to provide grants to general aviation airport operators for projects to upgrade security at general aviation airports (as defined in section 47135(m)). If the Administrator determines that such a program is feasible, the Administrator shall establish such a program.

(3) *APPLICATION TO FOREIGN-REGISTERED GENERAL AVIATION AIRCRAFT.*—Within 180 days after the date of enactment of the Aviation Security Improvement Act, the Administrator shall develop a risk-based system under which—

(A) foreign-registered general aviation aircraft, as identified by the Administrator, in coordination with the Administrator of the Federal Aviation Administration, are required to submit passenger information to the Transportation Security Administration before entering United States airspace; and

*(B) such information is checked against appropriate databases maintained by the Transportation Security Administration.”.*

*(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out any program established under paragraph (2).*

#### **§ 44923. Airport security improvement projects**

[49 U.S.C. 44923]

(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Under Secretary for Border and Transportation Security of the Department of Homeland Security **[may]** *shall* make grants to airport sponsors—

(1) for projects to replace baggage conveyer systems related to aviation security;

(2) for projects to reconfigure terminal baggage areas as needed to install explosive detection systems;

(3) for projects to enable the Under Secretary to deploy explosive detection systems behind the ticket counter, in the baggage sorting area, or in line with the baggage handling system; and

(4) for other airport security capital improvement projects.

(b) APPLICATIONS.—A sponsor seeking a grant under this section shall submit to the Under Secretary an application in such form and containing such information as the Under Secretary prescribes.

(c) APPROVAL.—The Under Secretary, after consultation with the Secretary of Transportation, may approve an application of a sponsor for a grant under this section only if the Under Secretary determines that the project will improve security at an airport or improve the efficiency of the airport without lessening security.

(d) LETTERS OF INTENT.—

(1) ISSUANCE.—The Under Secretary **[may]** *shall* issue a letter of intent to a sponsor committing to obligate from future budget authority an amount, not more than the Federal Government’s share of the project’s cost, for an airport security improvement project (including interest costs and costs of formulating the project).

(2) SCHEDULE.—A letter of intent under this subsection shall establish a schedule under which the Under Secretary will reimburse the sponsor for the Government’s share of the project’s costs, as amounts become available, if the sponsor, after the Under Secretary issues the letter, carries out the project without receiving amounts under this section.

(3) NOTICE TO UNDER SECRETARY.—A sponsor that has been issued a letter of intent under this subsection shall notify the Under Secretary of the sponsor’s intent to carry out a project before the project begins.

(4) NOTICE TO CONGRESS.—The Under Secretary shall transmit to the Committees on Appropriations and Transportation and Infrastructure of the House of Representatives and the Committees on Appropriations and Commerce, Science and Transportation of the Senate a written notification at least 3 days before the issuance of a letter of intent under this section.

(5) LIMITATIONS.—A letter of intent issued under this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(6) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(e) FEDERAL SHARE.—

(1) IN GENERAL.—The Government's share of the cost of a project under this section shall be 90 percent for a project at a medium or large hub airport and 95 percent for a project at any other airport.

(2) EXISTING LETTERS OF INTENT.—The Under Secretary shall revise letters of intent issued before the date of enactment of this section to reflect the cost share established in this subsection with respect to grants made after September 30, 2003.

(f) SPONSOR DEFINED.—In this section, the term “sponsor” has the meaning given that term in section 47102.

(g) APPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements that apply to grants and letters of intent issued under chapter 471 (other than section 47102(3)) shall apply to grants and letters of intent issued under this section.

(h) AVIATION SECURITY CAPITAL FUND.—

(1) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. The first \$250,000,000 derived from fees received under section 44940(a)(1) in each of fiscal years 2004 through ~~2007~~ 2028 shall be available to be deposited in the Fund. The Under Secretary shall impose the fee authorized by section 44940(a)(1) so as to collect at least \$250,000,000 in each of such fiscal years for deposit into the Fund. Amounts in the Fund shall be available to the Under Secretary to make grants under this section.

[(2) ALLOCATIONS.—Of the amount made available under paragraph (1) for a fiscal year, \$125,000,000 shall be allocated in such a manner that—

[(A) 40 percent shall be made available for large hub airports;

[(B) 20 percent shall be made available for medium hub airports;

[(C) 15 percent shall be made available for small hub airports and nonhub airports; and

[(D) 25 percent shall be distributed by the Secretary to any airport on the basis of aviation security risks.

[(3) DISCRETIONARY GRANTS.—Of the amount made available under paragraph (1) for a fiscal year, \$125,000,000 shall be used to make discretionary grants, with priority given to fulfilling intentions to obligate under letters of intent issued under subsection (d).]

(2) ALLOCATION.—*Of the amount made available under paragraph (1) for a fiscal year, not less than \$200,000,000 shall be allocated to fulfill letters of intent issued under subsection (d).*

(3) *DISCRETIONARY GRANTS.*—Of the amount made available under paragraph (1) for a fiscal year, up to \$50,000,000 shall be used to make discretionary grants, with priority given to small hub airports and non-hub airports.

(i) *LEVERAGED FUNDING.*—For purposes of this section, a grant under subsection (a) to an airport sponsor to service an obligation issued by or on behalf of that sponsor to fund a project described in subsection (a) shall be considered to be a grant for that project.

[(i)] (j) *AUTHORIZATION OF APPROPRIATIONS.*—

(1) *IN GENERAL.*—In addition to amounts made available under subsection (h), there is authorized to be appropriated to carry out this section \$400,000,000 for each of fiscal years 2005, 2006, and [2007.] 2007, and \$450,000,000 for each of fiscal years 2008 and 2009. Such sums shall remain available until expended.

(2) *ALLOCATIONS.*—50 percent of amounts appropriated pursuant to this subsection for a fiscal year shall be used for making allocations under subsection (h)(2) and 50 percent of such amounts shall be used for making discretionary grants under subsection (h)(3).

#### **§ 44924. Repair station security**

[49 U.S.C. 44924]

(a) *SECURITY REVIEW AND AUDIT.*—To ensure the security of maintenance and repair work conducted on air carrier aircraft and components at foreign repair stations, the Under Secretary for Border and Transportation Security of the Department of Homeland Security, in consultation with the Administrator of the Federal Aviation Administration, shall complete a security review and audit of foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, and that work on air carrier aircraft and components. The review shall be completed not later than [18 months] 6 months after the date on which the Under Secretary issues regulations under subsection (f).

(b) *ADDRESSING SECURITY CONCERNS.*—The Under Secretary shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under subsection (a) within 90 days of providing notice to the repair station of the security issues and vulnerabilities so identified and shall notify the Administrator that a deficiency was identified in the security audit.

(c) *SUSPENSIONS AND REVOCATIONS OF CERTIFICATES.*—

(1) *FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.*—

If, after the 90th day on which a notice is provided to a foreign repair station under subsection (b), the Under Secretary determines that the foreign repair station does not maintain and carry out effective security measures, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall suspend the certification of the repair station until such time as the Under Secretary determines that the repair station maintains and carries out effective security measures and transmits the determination to the Administrator.

(2) IMMEDIATE SECURITY RISK.—If the Under Secretary determines that a foreign repair station poses an immediate security risk, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall revoke the certification of the repair station.

(3) PROCEDURES FOR APPEALS.—The Under Secretary, in consultation with the Administrator, shall establish procedures for appealing a revocation of a certificate under this subsection.

(d) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by subsection (a) are not completed on or before the date that is **18 months** *6 months* after the date on which the Under Secretary issues regulations under subsection (f), the Administrator shall be barred from certifying any foreign repair station until such audits are completed for existing stations.

(e) PRIORITY FOR AUDITS.—In conducting the audits described in subsection (a), the Under Secretary and the Administrator shall give priority to foreign repair stations located in countries identified by the Government as posing the most significant security risks.

(f) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Under Secretary, in consultation with the Administrator, shall issue final regulations to ensure the security of foreign and domestic aircraft repair stations.

(g) REPORT TO CONGRESS.—If the Under Secretary does not issue final regulations before the deadline specified in subsection (f), the Under Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an explanation as to why the deadline was not met and a schedule for issuing the final regulations.

**§ 44925. Deployment and use of detection equipment at airport screening checkpoints**

[49 U.S.C. 44925]

(a) WEAPONS AND EXPLOSIVES.—The Secretary of Homeland Security shall give a high priority to developing, testing, improving, and deploying, at airport screening checkpoints, equipment that detects nonmetallic, chemical, biological, and radiological weapons, and explosives, in all forms, on individuals and in their personal property. The Secretary shall ensure that the equipment alone, or as part of an integrated system, can detect under realistic operating conditions the types of weapons and explosives that terrorists would likely try to smuggle aboard an air carrier aircraft.

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

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall submit to the appropriate congressional committees a strategic plan to promote the optimal utilization and deployment of explosive detection equipment at airports to screen individuals and their personal property. Such equipment includes walk-through explosive detection portals, document scanners, shoe scanners, and backscatter x-ray scanners. The plan may be submitted in a classified format.



(2) **CONTENT.**—The strategic plan shall include, at minimum—

(A) a description of current efforts to detect explosives in all forms on individuals and in their personal property;

(B) a description of the operational applications of explosive detection equipment at airport screening checkpoints;

(C) a deployment schedule and a description of the quantities of equipment needed to implement the plan;

(D) a description of funding needs to implement the plan, including a financing plan that provides for leveraging of non-Federal funding;

(E) a description of the measures taken and anticipated to be taken in carrying out subsection (d); and

(F) a description of any recommended legislative actions.

(3) **FULL DEPLOYMENT.**—*The Secretary shall fully implement the strategic plan within 1 year after the date of enactment of the Aviation Security Improvement Act.*

(c) **PORTAL DETECTION SYSTEMS.**—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$250,000,000, in addition to any amounts otherwise authorized by law, for research, development, and installation of detection systems and other devices for the detection of biological, chemical, radiological, and explosive materials.

(d) **INTERIM ACTION.**—Until measures are implemented that enable the screening of all passengers for explosives, the Assistant Secretary shall provide, by such means as the Assistant Secretary considers appropriate, explosives detection screening for all passengers identified for additional screening and their personal property that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation.

## PART C—FINANCING

### CHAPTER 483. AVIATION SECURITY FUNDING

#### § 48301. Aviation security funding

[49 U.S.C. 48301]

(a) **IN GENERAL.**—There are authorized to be appropriated for fiscal years 2002, 2003, 2004, 2005, ~~and 2006~~ 2006, 2007, 2008, and 2009 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.

## AVIATION AND TRANSPORTATION SECURITY ACT

### TITLE I—AVIATION SECURITY

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

[49 U.S.C. 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,]** *2006 through 2009*, 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]** *transportation* 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.

(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.

(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.”.

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## HOMELAND SECURITY ACT OF 2002

### TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

#### SUBTITLE C—MISCELLANEOUS PROVISIONS

**“SEC. 431. APPEAL AND REDRESS PROCESS FOR PASSENGERS WRONG-  
LY DELAYED OR PROHIBITED FROM BOARDING A FLIGHT.**

(a) *IN GENERAL.*—The Secretary shall establish a timely and fair process for individuals who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat under the regimes utilized by the Transportation Security Administration, the Bureau of Customs and Border Protection, or any other Department entity.

(b) *OFFICE OF APPEALS AND REDRESS.*—

(1) *ESTABLISHMENT.*—The Secretary shall establish an Office of Appeals and Redress to oversee the process established by the Secretary pursuant to subsection (a).

(2) *RECORDS.*—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office of Appeals and Redress, under the direction of the Secretary, will be able to maintain a record of air carrier passengers and other individuals who have been misidentified and have corrected erroneous information.

(3) *INFORMATION.*—To prevent repeated delays of an misidentified passenger or other individual, the Office of Appeals and Redress shall—

(A) ensure that the records maintained under this subsection contain information determined by the Secretary to authenticate the identity of such a passenger or individual; and

(B) furnish to the Transportation Security Administration, the Bureau of Customs and Border Protection, or any other appropriate Department entity, upon request, such information as may be necessary to allow such agencies to assist air carriers in improving their administration of the advanced passenger prescreening system and reduce the number of false positives.

