

TRANSPORTATION SECURITY ADMINISTRATION  
AUTHORIZATION ACT

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MAY 19, 2009.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. THOMPSON of Mississippi, from the Committee on Homeland  
Security, submitted the following

R E P O R T

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany H.R. 2200]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 2200) to authorize the Transportation Security Administration's programs relating to the provision of transportation security, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Transportation Security Administration Authorization Act”.

(b) **TABLE OF CONTENTS.**—

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Authorities vested in Assistant Secretary.

**TITLE I—AUTHORIZATION OF APPROPRIATIONS**

- Sec. 101. Authorization of appropriations.
- Sec. 102. Risk-based system for allocation of resources.
- Sec. 103. Ensuring contracting with small business concerns and disadvantaged business concerns.

**TITLE II—AVIATION SECURITY**

**Subtitle A—Amendments to Chapter 449**

- Sec. 201. Screening air cargo and checked baggage.
- Sec. 202. Prohibition of advance notice of covert testing to security screeners.
- Sec. 203. Secure verification system for law enforcement officers.
- Sec. 204. Ombudsman for Federal Air Marshal Service.
- Sec. 205. Federal flight deck officer program enhancements.
- Sec. 206. Foreign repair stations.
- Sec. 207. Assistant Secretary defined.
- Sec. 208. TSA and homeland security information sharing.
- Sec. 209. Aviation security stakeholder participation.
- Sec. 210. General aviation security.
- Sec. 211. Security and self-defense training.
- Sec. 212. Security screening of individuals with metal implants traveling in air transportation.
- Sec. 213. Prohibition on outsourcing.

**Subtitle B—Other Matters**

- Sec. 221. Security risk assessment of airport perimeter access controls.
- Sec. 222. Advanced passenger prescreening system.
- Sec. 223. Biometric identifier airport access enhancement demonstration program.
- Sec. 224. Transportation security training programs.
- Sec. 225. Deployment of technology approved by science and technology directorate.
- Sec. 226. In-line baggage screening study.
- Sec. 227. In-line checked baggage screening systems.
- Sec. 228. GAO report on certain contracts and use of funds.
- Sec. 229. IG report on certain policies for Federal air marshals.
- Sec. 230. Explosives detection canine teams minimum for aviation security.
- Sec. 231. Assessments and GAO Report of inbound air cargo screening.
- Sec. 232. Status of efforts to promote air cargo shipper certification.
- Sec. 233. Full and open competition in security background screening service.
- Sec. 234. Registered traveler.
- Sec. 235. Report on cabin crew communication.
- Sec. 236. Air cargo crew training.
- Sec. 237. Reimbursement for airports that have incurred eligible costs.
- Sec. 238. Report on whole body imaging technology.
- Sec. 239. Protective equipment.

**TITLE III—SURFACE TRANSPORTATION SECURITY**

- Sec. 301. Assistant Secretary defined.
- Sec. 302. Surface transportation security inspection program.
- Sec. 303. Visible intermodal prevention and response teams.
- Sec. 304. Surface Transportation Security stakeholder participation.
- Sec. 305. Human capital plan for surface transportation security personnel.
- Sec. 306. Surface transportation security training.
- Sec. 307. Security assistance IG Report.
- Sec. 308. International lessons learned for securing passenger rail and public transportation systems.
- Sec. 309. Underwater tunnel security demonstration project.
- Sec. 310. Passenger rail security demonstration project.
- Sec. 311. Explosives detection canine teams.

**TITLE IV—TRANSPORTATION SECURITY CREDENTIALING**

**Subtitle A—Security Credentialing**

- Sec. 401. Report and recommendation for uniform security background checks.
- Sec. 402. Animal-propelled vessels.
- Sec. 403. Requirements for issuance of transportation security cards; access pending issuance.
- Sec. 404. Harmonizing security card expirations.
- Sec. 405. Securing aviation from extreme terrorist threats.

**Subtitle B—SAFE Truckers Act of 2009**

- Sec. 431. Short title.

Sec. 432. Surface transportation security.  
 Sec. 433. Conforming amendment.  
 Sec. 434. Limitation on issuance of hazmat licenses.  
 Sec. 435. Deadlines and effective dates.  
 Sec. 436. Task force on disqualifying crimes.

**SEC. 2. DEFINITIONS.**

In this Act, the following definitions apply:

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

(2) ADMINISTRATION.—The term “Administration” means the Transportation Security Administration.

(3) AVIATION SECURITY ADVISORY COMMITTEE.—The term “Aviation Security Advisory Committee” means the advisory committee established by section 44946 of title 49, United States Code, as added by this Act.

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

**SEC. 3. AUTHORITIES VESTED IN ASSISTANT SECRETARY.**

Any authority vested in the Assistant Secretary under this Act shall be carried out under the direction and control of the Secretary.

## **TITLE I—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary \$7,604,561,000 for fiscal year 2010 and \$8,060,835,000 for fiscal year 2011 for the necessary expenses of the Transportation Security Administration for such fiscal years.

**SEC. 102. RISK-BASED SYSTEM FOR ALLOCATION OF RESOURCES.**

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall submit to the appropriate congressional committees, including the Committee on Homeland Security of the House of Representatives, a report on the status of its implementation of recommendations from the Comptroller General with respect to the use by the Transportation Security Administration of a risk-based system for allocating security resources effectively.

(b) ASSESSMENTS.—The report shall include assessments of the Transportation Security Administration’s progress in—

(1) adopting security goals that define specific outcomes, conditions, end points, and performance targets;

(2) conducting comprehensive risk assessments for the transportation sector that meet the criteria established under Homeland Security Presidential Directive-7 in effect as of January 1, 2009, and combine individual assessments of threat, vulnerability, and consequence;

(3) analyzing the assessments described in paragraph (2) to produce a comparative analysis of risk across the entire transportation sector to guide current and future investment decisions;

(4) establishing an approach for gathering data on investments by State, local, and private sector security partners in transportation security;

(5) establishing a plan and corresponding benchmarks for conducting risk assessments for the transportation sector that identify the scope of the assessments and resource requirements for completing them;

(6) working with the Department of Homeland Security to effectuate the Administration’s risk management approach by establishing a plan and timeframe for assessing the appropriateness of the Administration’s intelligence-driven risk management approach for managing risk at the Administration and documenting the results of the assessment once completed;

(7) determining the best approach for assigning uncertainty or confidence levels to analytic intelligence products related to the Transportation Security Administration’s security mission and applying such approach; and

(8) establishing internal controls, including—

(A) a focal point and clearly defined roles and responsibilities for ensuring that the Administration’s risk management framework is implemented;

(B) policies, procedures, and guidance that require the implementation of the Administration’s framework and completion of related work activities; and

(C) a system to monitor and improve how effectively the framework is being implemented.

## (c) ASSESSMENT AND PRIORITIZATION OF RISKS.—

(1) IN GENERAL.—Consistent with the risk and threat assessments required under sections 114(s)(3)(B) and 44904(c) of title 49, United States Code, the report shall include—

(A) a summary that ranks the risks within and across transportation modes, including vulnerability of a cyber attack; and

(B) a description of the risk-based priorities for securing the transportation sector, both within and across modes, in the order that the priorities should be addressed.

## (2) METHODS.—The report also shall—

(A) describe the underlying methodologies used to assess risks across and within each transportation mode and the basis for any assumptions regarding threats, vulnerabilities, and consequences made in assessing and prioritizing risks within and across such modes; and

(B) include the Assistant Secretary's working definition of the terms "risk-based" and "risk-informed".

(d) FORMAT.—The report shall be submitted in classified or unclassified formats, as appropriate.

**SEC. 103. ENSURING CONTRACTING WITH SMALL BUSINESS CONCERNS AND DISADVANTAGED BUSINESS CONCERNS.**

(a) REQUIREMENTS FOR PRIME CONTRACTS.—The Assistant Secretary shall include in each contract, valued at \$300,000,000 or more, awarded for procurement of goods or services acquired for the Transportation Security Administration—

(1) a requirement that the contractor shall implement a plan for the award, in accordance with other applicable requirements, of subcontracts under the contract to small business concerns, including small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, small business concerns owned and controlled by service-disabled veterans, HUBZone small business concerns, small business concerns participating in the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), institutions of higher education receiving assistance under title III or V of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq.; 1101 et seq.), and Alaska Native Corporations created pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), including the terms of such plan; and

(2) a requirement that the contractor shall submit to the Assistant Secretary, during performance of the contract, periodic reports describing the extent to which the contractor has complied with such plan, including specification (by total dollar amount and by percentage of the total dollar value of the contract) of the value of subcontracts awarded at all tiers of subcontracting to small business concerns, institutions, and corporations referred to in subsection (a)(1).

(b) UTILIZATION OF ALLIANCES.—The Assistant Secretary shall seek to facilitate award of contracts by the Administration to alliances of small business concerns, institutions, and corporations referred to in subsection (a)(1).

## (c) ANNUAL REPORT.—

(1) IN GENERAL.—The Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by October 31 each year a report on the award of contracts to small business concerns, institutions, and corporations referred to in subsection (a)(1) during the preceding fiscal year.

## (2) CONTENTS.—The Assistant Secretary shall include in each report—

(A) specification of the value of such contracts, by dollar amount and as a percentage of the total dollar value of all contracts awarded by the United States in such fiscal year;

(B) specification of the total dollar value of such contracts awarded to each of the categories of small business concerns, institutions, and corporations referred to in subsection (a)(1); and

(C) if the percentage specified under subparagraph (A) is less than 25 percent, an explanation of—

(i) why the percentage is less than 25 percent; and

(ii) what will be done to ensure that the percentage for the following fiscal year will not be less than 25 percent.

## TITLE II—AVIATION SECURITY

### Subtitle A—Amendments to Chapter 449

#### SEC. 201. SCREENING AIR CARGO AND CHECKED BAGGAGE.

(a) INBOUND AIR CARGO ON PASSENGER AIRCRAFT.—Section 44901(g) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

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

“(3) INBOUND AIR CARGO ON PASSENGER AIRCRAFT.—Not later than 2 years after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall establish a system to verify that all cargo transported on passenger aircraft operated by an air carrier or foreign air carrier inbound to the United States be screened for explosives. The system shall include a risk assessment for inbound air cargo on passenger and all air cargo airplanes, and the Assistant Secretary shall use this assessment to address vulnerabilities in cargo screening. The Assistant Secretary shall identify redundancies in inbound cargo inspection on passenger aircraft by agencies and address these to ensure that all cargo is screened without subjecting carriers to multiple inspections by different agencies.”.

(b) MANDATORY SCREENING WHERE EDS IS NOT YET AVAILABLE.—Section 44901(e)(1) of title 49, United States Code, is amended to read as follows:

“(1) A bag match program, ensuring that no checked baggage is placed aboard an aircraft unless the passenger who checked the baggage is aboard the aircraft, is not authorized as an alternate method of baggage screening where explosive detection equipment is available unless there are exigent circumstances as determined by the Assistant Secretary. The Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives within 90 days of the determination that bag match must be used as an alternate method of baggage screening.”.

#### SEC. 202. PROHIBITION OF ADVANCE NOTICE OF COVERT TESTING TO SECURITY SCREENERS.

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

(1) by redesignating the second subsection (i) (as redesignated by section 111(a)(1) of Public Law 107–71 (115 Stat. 616), relating to accessibility of computer-based training facilities) as subsection (k); and

(2) by adding at the end the following new subsection:

“(1) PROHIBITION OF ADVANCE NOTICE TO SECURITY SCREENERS OF COVERT TESTING AND EVALUATION.—

“(1) IN GENERAL.—The Assistant Secretary shall ensure that information concerning a covert test of a transportation security system to be conducted by a covert testing office, the Inspector General of the Department of Homeland Security, or the Government Accountability Office is not provided to any individual prior to the completion of the test.

“(2) EXCEPTIONS.—Notwithstanding paragraph (1)—

“(A) an authorized individual involved in a covert test of a transportation security system may provide information concerning the covert test to—

“(i) employees, officers, and contractors of the Federal Government (including military personnel);

“(ii) employees and officers of State and local governments; and

“(iii) law enforcement officials who are authorized to receive or directed to be provided such information by the Assistant Secretary, the Inspector General of the Department of Homeland Security, or the Comptroller General, as the case may be; and

“(B) for the purpose of ensuring the security of any individual in the vicinity of a site where a covert test of a transportation security system is being conducted, an individual conducting the test may disclose his or her status as an individual conducting the test to any appropriate individual if a security screener or other individual who is not a covered employee identifies the individual conducting the test as a potential threat.

“(3) SPECIAL RULES FOR TSA.—

“(A) MONITORING AND SECURITY OF TESTING PERSONNEL.—The head of each covert testing office shall ensure that a person or group of persons conducting a covert test of a transportation security system for the covert testing office is accompanied at the site of the test by a cover team composed of one or more employees of the covert testing office for the purpose of mon-

itoring the test and confirming the identity of personnel involved in the test under subparagraph (B).

“(B) RESPONSIBILITY OF COVER TEAM.—Under this paragraph, a cover team for a covert test of a transportation security system shall—

“(i) monitor the test; and

“(ii) for the purpose of ensuring the security of any individual in the vicinity of a site where the test is being conducted, confirm, notwithstanding paragraph (1), the identity of any individual conducting the test to any appropriate individual if a security screener or other individual who is not a covered employee identifies the individual conducting the test as a potential threat.

“(C) AVIATION SCREENING.—Notwithstanding subparagraph (A), the Transportation Security Administration is not required to have a cover team present during a test of the screening of persons, carry-on items, or checked baggage at an aviation security checkpoint at or serving an airport if the test—

“(i) is approved, in coordination with the designated security official for the airport operator by the Federal Security Director for such airport; and

“(ii) is carried out under an aviation screening assessment program of the Department of Homeland Security.

“(D) USE OF OTHER PERSONNEL.—The Transportation Security Administration may use employees, officers, and contractors of the Federal Government (including military personnel) and employees and officers of State and local governments to conduct covert tests.

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

“(A) APPROPRIATE INDIVIDUAL.—The term ‘appropriate individual’, as used with respect to a covert test of a transportation security system, means any individual that—

“(i) the individual conducting the test determines needs to know his or her status as an individual conducting a test under paragraph (2)(B); or

“(ii) the cover team monitoring the test under paragraph (3)(B)(i) determines needs to know the identity of an individual conducting the test.

“(B) COVERED EMPLOYEE.—The term ‘covered employee’ means any individual who receives notice of a covert test before the completion of a test under paragraph (2)(A).

“(C) COVERT TEST.—

“(i) IN GENERAL.—The term ‘covert test’ means an exercise or activity conducted by a covert testing office, the Inspector General of the Department of Homeland Security, or the Government Accountability Office to intentionally test, compromise, or circumvent transportation security systems to identify vulnerabilities in such systems.

“(ii) LIMITATION.—Notwithstanding clause (i), the term ‘covert test’ does not mean an exercise or activity by an employee or contractor of the Transportation Security Administration to test or assess compliance with relevant regulations.

“(D) COVERT TESTING OFFICE.—The term ‘covert testing office’ means any office of the Transportation Security Administration designated by the Assistant Secretary to conduct covert tests of transportation security systems.

“(E) EMPLOYEE OF A COVERT TESTING OFFICE.—The term ‘employee of a covert testing office’ means an individual who is an employee of a covert testing office or a contractor or an employee of a contractor of a covert testing office.”

(b) UNIFORMS.—Section 44935(j) of such title is amended—

(1) by striking “The Under Secretary” and inserting the following:

“(1) UNIFORM REQUIREMENT.—The Assistant Secretary”; and

(2) by adding at the end the following:

“(2) ALLOWANCE.—The Assistant Secretary may grant a uniform allowance of not less than \$300 to any individual who screens passengers and property pursuant to section 44901.”.

**SEC. 203. SECURE VERIFICATION SYSTEM FOR LAW ENFORCEMENT OFFICERS.**

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

“(e) SECURE VERIFICATION SYSTEM FOR LAW ENFORCEMENT OFFICERS.—

“(1) IN GENERAL.—The Assistant Secretary shall develop a plan for a system to securely verify the identity and status of law enforcement officers flying

while armed. The Assistant Secretary shall ensure that the system developed includes a biometric component.

“(2) DEMONSTRATION.—The Assistant Secretary shall conduct a demonstration program to test the secure verification system described in paragraph (1) before issuing regulations for deployment of the system.

“(3) CONSULTATION.—The Assistant Secretary shall consult with the Aviation Security Advisory Committee, established under section 44946 of title 49, United States Code, when developing the system and evaluating the demonstration program.

“(4) REPORT.—The Assistant Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives, evaluating the demonstration program of the secure verification system required by this section.

“(5) AUTHORIZATION OF APPROPRIATIONS.—From the amounts authorized under section 101 of the Transportation Security Administration Authorization Act, there is authorized to be appropriated to carry out this subsection \$10,000,000, to remain available until expended.”.

**SEC. 204. OMBUDSMAN FOR FEDERAL AIR MARSHAL SERVICE.**

Section 44917 of title 49, United States Code, as amended by section 203 of this Act, is further amended by adding at the end the following:

“(f) OMBUDSMAN.—

“(1) ESTABLISHMENT.—The Assistant Secretary shall establish in the Federal Air Marshal Service an Office of the Ombudsman.

“(2) APPOINTMENT.—The head of the Office shall be the Ombudsman, who shall be appointed by the Assistant Secretary.

“(3) DUTIES.—The Ombudsman shall carry out programs and activities to improve morale, training, and quality of life issues in the Service, including through implementation of the recommendations of the Inspector General of the Department of Homeland Security and the Comptroller General.”.

**SEC. 205. FEDERAL FLIGHT DECK OFFICER PROGRAM ENHANCEMENTS.**

(a) ESTABLISHMENT.—Section 44921(a) of title 49, United States Code, is amended by striking the following: “The Under Secretary of Transportation for Security” and inserting “The Secretary of Homeland Security, acting through the Assistant Secretary of Transportation Security”.

(b) ADMINISTRATORS.—Section 44921(b) of title 49, United States Code, is amended—

(1) by striking “Under” in paragraphs (1), (2), (4), (6), and (7); and

(2) by adding at the end the following:

“(8) ADMINISTRATORS.—The Assistant Secretary shall implement an appropriately sized administrative structure to manage the program, including overseeing—

“(A) eligibility and requirement protocols administration; and

“(B) communication with Federal flight deck officers.”.

(c) TRAINING, SUPERVISION, AND EQUIPMENT.—Section 44921(c)(2)(C) of such title is amended by adding at the end the following:

“(iv) USE OF FEDERAL AIR MARSHAL SERVICE FIELD OFFICE FACILITIES.—In addition to dedicated Government and contract training facilities, the Assistant Secretary shall require that field office facilities of the Federal Air Marshal Service be used for the administrative and training needs of the program. Such facilities shall be available to Federal flight deck officers at no cost for firearms training and qualification, defensive tactics training, and program administrative assistance.”.

(d) REIMBURSEMENT.—Section 44921 of such title is amended by adding at the end the following:

“(1) REIMBURSEMENT.—The Secretary, acting through the Assistant Secretary, shall reimburse all Federal flight deck officers for expenses incurred to complete a recurrent and requalifying training requirement necessary to continue to serve as a Federal flight deck officer. Eligible expenses under this subsection include ground transportation, lodging, meals, and ammunition, to complete any required training as determined by the Assistant Secretary.”.

**SEC. 206. FOREIGN REPAIR STATIONS.**

Section 44924(f) of title 49, United States Code, is amended to read as follows:

“(f) REGULATIONS.—The Assistant Secretary shall issue regulations establishing security standards for foreign repair stations performing maintenance for aircraft used to provide air transportation and shall ensure that comparable standards apply to maintenance work performed by employees of repair stations certified

under part 121 of title 14, Code of Federal Regulations, and maintenance work performed by employees of repair stations certified under part 145 of such title.”

**SEC. 207. ASSISTANT SECRETARY DEFINED.**

(a) IN GENERAL.—Subchapter II of chapter 449 of title 49, United States Code, is amended by inserting before section 44933 the following:

**“§ 44931. Assistant Secretary defined**

“(a) IN GENERAL.—In this chapter—

“(1) the term ‘Assistant Secretary’ means the Assistant Secretary of Homeland Security (Transportation Security Administration); and

“(2) any reference to the Administrator of the Transportation Security Administration, the Under Secretary of Transportation for Security, the Under Secretary of Transportation for Transportation Security, or the Under Secretary for Transportation Security shall be deemed to be a reference to the Assistant Secretary.

“(b) AUTHORITIES VESTED IN ASSISTANT SECRETARY.—Any authority vested in the Assistant Secretary under this chapter shall be carried out under the direction and control of the Secretary of Homeland Security.”.

(b) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by inserting before the item relating to section 44933 the following:

“44931. Assistant Secretary defined.”.

**SEC. 208. TSA AND HOMELAND SECURITY INFORMATION SHARING.**

(a) FEDERAL SECURITY DIRECTOR.—Section 44933 of title 49, United States Code, is amended—

(1) in the section heading, by striking “Managers” and inserting “Directors”;

(2) by striking “Manager” each place it appears and inserting “Director”;

(3) by striking “Managers” each place it appears and inserting “Directors”;

and

(4) by adding at the end the following:

“(c) INFORMATION SHARING.—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall—

“(1) require an airport security plan to have clear reporting procedures to provide that the Federal Security Director of the airport is immediately notified whenever any Federal, State, or local law enforcement personnel are called to an aircraft at a gate or on an airfield at the airport to respond to any security matter;

“(2) require each Federal Security Director of an airport to meet at least quarterly with law enforcement agencies serving the airport to discuss incident management protocols; and

“(3) require each Federal Security Director at an airport to inform, consult, and coordinate, as appropriate, with the airport operator in a timely manner on security matters impacting airport operations and to establish and maintain operational protocols with airport operators to ensure coordinated responses to security matters.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 114(f)(6) of title 49, United States Code, is amended by striking “Managers” and inserting “Directors”.

(2) Section 44940(a)(1)(F) of title 49, United States Code, is amended by striking “Managers” and inserting “Directors”.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 449 is amended by striking the item relating to section 44933 and inserting the following:

“44933. Federal Security Directors.”.

**SEC. 209. AVIATION SECURITY STAKEHOLDER PARTICIPATION.**

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

**“§ 44946. Aviation Security Advisory Committee**

“(a) ESTABLISHMENT OF AVIATION SECURITY ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Assistant Secretary shall establish in the Transportation Security Administration an advisory committee, to be known as the Aviation Security Advisory Committee (in this chapter referred to as the ‘Advisory Committee’), to assist the Assistant Secretary with issues pertaining to aviation security, including credentialing.

“(2) RECOMMENDATIONS.—The Assistant Secretary shall require the Advisory Committee to develop recommendations for improvements to civil aviation security methods, equipment, and processes.



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

“(4) UNPAID POSITION.—Advisory Committee members shall serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

“(b) MEMBERSHIP.—

“(1) MEMBER ORGANIZATIONS.—The Assistant Secretary shall ensure that the Advisory Committee is composed of not more than one individual representing not more than 27 member organizations, including representation of air carriers, all cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, aircraft manufacturers, airport operators, general aviation, and the aviation technology security industry, including biometrics.

“(2) APPOINTMENTS.—Members shall be appointed by the Assistant Secretary, and the Assistant Secretary shall have the discretion to review the participation of any Advisory Committee member and remove for cause at any time.

“(c) NONAPPLICABILITY OF FACCA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee under this section.

“(d) AIR CARGO SECURITY WORKING GROUP.—

“(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee an air cargo security working group to provide recommendations for air cargo security issues, including the implementation of the air cargo screening initiatives proposed by the Transportation Security Administration to screen air cargo on passenger aircraft in accordance with established cargo screening mandates.

“(2) MEETINGS.—The working group shall meet at least semiannually and provide annual reports to the Assistant Secretary with recommendations to improve the Administration’s cargo screening initiatives established to meet all cargo screening mandates set forth in section 44901(g) of title 49, United States Code.

“(3) MEMBERSHIP.—The working group shall include members from the Advisory Committee with expertise in air cargo operations and representatives from other stakeholders as determined by the Assistant Secretary.

“(4) REPORTS.—

“(A) IN GENERAL.—The working group shall prepare and submit reports to the Assistant Secretary in accordance with this paragraph that provide cargo screening mandate implementation recommendations.

“(B) SUBMISSION.—Not later than one year after the date of enactment of this section and on an annual basis thereafter, the working group shall submit its first report to the Assistant Secretary, including any recommendations of the group—

“(i) to reduce redundancies and increase efficiencies with the screening and inspection of inbound cargo; and

“(ii) on the potential development of a fee structure to help sustain cargo screening efforts.”

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

“44946. Aviation Security Advisory Committee.”.

**SEC. 210. GENERAL AVIATION SECURITY.**

(a) IN GENERAL.—Subchapter II of chapter 449 of title 49, United States Code, as amended by section 209 of this Act, is further amended by adding at the end the following:

**“§ 44947. General aviation security**

“(a) GENERAL AVIATION SECURITY GRANT PROGRAM.—

“(1) IN GENERAL.—The Assistant Secretary shall carry out a general aviation security grant program to enhance transportation security at general aviation airports by making grants to operators of general aviation airports for projects to enhance perimeter security, airfield security, and terminal security.

“(2) ELIGIBLE PROJECTS.—Not later than one year after the date of submission of the first report of the working group under subsection (b), the Assistant Secretary shall develop and make publically available a list of approved eligible projects for such grants under paragraph (1) based upon recommendations made by the working group in such report.

“(3) FEDERAL SHARE.—The Federal share of the cost of activities for which grants are made under this subsection shall be 90 percent.

“(b) GENERAL AVIATION SECURITY WORKING GROUP.—

“(1) IN GENERAL.—The Assistant Secretary shall establish, within the Aviation Security Advisory Committee established under section 44946, a general aviation working group to advise the Transportation Security Administration regarding transportation security issues for general aviation facilities general aviation aircraft, and helicopter operations at general aviation and commercial service airports.

“(2) MEETINGS.—The working group shall meet at least semiannually and may convene additional meetings as necessary.

“(3) MEMBERSHIP.—The Assistant Secretary shall appoint members from the Aviation Security Advisory Committee with general aviation experience.

“(4) REPORTS.—

“(A) SUBMISSION.—The working group shall submit a report to the Assistant Secretary with recommendations on ways to improve security at general aviation airports.

“(B) CONTENTS OF REPORT.—The report of the working group submitted to the Assistant Secretary under this paragraph shall include any recommendations of the working group for eligible security enhancement projects at general aviation airports to be funded by grants under subsection (a).

“(C) SUBSEQUENT REPORTS.—After submitting the report, the working group shall continue to report to the Assistant Secretary on general aviation aircraft and airports.

“(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there is authorized to be appropriated for making grants under subsection (a) \$10,000,000 for each of fiscal years 2010 and 2011.”

(b) CLERICAL AMENDMENT.—The analysis for such subchapter is further amended by adding at the end the following:

“44947. General aviation security.”

**SEC. 211. SECURITY AND SELF-DEFENSE TRAINING.**

(a) Section 44918(b) of title 49, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) SELF-DEFENSE TRAINING PROGRAM.—Not later than 1 year after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall provide advanced self-defense training of not less than 5 hours during each 2-year period for all cabin crewmembers. The Assistant Secretary shall consult with the Advisory Committee, established under section 44946, and cabin crew and air carrier representatives in developing a plan for providing self-defense training in conjunction with existing recurrent training.”;

(2) by striking paragraph (3) and inserting the following:

“(3) PARTICIPATION.—A crewmember shall not be required to engage in any physical contact during the training program under this subsection.”; and

(3) by striking paragraph (4) and redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively.

(b) SECURITY TRAINING.—Section 44918(a)(6) of title 49, United States Code, is amended by adding at the end the following: “The Assistant Secretary shall establish an oversight program for security training of cabin crewmembers that includes developing performance measures and strategic goals for air carriers, and standard protocols for Transportation Security Administration oversight inspectors, in accordance with recommendations by the Inspector General of the Department of Homeland Security and the Comptroller General.”

**SEC. 212. SECURITY SCREENING OF INDIVIDUALS WITH METAL IMPLANTS TRAVELING IN AIR TRANSPORTATION.**

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

“(m) SECURITY SCREENING OF INDIVIDUALS WITH METAL IMPLANTS.—

“(1) IN GENERAL.—The Assistant Secretary shall ensure fair treatment in the screening of individuals with metal implants traveling in air transportation.

“(2) PLAN.—The Assistant Secretary shall submit a plan to the Committee on Homeland Security of the House of Representatives for improving security screening procedures for individuals with metal implants to limit disruptions in the screening process while maintaining security. The plan shall include benchmarks for implementing changes to the screening process and analysis of approaches to limit such disruptions for individuals with metal implants including participation in the Registered Traveler program, as established pursuant to section 109(a)(3) of the Aviation Transportation Security Act (115 Stat. 597), and the development of a new credential or system that incorporates biometric

technology and other applicable technologies to verify the identity of an individual who has a metal implant.

“(3) METAL IMPLANT DEFINED.—In this subsection, the term ‘metal implant’ means a metal device or object that has been surgically implanted or otherwise placed in the body of an individual, including any metal device used in a hip or knee replacement, metal plate, metal screw, metal rod inside a bone, and other metal orthopedic implants.”.

(b) EFFECTIVE DATE.—Not later than 180 days after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary of Homeland Security shall submit the plan for security screening procedures for individuals with metal implants, as required by section 44903(m) of title 49, United States Code.

**SEC. 213. PROHIBITION ON OUTSOURCING.**

Section 44903(j)(2)(C) of title 49, United States Code, is amended by adding at the end the following new clause:

“(v) OUTSOURCING PROHIBITED.—Upon implementation of the advanced passenger prescreening system required by this section, the Assistant Secretary shall prohibit any non-governmental entity from administering the function of comparing passenger information to the automatic selectee and no fly lists, consolidated and integrated terrorist watchlists, or any list or database derived from such watchlists for activities related to aviation security. The Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate when any non-governmental entity is authorized access to the watchlists described in this clause.”.

## Subtitle B—Other Matters

**SEC. 221. SECURITY RISK ASSESSMENT OF AIRPORT PERIMETER ACCESS CONTROLS.**

(a) IN GENERAL.—The Assistant Secretary shall develop a strategic risk-based plan to improve transportation security at airports that includes best practices to make airport perimeter access controls more secure at all commercial service and general aviation airports.

(b) CONTENTS.—The plan shall—

- (1) incorporate best practices for enhanced perimeter access controls;
- (2) evaluate and incorporate major findings of all relevant pilot programs of the Transportation Security Administration;
- (3) address recommendations of the Comptroller General on perimeter access controls;
- (4) include a requirement that airports update their security plans to incorporate the best practices, as appropriate, based on risk and adapt the best practices to meet the needs specific to their facilities; and
- (5) include an assessment of the role of new and emerging technologies, including unmanned and autonomous perimeter security technologies, that could be utilized at both commercial and general aviation facilities.

**SEC. 222. ADVANCED PASSENGER PRESCREENING SYSTEM.**

(a) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that—

- (1) describes the progress made by the Department of Homeland Security in implementing the advanced passenger prescreening system;
- (2) compares the total number of misidentified passengers who must undergo secondary screening or have been prevented from boarding a plane during the 3-month period beginning 90 days before the date of enactment of the Transportation Security Administration Authorization Act with the 3-month period beginning 90 days after such date; and
- (3) includes any other relevant recommendations that the Inspector General of the Department of Homeland Security or the Comptroller General determines appropriate.

(b) SUBSEQUENT REPORTS.—The Comptroller General shall submit subsequent reports on the implementation to such Committees every 90 days thereafter until the implementation is complete.

**SEC. 223. BIOMETRIC IDENTIFIER AIRPORT ACCESS ENHANCEMENT DEMONSTRATION PROGRAM.**

(a) **IN GENERAL.**—The Assistant Secretary shall carry out a demonstration program under which biometric identifier access systems for individuals with unescorted access to secure or sterile areas of an airport, including airport employees and flight crews, are evaluated for the purposes of enhancing transportation security at airports and to determine how airports can implement uniform biometric identifier and interoperable security systems.

(b) **AIRPORTS PARTICIPATING IN PROGRAM.**—The Assistant Secretary shall select at least 7 airports, including at least 2 large airports, to participate in the demonstration program.

(c) **INITIATION AND DURATION OF PROGRAM.**—

(1) **DEADLINE FOR INITIATION.**—The Assistant Secretary shall conduct the demonstration program not later than one year after the date of enactment of this Act.

(2) **DURATION.**—The program shall have a duration of not less than 180 days and not more than one year.

(d) **REQUIRED ELEMENTS.**—In conducting the demonstration program, the Assistant Secretary shall—

(1) assess best operational, administrative, and management practices in creating uniform, standards-based, and interoperable biometric identifier systems for all individuals with access to secure or sterile areas of commercial service airports; and

(2) conduct a risk-based analysis of the selected airports and other airports, as the Assistant Secretary determines appropriate, to identify where the implementation of biometric identifier systems could benefit security.

(e) **CONSIDERATIONS.**—In conducting the demonstration program, the Assistant Secretary shall consider, at a minimum, the following:

(1) **PARALLEL SYSTEMS.**—Existing parallel biometric transportation security systems applicable to workers with unescorted access to transportation systems, including—

(A) transportation worker identification credentials issued under section 70105 of title 46, United States Code;

(B) armed law enforcement travel credentials issued under section 44903(h)(6) of title 49, United States Code; and

(C) other credential and biometric identifier systems used by the Federal Government, as the Assistant Secretary considers appropriate.

(2) **EFFORTS BY TRANSPORTATION SECURITY ADMINISTRATION.**—Any biometric identifier system or proposals developed by the Assistant Secretary.

(3) **INFRASTRUCTURE AND TECHNICAL REQUIREMENTS.**—The architecture, modules, interfaces, and transmission of data needed for airport security operations.

(4) **EXISTING AIRPORT SYSTEMS.**—Credentialing and access control systems in use in secure and sterile areas of airports.

(5) **ASSOCIATED COSTS.**—The costs of implementing uniform, standards-based, and interoperable biometric identifier systems at airports, including—

(A) the costs to airport operators, airport workers, air carriers, and other aviation industry stakeholders; and

(B) the costs associated with ongoing operations and maintenance and modifications and enhancements needed to support changes in physical and electronic infrastructure.

(6) **INFORMATION FROM OTHER SOURCES.**—Recommendations, guidance, and information from other sources, including the Inspector General of the Department of Homeland Security, the Comptroller General, the heads of other governmental entities, organizations representing airport workers, and private individuals and organizations.

(f) **IDENTIFICATION OF BEST PRACTICES.**—In conducting the demonstration program, the Assistant Secretary shall identify best practices for the administration of biometric identifier access at airports, including best practices for each of the following processes:

(1) Registration, vetting, and enrollment.

(2) Issuance.

(3) Verification and use.

(4) Expiration and revocation.

(5) Development of a cost structure for acquisition of biometric identifier credentials.

(6) Development of redress processes for workers.

(g) **CONSULTATION.**—In conducting the demonstration program, the Assistant Secretary shall consult with the Aviation Security Advisory Committee regarding how airports may transition to uniform, standards-based, and interoperable biometric

identifier systems for airport workers and others with unescorted access to secure or sterile areas of an airport.

(h) **EVALUATION.**—The Assistant Secretary shall conduct an evaluation of the demonstration program to specifically assess best operational, administrative, and management practices in creating a standard, interoperable, biometric identifier access system for all individuals with access to secure or sterile areas of commercial service airports.

(i) **REPORT TO CONGRESS.**—Not later than 180 days after the last day of that demonstration program ends, the Assistant Secretary shall submit to the appropriate congressional committees, including the Committee on Homeland Security of the House of Representatives, a report on the results of the demonstration program. The report shall include possible incentives for airports that voluntarily seek to implement uniform, standards-based, and interoperable biometric identifier systems.

(j) **BIOMETRIC IDENTIFIER SYSTEM DEFINED.**—In this section, the term “biometric identifier system” means a system that uses biometric identifier information to match individuals and confirm identity for transportation security and other purposes.

(k) **AUTHORIZATION OF APPROPRIATIONS.**—From amounts authorized under section 101, there is authorized to be appropriated a total of \$20,000,000 to carry out this section for fiscal years 2010 and 2011.

**SEC. 224. TRANSPORTATION SECURITY TRAINING PROGRAMS.**

Not later than one year after the date of enactment of this Act, the Assistant Secretary shall establish recurring training of transportation security officers regarding updates to screening procedures and technologies in response to weaknesses identified in covert tests at airports. The training shall include—

- (1) internal controls for monitoring and documenting compliance of transportation security officers with training requirements;
- (2) the availability of high-speed Internet and Intranet connectivity to all airport training facilities of the Administration; and
- (3) such other matters as identified by the Assistant Secretary with regard to training.

**SEC. 225. DEPLOYMENT OF TECHNOLOGY APPROVED BY SCIENCE AND TECHNOLOGY DIRECTORATE.**

(a) **IN GENERAL.**—The Assistant Secretary, in consultation with the Directorate of Science and Technology of the Department of Homeland Security, shall develop and submit to the appropriate committees of Congress, including the Committee on Homeland Security of the House of Representatives, a strategic plan for the certification and integration of technologies for transportation security with high approval or testing results from the Directorate and the Transportation Security Laboratory of the Department.

(b) **CONTENTS OF STRATEGIC PLAN.**—The strategic plan developed under subsection (a) shall include—

- (1) a cost-benefit analysis to assist in prioritizing investments in new checkpoint screening technologies that compare the costs and benefits of screening technologies being considered for development or acquisition with the costs and benefits of other viable alternatives;
- (2) quantifiable performance measures to assess the extent to which investments in research, development, and deployment of checkpoint screening technologies achieve performance goals for enhancing security at airport passenger checkpoints; and
- (3) a method to ensure that operational tests and evaluations have been successfully completed in an operational environment before deploying checkpoint screening technologies to airport checkpoints.

(c) **REPORT TO CONGRESS.**—

- (1) **IN GENERAL.**—The Assistant Secretary shall submit to the appropriate committees of Congress, including the Committee on Homeland Security of the House of Representatives, an annual report on the status of all technologies that have undergone testing and evaluation, including technologies that have been certified by the Department, and any technologies used in a demonstration program administered by the Administration. The report shall also specify whether the technology was submitted by an academic institution, including an institution of higher education eligible to receive assistance under title III or V of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq. and 1101 et seq.)
- (2) **FIRST REPORT.**—The first report submitted under this subsection shall assess such technologies for a period of not less than 2 years.

**SEC. 226. IN-LINE BAGGAGE SCREENING STUDY.**

The Assistant Secretary shall consult with the Advisory Committee and report to the appropriate committees of Congress, including the Committee on Homeland Security of the House of Representatives, on deploying optimal baggage screening solutions and replacing baggage screening equipment nearing the end of its life cycle at commercial service airports. Specifically, the report shall address the Administration's plans, estimated costs, and current benchmarks for replacing explosive detection equipment that is nearing the end of its life cycle.

**SEC. 227. IN-LINE CHECKED BAGGAGE SCREENING SYSTEMS.**

(a) FINDINGS.—Congress finds the following:

(1) Since its inception, the Administration has procured and installed over 2,000 explosive detection systems (referred to in this section as “EDS”) and 8,000 explosive trace detection (referred to in this section as “ETD”) systems to screen checked baggage for explosives at the Nation's commercial airports.

(2) Initial deployment of stand-alone EDS machines in airport lobbies resulted in operational inefficiencies and security risks as compared to using EDS machines integrated in-line with airport baggage conveyor systems.

(3) The Administration has acknowledged the advantages of fully integrating in-line checked baggage EDS systems, especially at large airports. According to the Administration, in-line EDS systems have proven to be cost-effective and more accurate at detecting dangerous items.

(4) As a result of the large upfront capital investment required, these systems have not been deployed on a wide-scale basis. The Administration estimates that installing and operating the optimal checked baggage screening systems could potentially cost more than \$20,000,000,000 over 20 years.

(5) Nearly \$2,000,000,000 has been appropriated for the installation of in-line explosive detection systems, including necessary baggage handling system improvements, since 2007.

(6) Despite substantial funding, the Administration has made limited progress in deploying optimal screening solutions, including in-line systems, to 250 airports identified in its February 2006 strategic planning framework.

(b) GAO REPORT.—The Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the Administration's progress in deploying optimal baggage screening solutions and replacing aging baggage screening equipment at the Nation's commercial airports. The report shall also include an analysis of the Administration's methodology for expending public funds to deploy in-line explosive detection systems since 2007. The report shall address, at a minimum—

(1) the Administration's progress in deploying optimal screening solutions at the Nation's largest commercial airports, including resources obligated and expended through fiscal year 2009;

(2) the potential benefits and challenges associated with the deployment of optimal screening solutions at the Nation's commercial airports; and

(3) the Administration's plans, estimated costs, and current milestones for replacing EDS machines that are nearing the end of their estimated useful product lives.

(c) UPDATES REQUIRED.—Not later than 6 months after submitting the report required in subsection (b) and every 6 months thereafter until the funds appropriated for such systems are expended, the Comptroller General shall provide the Committee on Homeland Security of the House of Representatives an update regarding its analysis of the Administration's expenditures for explosive detection and in-line baggage systems.

**SEC. 228. GAO REPORT ON CERTAIN CONTRACTS AND USE OF FUNDS.**

Not later than 60 days after the date of enactment of this Act, and every 6 months thereafter, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report regarding any funds made available by the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110–329), the Omnibus Appropriations Act, 2009 (Public Law 111–8), or the Economic Stimulus Act of 2008 (Public Law 110–185) used by the Transportation Security Administration to award a contract for any explosive detection screening system or to implement any other screening or detection technology for use at an airport.

**SEC. 229. IG REPORT ON CERTAIN POLICIES FOR FEDERAL AIR MARSHALS.**

Not later than 120 days after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall review the minimum stand-

ards and policies regarding rest periods between deployments and any other standards or policies applicable to Federal air marshals reporting to duty. After such review, the Inspector General shall make any recommendations to such standards and policies the Inspector General considers necessary to ensure an alert and responsible workforce of Federal air marshals.

**SEC. 230. EXPLOSIVES DETECTION CANINE TEAMS MINIMUM FOR AVIATION SECURITY.**

The Assistant Secretary shall ensure that the number of explosives detection canine teams for aviation security is not less than 250 through fiscal year 2011.

**SEC. 231. ASSESSMENTS AND GAO REPORT OF INBOUND AIR CARGO SCREENING.**

Section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (121 Stat. 478) is amended by inserting at the end the following:

“(c) ASSESSMENT OF INBOUND COMPLIANCE.—Upon establishment of the inbound air cargo screening system, the Assistant Secretary shall submit a report to the Committee on Homeland Security in the House of Representatives on the impact, rationale, and percentage of air cargo being exempted from screening under exemptions granted under section 44901(i)(1) of title 49, United States Code.

“(d) GAO REPORT.—Not later than 120 days after the date of enactment of this Act and quarterly thereafter, the Comptroller General shall review the air cargo screening system for inbound passenger aircraft and report to the Committee on Homeland Security in the House of Representatives on the status of implementation, including the approximate percentage of cargo being screened, as well as the Administration’s methods to verify the screening system’s implementation.”

**SEC. 232. STATUS OF EFFORTS TO PROMOTE AIR CARGO SHIPPER CERTIFICATION.**

Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the status of the implementation of the Administration’s plan to promote a program to certify the screening methods used by shippers in a timely manner, in accordance with section 44901(g) of title 49, United States Code, including participation by shippers with robust and mature internal security programs.

**SEC. 233. FULL AND OPEN COMPETITION IN SECURITY BACKGROUND SCREENING SERVICE.**

Not later than 9 months after the date of enactment of this section, the Secretary shall publish in the Federal Register a notice that the selection process for security background screening services for persons requiring background screening in the aviation industry is subject to full and open competition. The notice shall include—

- (1) a statement that airports and other affected entities are not required to use a single service provider of background screening services and may use the services of other providers approved by the Assistant Secretary;
- (2) requirements for disposal of personally identifiable information by the approved provider by a date certain; and
- (3) information on all technical specifications and other criteria required by the Assistant Secretary to approve a background screening service provider.

**SEC. 234. REGISTERED TRAVELER.**

(a) ASSESSMENTS AND BACKGROUND CHECKS.—

(1) IN GENERAL.—Subject to paragraph (2) and not later than 120 days after the date of enactment of this Act, to enhance aviation security through risk management at airport checkpoints through use of the Registered Traveler program, established pursuant to section 109(a)(3) of the Aviation Transportation Security Act (115 Stat. 597), the Assistant Secretary shall—

- (A) reinstate an initial and continuous security threat assessment program as part of the Registered Traveler enrollment process; and
- (B) allow Registered Traveler providers to perform private sector background checks as part of their enrollment process with assurance that the program shall be undertaken in a manner consistent with constitutional privacy and civil liberties protections and be subject to approval and oversight by the Assistant Secretary.

(2) REQUIREMENTS.—The Assistant Secretary shall not reinstate the threat assessment component of the Registered Traveler program or allow certain background checks unless the Assistant Secretary—

- (A) determines that the Registered Traveler program, in accordance with this subsection, is integrated into risk-based aviation security operations; and
- (B) expedites checkpoint screening, as appropriate, for Registered Traveler members who have been subjected to a security threat assessment and the private sector background check under this subsection.

(b) NOTIFICATION.—

(1) CONTENTS.—Not later than 180 days after the date of enactment of this Act, if the Assistant Secretary determines that the Registered Traveler program can be integrated into risk-based aviation security operations under subsection (a), the Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate regarding—

- (A) the level of risk reduction provided by carrying out section (a); and
- (B) how the Registered Traveler program has been integrated into risk-based aviation security operations.

(2) CHANGES TO PROTOCOL.—The Assistant Secretary shall also set forth what changes to the program, including screening protocols, have been implemented to realize the full potential of the Registered Traveler program.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize any nongovernmental entity to perform vetting against the terrorist screening database maintained by the Administration.

**SEC. 235. REPORT ON CABIN CREW COMMUNICATION.**

Not later than one year after the date of enactment of this Act, the Assistant Secretary, in consultation with the Advisory Committee established under section 44946 of title 49, United States Code, shall prepare a report that assesses technologies and includes standards for the use of wireless devices to enhance transportation security on aircraft for the purpose of ensuring communication between and among cabin crew and pilot crewmembers, embarked Federal air marshals, and authorized law enforcement officials, as appropriate.

**SEC. 236. AIR CARGO CREW TRAINING.**

The Assistant Secretary, in consultation with the Advisory Committee established under section 44946 of title 49, United States Code, shall develop a plan for security training for the all-cargo aviation threats for pilots and, as appropriate, other crewmembers operating in all-cargo transportation.

**SEC. 237. REIMBURSEMENT FOR AIRPORTS THAT HAVE INCURRED ELIGIBLE COSTS.**

Section 1604(b)(2) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (121 Stat. 481) is amended to read as follows:

“(2) AIRPORTS THAT HAVE INCURRED ELIGIBLE COSTS.—

“(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall establish a process for resolving reimbursement claims for airports that have incurred, before the date of enactment of this Act, eligible costs associated with development of partial or completed in-line baggage systems.

“(B) PROCESS FOR RECEIVING REIMBURSEMENT.—The process shall allow an airport—

“(i) to submit a claim to the Assistant Secretary for reimbursement for eligible costs described in subparagraph (A); and

“(ii) not later than 180 days after date on which the airport submits the claim, to receive a determination on the claim and, if the determination is positive, to be reimbursed.

“(C) REPORT.—Not later than 60 days after the date on which the Assistant Secretary establishes the process under subparagraph (B), the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives a report containing a description of the process, including a schedule for the timely reimbursement of airports for which a positive determination has been made.”

**SEC. 238. REPORT ON WHOLE BODY IMAGING TECHNOLOGY.**

Upon completion of the ongoing whole body imaging technology pilot, the Assistant Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the results of the pilot, including how privacy protections were integrated.

**SEC. 239. PROTECTIVE EQUIPMENT.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary of Homeland Security shall develop protocols for the use of protective equipment for personnel of the Transportation Security Administration and for other purposes.

(b) DEFINITION.—In this section the term “protective equipment” includes surgical masks and N95 masks.



## TITLE III—SURFACE TRANSPORTATION SECURITY

### SEC. 301. ASSISTANT SECRETARY DEFINED.

Section 1301 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1111) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively; and

(2) by inserting after paragraph (1) the following:

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

### SEC. 302. SURFACE TRANSPORTATION SECURITY INSPECTION PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) Surface transportation security inspectors assist passenger rail stakeholders in identifying security gaps through Baseline Assessment for Security Enhancement (“BASE”) reviews, monitor freight rail stakeholder efforts to reduce the risk that toxic inhalation hazard shipments pose to high threat urban areas through Security Action Item (“SAI”) reviews, and assist in strengthening chain of custody security.

(2) Surface transportation security inspectors play a critical role in building and maintaining working relationships with transit agencies and acting as liaisons between such agencies and the Transportation Security Operations Center, relationships which are vital to effective implementation of the surface transportation security mission.

(3) In December 2006, the Transportation Security Administration shifted from a system in which surface transportation security inspectors reported to surface-focused supervisors to a system in which inspectors report to aviation-focused supervisors in the field; a shift which has resulted in a strained chain of command, misappropriation of inspectors to nonsurface activities, the hiring of senior-level inspectors with no surface qualifications, and significant damage to relationships with transit agencies and inspector morale.

(b) SURFACE TRANSPORTATION SECURITY INSPECTION OFFICE.—Section 1304 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1113) is amended—

(1) by redesignating subsections (c) through (j) as subsections (b) through (i), respectively; and

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

“(a) SURFACE TRANSPORTATION SECURITY INSPECTION OFFICE.—

“(1) ESTABLISHMENT.—The Secretary, acting through the Assistant Secretary, shall establish an office to be known as the Surface Transportation Security Inspection Office (in this section referred to as the ‘Office’).

“(2) MISSION.—The Secretary shall use the Office to train, employ, and utilize surface transportation security inspectors to—

“(A) assist surface transportation carriers, operators, owners, entities, and facilities to enhance their security against terrorist attacks and other security threats; and

“(B) assist the Secretary in enforcing applicable surface transportation security regulations and directives.

“(3) OFFICERS.—

“(A) DIRECTOR.—The head of the Office shall be the Director, who shall—

“(i) oversee and coordinate the activities of the Office, including all officers and any corresponding surface transportation modes in which the Office carries out such activities, and the surface transportation security inspectors who assist in such activities; and

“(ii) act as the primary point of contact between the Office and other entities that support the Department’s surface transportation security mission to ensure efficient and appropriate use of surface transportation security inspectors and maintain strong working relationships with surface transportation security stakeholders.

“(B) DEPUTY DIRECTOR.—There shall be a Deputy Director of the Office, who shall—

“(i) assist the Director in carrying out the responsibilities of the Director under this subsection; and

“(ii) serve as acting Director in the absence of the Director and during any vacancy in the office of Director.

“(4) APPOINTMENT.—

“(A) IN GENERAL.—The Director and Deputy Director shall be responsible on a full-time basis for the duties and responsibilities described in this subsection.

“(B) CLASSIFICATION.—The position of Director shall be considered a position in the Senior Executive Service as defined in section 2101a of title 5, United States Code, and the position of Deputy Director shall be considered a position classified at grade GS–15 of the General Schedule.

“(5) LIMITATION.—No person shall serve as an officer under subsection (a)(3) while serving in any other position in the Federal Government.

“(6) FIELD OFFICES.—

“(A) ESTABLISHMENT.—The Secretary shall establish primary and secondary field offices in the United States to be staffed by surface transportation security inspectors in the course of carrying out their duties under this section.

“(B) DESIGNATION.—The locations for, and designation as ‘primary’ or ‘secondary’ of, such field offices shall be determined in a manner that is consistent with the Department’s risk-based approach to carrying out its homeland security mission.

“(C) COMMAND STRUCTURE.—

“(i) PRIMARY FIELD OFFICES.—Each primary field office shall be led by a chief surface transportation security inspector, who has significant experience with surface transportation systems, facilities, and operations and shall report directly to the Director.

“(ii) SECONDARY FIELD OFFICES.—Each secondary field office shall be led by a senior surface transportation security inspector, who shall report directly to the chief surface transportation security inspector of a geographically appropriate primary field office, as determined by the Director.

“(D) PERSONNEL.—Not later than 18 months after the date of enactment of the Transportation Security Administration Authorization Act, field offices shall be staffed with—

“(i) not fewer than 7 surface transportation security inspectors, including one chief surface transportation security inspector, at every primary field office; and

“(ii) not fewer than 5 surface transportation security inspectors, including one senior surface transportation security inspector, at every secondary field office.”

(c) NUMBER OF INSPECTORS.—Section 1304(e) of such Act (6 U.S.C. 1113(e)), as redesignated by subsection (b) of this section, is amended to read as follows:

“(e) NUMBER OF INSPECTORS.—Subject to the availability of appropriations, the Secretary shall hire not fewer than—

“(1) 200 additional surface transportation security inspectors in fiscal year 2010; and

“(2) 100 additional surface transportation security inspectors in fiscal year 2011.”

(d) COORDINATION.—Section 1304(f) of such Act (6 U.S.C. 1113(f)), as redesignated by subsection (b) of this section, is amended by striking “114(t)” and inserting “114(s)”.

(e) REPORT.—Section 1304(h) of such Act (6 U.S.C. 1113(h)), as redesignated by subsection (b) of this section, is amended by striking “2008” and inserting “2011”.

(f) PLAN.—Section 1304(i) of such Act (6 U.S.C. 1113(i)), as redesignated by subsection (b) of this section, is amended to read as follows:

“(i) PLAN.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a plan for expanding the duties and leveraging the expertise of surface transportation security inspectors to further support the Department’s surface transportation security mission.

“(2) CONTENTS.—The plan shall include—

“(A) an analysis of how surface transportation security inspectors could be used to conduct oversight activities with respect to surface transportation security projects funded by relevant grant programs administered by the Department;

“(B) an evaluation of whether authorizing surface transportation security inspectors to obtain or possess law enforcement qualifications or status would enhance the capacity of the Office to take an active role in the Department’s surface transportation security operations; and

“(C) any other potential functions relating to surface transportation security the Secretary determines appropriate.”

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 1304 of such Act (6 U.S.C. 1113) is amended by adding at the end the following:

“(j) AUTHORIZATION OF APPROPRIATIONS.—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there are authorized to be appropriated such sums as may be necessary to the Secretary to carry out this section for fiscal years 2010 and 2011.”

(h) CONFORMING AMENDMENT.—Section 1304(b) of such Act (6 U.S.C. 1113(b)), as redesignated by subsection (b) of this section, is amended by striking “subsection (e)” and inserting “subsection (d)”.

**SEC. 303. VISIBLE INTERMODAL PREVENTION AND RESPONSE TEAMS.**

Section 1303 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1112) is amended—

(1) in subsection (a) by striking “Administrator of the Transportation Security Administration,” and inserting “Assistant Secretary,”;

(2) in subsection (a)(4) by striking “team,” and inserting “team as to specific locations and times within their facilities at which VIPR teams should be deployed to maximize the effectiveness of such deployment and other matters,”; and

(3) by striking subsection (b) and inserting the following:

“(b) PERFORMANCE MEASURES.—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall develop and implement a system of qualitative performance measures and objectives by which to assess the roles, activities, and effectiveness of VIPR team operations on an ongoing basis, including a mechanism through which the transportation entities listed in subsection (a)(4) may submit feedback on VIPR team operations involving their systems or facilities.

“(c) PLAN.—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall develop and implement a plan for ensuring the interoperability of communications among all participating VIPR team components as designated under subsection (a)(1) and between VIPR teams and any relevant transportation entities as designated in subsection (a)(4) whose systems or facilities are involved in VIPR team operations, including an analysis of the costs and resources required to carry out the plan.

“(d) AUTHORIZATION OF APPROPRIATIONS.—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there are authorized to be appropriated to the Secretary to carry out this section such sums as may be necessary for fiscal years 2010 and 2011.”

**SEC. 304. SURFACE TRANSPORTATION SECURITY STAKEHOLDER PARTICIPATION.**

(a) IN GENERAL.—Title XIII of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1111 et seq.) is amended by adding at the end the following:

**“SEC. 1311. TRANSIT SECURITY ADVISORY COMMITTEE.**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Assistant Secretary shall establish in the Transportation Security Administration an advisory committee, to be known as the Transit Security Advisory Committee (in this section referred to as the ‘Advisory Committee’), to assist the Assistant Secretary with issues pertaining to surface transportation security.

“(2) RECOMMENDATIONS.—

“(A) IN GENERAL.—The Assistant Secretary shall require the Advisory Committee to develop recommendations for improvements to surface transportation security planning, methods, equipment, and processes.

“(B) PRIORITY ISSUES.—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Advisory Committee shall submit to the Assistant Secretary recommendations on—

“(i) improving homeland security information sharing between components of the Department of Homeland Security and surface transportation security stakeholders, including those represented on the Advisory Committee; and

“(ii) streamlining or consolidating redundant security background checks required by the Department under relevant statutes governing surface transportation security, as well as redundant security background checks required by States where there is no legitimate homeland security basis for requiring such checks.

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

“(4) UNPAID POSITION.—Advisory Committee Members shall serve at their own expense and receive no salary, reimbursement for travel expenses, or other compensation from the Federal Government.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Assistant Secretary shall ensure that the Advisory Committee is composed of not more than one individual representing not more than 27 member organizations, including representatives from public transportation agencies, passenger rail agencies or operators, railroad carriers, motor carriers, owners or operators of highways, over-the-road bus operators and terminal owners and operators, pipeline operators, labor organizations representing employees of such entities, and the surface transportation security technology industry.

“(2) APPOINTMENTS.—Members shall be appointed by the Assistant Secretary and the Assistant Secretary shall have the discretion to review the participation of any Advisory Committee member and remove for cause at any time.

“(c) NONAPPLICABILITY OF FACa.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee under this section.

“(d) PASSENGER CARRIER SECURITY WORKING GROUP.—

“(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee a passenger carrier security working group to provide recommendations for successful implementation of initiatives relating to passenger rail, over-the-road bus, and public transportation security proposed by the Transportation Security Administration in accordance with statutory requirements, including relevant grant programs and security training provisions.

“(2) MEETINGS.—The working group shall meet at least semiannually and provide annual reports to the Assistant Secretary with recommendations to improve the Transportation Security Administration’s initiatives relating to passenger rail, over-the-road bus, and public transportation security, including grant, training, inspection, or other relevant programs authorized in titles XIII and XIV, and subtitle C of title XV of this Act.

“(3) MEMBERSHIP.—The working group shall be composed of members from the Advisory Committee with expertise in public transportation, over-the-road bus, or passenger rail systems and operations, all appointed by the Assistant Secretary.

“(4) REPORTS.—

“(A) IN GENERAL.—The working group shall prepare and submit reports to the Assistant Secretary in accordance with this paragraph that provide recommendations as described in paragraphs (1) and (2).

“(B) SUBMISSION.—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, and on an annual basis thereafter, the working group shall submit a report on the findings and recommendations developed under subparagraph (A) to the Assistant Secretary.

“(e) FREIGHT RAIL SECURITY WORKING GROUP.—

“(1) IN GENERAL.—The Assistant Secretary shall establish within the Advisory Committee a freight rail security working group to provide recommendations for successful implementation of initiatives relating to freight rail security proposed by the Transportation Security Administration in accordance with statutory requirements, including relevant grant programs and security training provisions.

“(2) MEETINGS.—The working group shall meet at least semiannually and provide annual reports to the Assistant Secretary with recommendations to improve the Transportation Security Administration’s initiatives relating to freight rail security, including grant, training, inspection, or other relevant programs authorized in titles XIII and XV of this Act.

“(3) MEMBERSHIP.—The working group shall be composed of members from the Advisory Committee with expertise in freight rail systems and operations, all appointed by the Assistant Secretary.

“(4) REPORTS.—

“(A) IN GENERAL.—The working group shall prepare and submit reports to the Assistant Secretary in accordance with this paragraph that provide recommendations as described in paragraphs (1) and (2).

“(B) SUBMISSION.—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, and on an annual basis thereafter, the working group shall submit a report on the findings and recommendations developed under subparagraph (A) to the Assistant Secretary.”

(b) CONFORMING AMENDMENT.—Section 1(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53) is amended by adding at the end of title XIII (Transportation Security Enchantments) the following:

“Sec. 1311. Transit Security Advisory Committee.”.

**SEC. 305. HUMAN CAPITAL PLAN FOR SURFACE TRANSPORTATION SECURITY PERSONNEL.**

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a human capital plan for hiring, training, managing, and compensating surface transportation security personnel, including surface transportation security inspectors.

(b) CONSULTATION.—In developing the human capital plan, the Assistant Secretary shall consult with the chief human capital officer of the Department of Homeland Security, the Director of the Surface Transportation Security Inspection Office, the Inspector General of the Department of Homeland Security, and the Comptroller General.

(c) APPROVAL.—Prior to submission, the human capital plan shall be reviewed and approved by the chief human capital officer of the Department of Homeland Security.

**SEC. 306. SURFACE TRANSPORTATION SECURITY TRAINING.**

(a) STATUS REPORT.—Not later than 30 days after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the status of the Department’s implementation of sections 1408, 1517, and 1534 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1137, 1167, and 1184), including detailed timeframes for development and issuance of the transportation security training regulations required under such sections.

(b) PRIVATE PROVIDERS.—Not later than one year after the date of enactment of this Act, the Assistant Secretary shall identify criteria and establish a process for approving and maintaining a list of approved private third-party providers of security training with whom surface transportation entities may enter into contracts, as needed, for the purpose of satisfying security training requirements of the Department of Homeland Security, including requirements developed under sections 1408, 1517, and 1534 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1137, 1167, and 1184), in accordance with section 103 of this Act.

**SEC. 307. SECURITY ASSISTANCE IG REPORT.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the roles and responsibilities of the Transportation Security Administration and any other relevant component of the Department of Homeland Security in administering security assistance grants under section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135).

(b) CONTENTS.—The report shall—

(1) clarify and describe the roles and responsibilities of each relevant component of the Department, including the Transportation Security Administration, at different stages of the grant process, including the allocation stage, the award stage, and the distribution stage;

(2) identify areas in which relevant components of the Department, including the Transportation Security Administration, may better integrate or coordinate their activities in order to streamline the grant administration process and improve the efficiency of the project approval process for grantees;

(3) assess the current state of public transportation and passenger rail security expertise possessed by relevant personnel involved in the grant administration or project approval processes carried out by relevant components of the Department, including the Transportation Security Administration; and

(4) include recommendations for how each relevant component of the Department, including the Transportation Security Administration, may further clarify, coordinate, or maximize its roles and responsibilities in administering grant funds and approving grant projects under section 1406.

**SEC. 308. INTERNATIONAL LESSONS LEARNED FOR SECURING PASSENGER RAIL AND PUBLIC TRANSPORTATION SYSTEMS.**

(a) FINDINGS.—Congress finds that—

(1) numerous terrorist attacks since September 11, 2001, have targeted passenger rail or public transportation systems;

(2) nearly 200 people were killed and almost 2,000 more were injured when terrorists set off 10 simultaneous explosions on 4 commuter trains in Madrid, Spain, on March 11, 2004;

(3) 50 people were killed and more than 700 injured in successive bombings of 3 transit stations and a public bus in London, England, on July 7, 2005, and a second attack against 4 similar targets on July 21, 2005, failed because of faulty detonators;

(4) more than 200 people were killed and more than 700 injured in simultaneous terrorist bombings of commuter trains on the Western Line in the suburbs of Mamba, India, on July 11, 2006;

(5) the acts of terrorism in Mamba, India, on November 26, 2008, included commando-style attacks on a major railway station; and

(6) a disproportionately low amount of attention and resources have been devoted to surface transportation security by the Department of Homeland Security, including the security of passenger rail and public transportation systems, as compared with aviation security, which has been the primary focus of Federal transportation security efforts generally, and of the Transportation Security Administration in particular.

(b) **STUDY.**—The Comptroller General shall conduct a study on the efforts undertaken by the Secretary and Assistant Secretary, as well as other entities determined by the Comptroller General to have made significant efforts, since January 1, 2004, to learn from foreign nations that have been targets of terrorist attacks on passenger rail and public transportation systems in an effort to identify lessons learned from the experience of such nations to improve the execution of Department functions to address transportation security gaps in the United States.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the results of the study. The report shall also include an analysis of relevant legal differences that may affect the ability of the Department to apply lessons learned.

(2) **RECOMMENDATIONS.**—The Comptroller General shall include in the report recommendations on how the Department and its components, including the Transportation Security Administration, can expand efforts to learn from the expertise and the security practices of passenger rail and public transportation systems in foreign nations that have experienced terrorist attacks on such systems.

**SEC. 309. UNDERWATER TUNNEL SECURITY DEMONSTRATION PROJECT.**

(a) **DEMONSTRATION PROJECT.**—The Assistant Secretary, in consultation with the Under Secretary for Science and Technology, shall conduct a full-scale demonstration project to test and assess the feasibility and effectiveness of certain technologies to enhance the security of underwater public transportation tunnels against terrorist attacks involving the use of improvised explosive devices.

(b) **INFLATABLE PLUGS.**—

(1) **IN GENERAL.**—At least one of the technologies tested under subsection (a) shall be inflatable plugs that may be rapidly deployed to prevent flooding of a tunnel.

(2) **FIRST TECHNOLOGY TESTED.**—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall carry out a demonstration project that tests the effectiveness of using inflatable plugs for the purpose described in paragraph (1).

(c) **REPORT TO CONGRESS.**—Not later than 180 days after completion of the demonstration project under this section, the Assistant Secretary shall submit a report to the appropriate committees of Congress, including the Committee on Homeland Security of the House of Representatives, on the results of the demonstration project.

(d) **AUTHORIZATION OF APPROPRIATION.**—Of the amounts made available under section 101 for fiscal year 2010, \$8,000,000 shall be available to carry out this section.

**SEC. 310. PASSENGER RAIL SECURITY DEMONSTRATION PROJECT.**

(a) **DEMONSTRATION PROJECT.**—The Assistant Secretary, in consultation with the Under Secretary for Science and Technology, shall conduct a demonstration project in a passenger rail system to test and assess the feasibility and effectiveness of technologies to strengthen the security of passenger rail systems against terrorist attacks involving the use of improvised explosive devices.

(b) SECURITY TECHNOLOGIES.—The demonstration project under this section shall test and assess technologies to—

- (1) detect improvised explosive devices on station platforms, through the use of foreign object detection programs in conjunction with cameras; and
- (2) defeat improvised explosive devices left on rail tracks.

(c) REPORT TO CONGRESS.—Not later than 180 days after completion of the demonstration project under this section, the Assistant Secretary shall submit a report to the appropriate committees of Congress, including the Committee on Homeland Security of the House of Representatives, on the results of the demonstration project.

**SEC. 311. EXPLOSIVES DETECTION CANINE TEAMS.**

Section 1307 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1116) is amended—

(1) in subsection (b)—

- (A) in paragraph (1)(A), by striking “2010” and inserting “2011”; and
- (B) by adding at the end the following new paragraph:

“(3) ALLOCATION.—

“(A) IN GENERAL.—The Secretary shall increase the number of canine teams certified by the Transportation Security Administration for the purpose of passenger rail and public transportation security activities to not less than 200 canine teams by the end of fiscal year 2011.

“(B) COOPERATIVE AGREEMENTS.—The Secretary shall expand the use of canine teams to enhance passenger rail and public transportation security by entering into cooperative agreements with passenger rail and public transportation agencies eligible for security assistance under section 1406 of this Act for the purpose of deploying and maintaining canine teams to such agencies for use in passenger rail or public transportation security activities and providing for assistance in an amount not less than \$75,000 for each canine team deployed, to be adjusted by the Secretary for inflation.

“(C) AUTHORIZATION OF APPROPRIATIONS.—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this paragraph for fiscal years 2010 and 2011.”;

(2) in subsection (d)—

- (A) in paragraph (3), by striking “and”;
- (B) in paragraph (4), by striking the period at the end and inserting the following: “; and”; and
- (C) by adding at the end the following new paragraph:

“(5) expand the use of canine teams trained to detect vapor wave trails in passenger rail and public transportation security environments, as the Secretary, in consultation with the Assistant Secretary, determines appropriate.”;

(3) in subsection (e), by striking “, if appropriate,” and inserting “, to the extent practicable,”; and

(4) by striking subsection (f) and inserting the following new subsection (f):

“(f) REPORT.—Not later than one year after the date of the enactment of the Transportation Security Administration Authorization Act, the Comptroller General shall submit to the appropriate congressional committees a report on—

“(1) utilization of explosives detection canine teams to strengthen security in passenger rail and public transportation environments;

“(2) the capacity of the national explosive detection canine team program as a whole; and

“(3) how the Assistant Secretary could better support State and local passenger rail and public transportation entities in maintaining certified canine teams for the life of the canine, including by providing financial assistance.”.

## **TITLE IV—TRANSPORTATION SECURITY CREDENTIALING**

### **Subtitle A—Security Credentialing**

**SEC. 401. REPORT AND RECOMMENDATION FOR UNIFORM SECURITY BACKGROUND CHECKS.**

Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives a report that contains—

- (1) a review of background checks and forms of identification required under State and local transportation security programs;
- (2) a determination as to whether the background checks and forms of identification required under such programs duplicate or conflict with Federal programs; and
- (3) recommendations on limiting the number of background checks and forms of identification required under such programs to reduce or eliminate duplication with Federal programs.

**SEC. 402. ANIMAL-PROPELLED VESSELS.**

Notwithstanding section 70105 of title 46, United States Code, the Secretary shall not require an individual to hold a transportation security card, or be accompanied by another individual who holds such a card if—

- (1) the individual has been issued a license, certificate of registry, or merchant mariner’s document under part E of subtitle II of title 46, United States Code;
- (2) the individual is not allowed unescorted access to a secure area designated in a vessel or facility security plan approved by the Secretary; and
- (3) the individual is engaged in the operation of a live animal-propelled vessel.

**SEC. 403. REQUIREMENTS FOR ISSUANCE OF TRANSPORTATION SECURITY CARDS; ACCESS PENDING ISSUANCE.**

Section 70105 of title 46, United States Code, is amended by adding at the end the following new subsections:

“(n) ESCORTING.—The Secretary shall coordinate with owners and operators subject to this section to allow any individual who has a pending application for a transportation security card under this section or is waiting for reissuance of such card, including any individual whose card has been lost or stolen, and who needs to perform work in a secure or restricted area to have access to such area for that purpose through escorting of such individual in accordance with subsection (a)(1)(B) by another individual who holds a transportation security card.

“(o) PROCESSING TIME.—The Secretary shall review an initial transportation security card application and respond to the applicant, as appropriate, including the mailing of an Initial Determination of Threat Assessment letter, within 30 days after receipt of the initial application. The Secretary shall, to the greatest extent practicable, review appeal and waiver requests submitted by a transportation security card applicant, and send a written decision or request for additional information required for the appeal or waiver determination, within 30 days after receipt of the applicant’s appeal or waiver written request. For an applicant that is required to submit additional information for an appeal or waiver determination, the Secretary shall send a written decision, to the greatest extent practicable, within 30 days after receipt of all requested information.

“(p) RECEIPT OF CARDS.—Within 180 days after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall develop a process to permit an individual approved for a transportation security card under this section to receive the card at the individual’s place of residence.

“(q) FINGERPRINTING.—The Secretary shall establish procedures providing for an individual who is required to be fingerprinted for purposes of this section to be fingerprinted at facilities operated by or under contract with an agency of the Department of the Secretary that engages in fingerprinting the public for transportation security or other security purposes.”

**SEC. 404. HARMONIZING SECURITY CARD EXPIRATIONS.**

Section 70105(b) of title 46, United States Code, is amended by adding at the end the following new paragraph:

“(6) The Secretary may extend for up to one year the expiration of a biometric transportation security card required by this section to align the expiration with the expiration of a license, certificate of registry, or merchant mariner document required under chapter 71 or 73.”

**SEC. 405. SECURING AVIATION FROM EXTREME TERRORIST THREATS.**

Section 44903(j)(2)(C) of title 49, United States Code, as amended by section 213 of this Act, is further amended by adding at the end the following:

“(vi) INCLUSION OF DETAINEES ON NO FLY LIST.—The Assistant Secretary, in coordination with the Terrorist Screening Center, shall include on the no fly list any individual who was a detainee housed at the Naval Station, Guantanamo Bay, Cuba, on or after January 1, 2009, after a final disposition has been issued by the President. For purposes of this clause, the term ‘detainee’ means an individual in the



custody or under the physical control of the United States as a result of armed conflict.”.

## **Subtitle B—SAFE Truckers Act of 2009**

### **SEC. 431. SHORT TITLE.**

This subtitle may be cited as the “Screening Applied Fairly and Equitably to Truckers Act of 2009” or the “SAFE Truckers Act of 2009”.

### **SEC. 432. SURFACE TRANSPORTATION SECURITY.**

(a) **IN GENERAL.**—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

## **“TITLE XXI—SURFACE TRANSPORTATION SECURITY**

### **“SEC. 2101. TRANSPORTATION OF SECURITY SENSITIVE MATERIALS.**

“(a) **SECURITY SENSITIVE MATERIALS.**—Not later than 120 days after the date of enactment of this section, the Secretary shall issue final regulations, after notice and comment, defining security sensitive materials for the purposes of this title.

“(b) **MOTOR VEHICLE OPERATORS.**—The Secretary shall prohibit an individual from operating a motor vehicle in commerce while transporting a security sensitive material unless the individual holds a valid transportation security card issued by the Secretary under section 70105 of title 46, United States Code.

“(c) **SHIPPERS.**—The Secretary shall prohibit a person from—

“(1) offering a security sensitive material for transportation by motor vehicle in commerce; or

“(2) causing a security sensitive material to be transported by motor vehicle in commerce,

unless the motor vehicle operator transporting the security sensitive material holds a valid transportation security card issued by the Secretary under section 70105 of title 46, United States Code.

### **“SEC. 2102. ENROLLMENT LOCATIONS.**

“(a) **FINGERPRINTING LOCATIONS.**—The Secretary shall—

“(1) work with appropriate entities to ensure that fingerprinting locations for individuals applying for a transportation security card under section 70105 of title 46, United States Code, have flexible operating hours; and

“(2) permit an individual applying for such transportation security card to utilize a fingerprinting location outside of the individual’s State of residence to the greatest extent practicable.

“(b) **RECEIPT AND ACTIVATION OF CARDS.**—The Secretary shall develop guidelines and procedures to permit an individual to receive a transportation security card under section 70105 of title 46, United States Code, at the individual’s place of residence and to activate the card at any enrollment center.

“(c) **NUMBER OF LOCATIONS.**—The Secretary shall develop and implement a plan—

“(1) to offer individuals applying for a transportation security card under section 70105 of title 46, United States Code, the maximum number of fingerprinting locations practicable across diverse geographic regions; and

“(2) to conduct outreach to appropriate stakeholders, including owners, operators, and relevant entities (and labor organizations representing employees of such owners, operators, and entities), to keep the stakeholders informed of the timeframe and locations for the opening of additional fingerprinting locations.

“(d) **AUTHORIZATION.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

### **“SEC. 2103. AUTHORITY TO ENSURE COMPLIANCE.**

“(a) **IN GENERAL.**—The Secretary is authorized to ensure compliance with this title.

“(b) **MEMORANDUM OF UNDERSTANDING.**—The Secretary may enter into a memorandum of understanding with the Secretary of Transportation to ensure compliance with section 2101.

### **“SEC. 2104. CIVIL PENALTIES.**

“A person that violates this title or a regulation or order issued under this title is liable to the United States Government pursuant to the Secretary’s authority under section 114(v) of title 49, United States Code.

**“SEC. 2105. COMMERCIAL MOTOR VEHICLE OPERATORS REGISTERED TO OPERATE IN MEXICO OR CANADA.**

“The Secretary shall prohibit a commercial motor vehicle operator licensed to operate in Mexico or Canada from operating a commercial motor vehicle transporting a security sensitive material in commerce in the United States until the operator has been subjected to, and not disqualified as a result of, a security background records check by a Federal agency that the Secretary determines is similar to the security background records check required for commercial motor vehicle operators in the United States transporting security sensitive materials in commerce.

**“SEC. 2106. OTHER SECURITY BACKGROUND CHECKS.**

“The Secretary shall determine that an individual applying for a transportation security card under section 70105 of title 46, United States Code, has met the background check requirements for such card if the individual was subjected to, and not disqualified as a result of, a security background records check by a Federal agency that the Secretary determines is equivalent to or more stringent than the background check requirements for such card.

**“SEC. 2107. REDUNDANT BACKGROUND CHECKS.**

“(a) IN GENERAL.—After the date of enactment of this title, the Secretary shall prohibit a State or political subdivision thereof from requiring a separate security background check of an individual seeking to transport hazardous materials.

“(b) WAIVERS.—The Secretary may waive the application of subsection (a) with respect to a State or political subdivision thereof if the State or political subdivision demonstrates a compelling homeland security reason that a separate security background check is necessary to ensure the secure transportation of hazardous materials in the State or political subdivision.

“(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall limit the authority of a State to ensure that an individual has the requisite knowledge and skills to safely transport hazardous materials in commerce.

**“SEC. 2108. TRANSITION.**

“(a) TREATMENT OF INDIVIDUALS RECEIVING PRIOR HAZARDOUS MATERIALS ENDORSEMENTS.—The Secretary shall treat an individual who has obtained a hazardous materials endorsement in accordance with section 1572 of title 49, Code of Federal Regulations, before the date of enactment of this title, as having met the background check requirements of a transportation security card under section 70105 of title 46, United States Code, subject to reissuance or expiration dates of the hazardous materials endorsement.

“(b) REDUCTION IN FEES.—The Secretary shall reduce, to the greatest extent practicable, any fees associated with obtaining a transportation security card under section 70105 of title 46, United States Code, for any individual referred to in subsection (a).

**“SEC. 2109. SAVINGS CLAUSE.**

“Nothing in this title shall be construed as affecting the authority of the Secretary of Transportation to regulate hazardous materials under chapter 51 of title 49, United States Code.

**“SEC. 2110. DEFINITIONS.**

“In this title, the following definitions apply:

“(1) COMMERCE.—The term ‘commerce’ means trade or transportation in the jurisdiction of the United States—

“(A) between a place in a State and a place outside of the State; or

“(B) that affects trade or transportation between a place in a State and a place outside of the State.

“(2) HAZARDOUS MATERIAL.—The term ‘hazardous material’ has the meaning given that term in section 5102 of title 49, United States Code.

“(3) PERSON.—The term ‘person’, in addition to its meaning under section 1 of title 1, United States Code—

“(A) includes a government, Indian tribe, or authority of a government or tribe offering security sensitive material for transportation in commerce or transporting security sensitive material to further a commercial enterprise; but

“(B) does not include—

“(i) the United States Postal Service; and

“(ii) in section 2104, a department, agency, or instrumentality of the Government.

“(4) SECURITY SENSITIVE MATERIAL.—The term ‘security sensitive material’ has the meaning given that term in section 1501 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1151).

“(5) TRANSPORTS; TRANSPORTATION.—The term ‘transports’ or ‘transportation’ means the movement of property and loading, unloading, or storage incidental to such movement.”.

**SEC. 433. CONFORMING AMENDMENT.**

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

“TITLE XXI—SURFACE TRANSPORTATION SECURITY

“Sec. 2101. Transportation of security sensitive materials.  
 “Sec. 2102. Enrollment locations.  
 “Sec. 2103. Authority to ensure compliance.  
 “Sec. 2104. Civil penalties.  
 “Sec. 2105. Commercial motor vehicle operators registered to operate in Mexico or Canada.  
 “Sec. 2106. Other security background checks.  
 “Sec. 2107. Redundant background checks.  
 “Sec. 2108. Transition.  
 “Sec. 2109. Savings clause.  
 “Sec. 2110. Definitions.”.

**SEC. 434. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.**

Section 5103a of title 49, United States Code, and the item relating to that section in the analysis for chapter 51 of such title, are repealed.

**SEC. 435. DEADLINES AND EFFECTIVE DATES.**

(a) ISSUANCE OF TRANSPORTATION SECURITY CARDS.—Not later than May 31, 2010, the Secretary shall begin issuance of transportation security cards under section 70105 of title 46, United States Code, to individuals who seek to operate a motor vehicle in commerce while transporting security sensitive materials.

(b) EFFECTIVE DATE OF PROHIBITIONS.—The prohibitions contained in sections 2101 and 2106 of the Homeland Security Act of 2002 (as added by this subtitle) shall take effect on the date that is 3 years after the date of enactment of this Act.

(c) EFFECTIVE DATE OF SECTION 434 AMENDMENTS.—The amendments made by section 434 of this Act shall take effect on the date that is 3 years after the date of enactment of this Act.

**SEC. 436. TASK FORCE ON DISQUALIFYING CRIMES.**

(a) ESTABLISHMENT.—The Secretary shall establish a task force to review the lists of crimes that disqualify individuals from transportation-related employment under current regulations of the Transportation Security Administration and assess whether such lists of crimes are accurate indicators of a terrorism security risk.

(b) MEMBERSHIP.—The task force shall be composed of representatives of appropriate industries, including labor unions representing employees of such industries, Federal agencies, and other appropriate entities, as determined by the Secretary.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the task force shall submit to the Secretary and the Committee on Homeland Security of the House of Representatives a report containing the results of the review, including recommendations for a common list of disqualifying crimes and the rationale for the inclusion of each crime on the list.

## PURPOSE AND SUMMARY

The purpose of H.R. 2200 is to authorize the Transportation Security Administration’s programs relating to the provision of transportation security, and for other purposes.

## BACKGROUND AND NEED FOR LEGISLATION

Pursuant to the Aviation and Transportation Security Act of 2001 (ATSA), the Transportation Security Administration (TSA) is responsible for the security of all modes of transportation, including rail, mass transit, trucking, bus, and aviation security. However, since ATSA was enacted, TSA has focused the vast majority of its resources and assets on aviation security. Although this approach is understandable, given the how the United States was attacked on September 11, 2001, it ignores the growing trend in terrorist attacks on surface transportation assets worldwide.

TSA has been tasked with a complex and evolving mission, including the responsibility for securing transportation systems in

the United States while maintaining a healthy movement of goods, services, and people. Over the past eight years, TSA has matured, slowly gaining the proper authority to carefully implement effective policies that improve security across transportation systems, particularly in aviation. The Committee recognizes the steps TSA has taken in an effort to enhance certain aviation security priorities and H.R. 2200 provides additional guidance and critical benchmarks to improve existing aviation security initiatives. Further, H.R. 2200 addresses security issues critical to securing surface transportation modes, including surface transportation security inspectors, transit security grants, outreach to stakeholders, explosives detection canine teams, security training for passenger carriers, and technology for securing tunnels and other transit facilities from acts of terrorism.

The complexity of TSA's mission, coupled with intricate operational challenges, requires the careful and thoughtful oversight Congressional authorization provides. Proper oversight of the security programs and policies at TSA comes with proper metrics that will provide a sense of progress and build on effective security policies.

Through the Transportation Security Administration Authorization Act of 2009, Congress provides a policy blueprint, with measurable goals that TSA can utilize to develop existing security initiatives. H.R. 2200 calls for the integration of biometric technologies that will enhance airport perimeter access controls, increased collaboration between stakeholders and TSA on a number of security policy issues, and other important mode-specific security initiatives. The mandates in H.R. 2200 ensure the implementation of security programs with specific metrics that can be utilized to better assess overall progress of TSA.

Although H.R. 2200 contains several new provisions to improve transportation security in the aviation and surface modes, the Committee recognizes that the Assistant Secretary has discretionary authority to utilize appropriate risk assessments and intelligence information to continually address the Nation's aviation security. To that end, the Transportation Security Administration Authorization Act of 2009 further promotes Congress' belief that TSA should take a risk-based approach to transportation security. This approach should carefully consider threat, vulnerability, and consequence information, as recommended by the Comptroller General, so that resources are allocated wisely and transparently.

#### HEARINGS

No Committee hearings were held on H.R. 2200.

#### COMMITTEE CONSIDERATION

##### *Subcommittee Consideration*

The Subcommittee on Transportation Security and Infrastructure Protection of the Committee on Homeland Security met, pursuant to notice, in open markup session, a quorum being present, on Wednesday, May 6, 2009, in 311 Cannon House Office Building to consider H.R. 2200. The Subcommittee ordered H.R. 2200 to be forwarded to the Full Committee for consideration, with the recommendation that it be adopted, by voice vote.

The Subcommittee adopted the bill, as amended, by a recorded vote of 12 yeas and 0 nays (Roll Call Vote No. 2).

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by Ms. Jackson-Lee (#1); was AGREED TO, amended, by a recorded vote of 14 yeas and 0 nays (Roll Call Vote No. 1).

An en bloc Amendment offered by Ms. Jackson-Lee to the Amendment in the Nature of a Substitute (#1A); On page 29, after line 11, insert a new section entitled "Sec. 212, Security and Self-defense training."; on page 41, after line 7, insert a new subsection entitled "(c) Report on Cabin Crew Communication"; on page 41, after line 7, insert a new section entitled "Sec. 232. Registered Traveler."; was AGREED TO by voice vote.

An Amendment offered by Mr. Olson to the Amendment in the Nature of a Substitute (#1B); at the end of subtitle B of title II of the bill, insert a new section entitled "Sec. General Aviation Negotiated Rulemaking."; was WITHDRAWN by unanimous consent.

An Amendment offered by Mr. Lungren to the Amendment in the Nature of a Substitute (#1C); on page 41, after line 9, insert the following: "Subtitle A-General Provisions"; and on page 89, after line 9, add a new section (and conform the table of contents accordingly): entitled "Subtitle B-Surface Transportation Security Screening"; was WITHDRAWN by unanimous consent.

#### *Full Committee Consideration*

The Committee on Homeland Security met, pursuant to notice, in open markup session, a quorum being present, on Thursday, May 14, 2009, in 311 Cannon House Office Building to consider H.R. 2200. The Committee ordered H.R. 2200 to be reported to the House, as amended, with a favorable recommendation by voice vote.

The Committee adopted the bill, as amended, by a roll call vote of 22 yeas, 0 nays, and 1 voting "present" (Roll Call Vote No. 4).

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by Mr. Thompson (#1); was AGREED TO by voice vote.

An Amendment offered by Ms. Sanchez to the Amendment in the Nature of a Substitute (#1A); At the end of title IV add a new section entitled "Sec. \_\_. Requirements for Issuance of Transportation Security Cards; Access Pending Issuance."; was AGREED TO by voice vote.

An Amendment offered by Mr. Lungren to the Amendment in the Nature of a Substitute (#1B); Page 79, after line 4, insert the following: "Subtitle A-Security Credentialing"; Page 80, after line 11, add a new Subtitle entitled "Subtitle B-SAFE Truckers Act of 2009"; was AGREED TO by voice vote.

An Amendment offered by Mr. Lungren to the Amendment in the Nature of a Substitute (#1C); At the end of subtitle

A of title II of the bill, insert a new section entitled “Sec. \_\_. Federal Air Marshals.”; was NOT AGREED TO by a recorded vote of 11 yeas and 13 nays (Roll Call Vote No. 1).

An Amendment offered by Mr. Souder to the Amendment in the Nature of a Substitute (#1D); In title II, at the end of subtitle A add a new section entitled “Sec. \_\_. Securing Aviation from Extreme Terrorist Threats.”; was AGREED TO, as amended, by voice vote.

An amendment offered by Mr. Pascrell to the amendment offered by Mr. Souder to the Amendment in the Nature of a Substitute (#1D1); In title IV at the end of subtitle B add the following new section entitled “Sec. \_\_. Securing Aviation From Extreme Terrorist Threats.”; was AGREED TO by a recorded vote of 14 yeas and 11 nays (Roll Call Vote No. 2).

An Amendment offered by Mr. Bilirakis to the Amendment in the Nature of a Substitute (#1E); At the end of title III of the bill insert a new section entitled “Sec. \_\_. Pipeline Security Study.”; was WITHDRAWN by unanimous consent.

An Amendment offered by Mr. Broun to the Amendment in the Nature of a Substitute (#1F); In section 307 of the bill insert a new subsection entitled “(c) Other Reports.”; was NOT AGREED TO by a recorded vote of 9 yeas and 17 nays (Roll Call Vote No. 3).

An Amendment offered by Mr. Broun to the Amendment in the Nature of a Substitute (#1G); At the end of subtitle B of title II of the bill, insert a new section entitled “Sec 238. GAO Study of TSA Staffing Levels.”; was NOT AGREED TO by voice vote.

An Amendment offered by Mr. Broun to the Amendment in the Nature of a Substitute (#1H); In title II, at the end of subtitle A add a new section entitled “Sec. \_\_. Use of Protective Face Masks.”; was AGREED TO, amended, by voice vote.

An amendment offered by Ms. Titus to the amendment offered by Mr. Broun to the Amendment in the Nature of a Substitute (#1H1); In the amendment instruction, strike “subtitle A” and insert “subtitle B”. Beginning on page 1, strike line 1 through page 2, line 9, and insert a new section entitled “Sec. \_\_. Protective Equipment.”; was AGREED TO by voice vote.

An En Bloc Amendment offered by Mr. Thompson to the Amendment in the Nature of a Substitute (#1I); consisting of the amendments listed below; was AGREED TO by voice vote.

In section 102(c)(1)(A) of the bill, insert the following “, including vulnerability of a cyber attack” after “modes”;

At the end of title IV add a new section entitled “Sec. \_\_. Harmonizing Security Card Expirations.”;

In title II, at the end of subtitle B add a new section entitled “Sec. \_\_. Prohibition on Outsourcing.”;

Page 11, line 24, strike “Section” and insert “(a) Covert Testing.-Section”; Page 17, after line 4, insert a new subsection entitled “(b) Uniforms.”;

Page 77, strike lines 14 through 19 and insert a new subsection entitled “(3) Allocation.”;

Page 34, line 10, strike “and” Page 34, after line 10, insert the following (and conform the subsequent paragraphs accordingly): “(2) compares the total number of misidentified passengers who must undergo secondary screening or have been prevented from boarding a plane during the 3-month period beginning 90 days before the date of enactment of the Transportation Security Administration Authorization Act the 3-month period beginning 90 days after such date; and”;

In section 221(b) of the bill- insert a new subsection (5) “including an assessment of the role of new and emerging technologies, including technologies, that could be utilized at both commercial and general aviation facilities.” And conform the section;

Page 75, line 22, strike “At” and insert the following: (1) In General.-At Page 75, after line 25, insert a new subsection entitled (2) First Technology Tested.” Page 76, after line 6, insert a new subsection entitled “(d) Authorization of Appropriation.”

At the end of subtitle B of title II of the bill insert a new section entitled “Sec. \_\_. Report on Whole Body Imaging Technology.”; and

Page 20, after line 17, insert a new subsection entitled “(d) Reimbursement” and “(1) Reimbursement.”; was AGREED TO by voice vote.

#### COMMITTEE VOTES

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

#### *Subcommittee Votes*

The Subcommittee on Transportation Security and Infrastructure Protection of the Committee on Homeland Security met, pursuant to notice, in open markup session, a quorum being present, on Wednesday, May 6, 2009, in 311 Cannon House Office Building to consider H.R. 2200. The Subcommittee took the following actions:

H.R. 2200, “To authorize the Transportation Security Administration’s programs relating to the provision of transportation security, and for other purposes.”; was ordered to be forwarded to the Full Committee for consideration, with the recommendation that it be adopted, by voice vote.

The Subcommittee adopted the bill, as amended, by a recorded vote of 12 yeas and 0 nays (Roll Call Vote No. 2). The vote was as follows:

YEAS  
MS. JACKSON-LEE

NAYS

MR. DEFAZIO  
 MS. NORTON  
 MR. LUJÁN  
 MR. CLEAVER  
 MR. HIMES  
 MR. MASSA  
 MS. TITUS  
 MR. DENT  
 MR. OLSON  
 MRS. MILLER  
 MR. AUSTRIA

An Amendment in the Nature of a Substitute offered by Ms. Jackson-Lee (#1); was AGREED TO, amended, by a recorded vote of 14 yeas and 0 nays (Roll Call Vote No. 1). The vote was as follows:

YEAS	NAYS
MS. JACKSON-LEE	
MR. DEFAZIO	
MS. NORTON	
MRS. KIRKPATRICK	
MR. LUJÁN	
MR. CLEAVER	
MR. HIMES	
MR. MASSA	
MS. TITUS	
MR. DENT	
MR. LUNGREN	
MR. OLSON	
MRS. MILLER	
MR. AUSTRIA	

*Full Committee Votes*

The Committee on Homeland Security met, pursuant to notice, in open markup session, a quorum being present, on Thursday, May 14, 2009, in 311 Cannon House Office Building to consider H.R. 2200. The Committee ordered H.R. 2200 to be reported to the House, as amended, with a favorable recommendation by voice vote.

The Committee adopted the bill, as amended, by a roll call vote of 22 yeas, 0 nays, and 1 voting "present" (Roll Call Vote No. 4). The vote was as follows:

YEAS	NAYS
MR. THOMPSON	
MS. SANCHEZ	
MR. DEFAZIO	
MS. JACKSON-LEE	
MS. CLARKE	
MS. RICHARDSON	
MRS. KIRKPATRICK	
MR. LUJÁN	
MR. PASCRELL	
MR. CLEAVER	
MR. GREEN	



MR. HIMES  
 MR. MASSA  
 MS. TITUS  
 MR. KING  
 MR. ROGERS  
 MR. MCCAUL  
 MR. DENT  
 MR. BILIRAKIS  
 MR. BROUN  
 MRS. MILLER  
 MR. AUSTRIA

Members voting "Present": MR. SOUDER.

An Amendment offered by Mr. Lungren to the Amendment in the Nature of a Substitute (#1C); At the end of subtitle A of title II of the bill, insert a new section entitled "Sec. \_\_. Federal Air Marshals."; was NOT AGREED TO by a recorded vote of 11 yeas and 13 nays (Roll Call Vote No. 1). The vote was as follows:

YEAS	NAYS
MR. KING	MR. THOMPSON
MR. SOUDER	MS. SANCHEZ
MR. LUNGREN	MS. JACKSON-LEE
MR. ROGERS	MR. CUELLAR
MR. MCCAUL	MS. CLARKE
MR. DENT	MS. RICHARDSON
MR. BILIRAKIS	MRS. KIRKPATRICK
MR. BROUN	MR. LUJÁN
MRS. MILLER	MR. PASCRELL
MR. OLSON	MR. CLEAVER
MR. AUSTRIA	MR. GREEN
	MS. KILROY
	MR. MASSA
	MS. TITUS

An amendment offered by Mr. Pascrell to the amendment offered by Mr. Souder to the Amendment in the Nature of a Substitute (#1D1); In title IV at the end of subtitle B add the following new section entitled "Sec. \_\_. Securing Aviation From Extreme Terrorist Threats."; was AGREED TO by a recorded vote of 14 yeas and 11 nays (Roll Call Vote No. 2). The vote was as follows:

YEAS	NAYS
MR. THOMPSON	MR. KING
MS. HARMAN	MR. SOUDER
MS. NORTON	MR. LUNGREN
MS. JACKSON-LEE	MR. ROGERS
MR. CUELLAR	MR. MCCAUL
MS. CLARKE	MR. DENT
MS. RICHARDSON	MR. BILIRAKIS
MRS. KIRKPATRICK	MR. BROUN
MR. LUJÁN	MRS. MILLER
MR. PASCRELL	MR. OLSON
MR. CLEAVER	MR. AUSTRIA
MR. GREEN	

MS. KILROY  
MS. TITUS

An Amendment offered by Mr. Broun to the Amendment in the Nature of a Substitute (#1F); In section 307 of the bill insert a new subsection entitled "(c) Other Reports."; was NOT AGREED TO by a recorded vote of 9 yeas and 17 nays (Roll Call Vote No. 3).The vote was as follows:

YEAS	NAYS
MR. THOMPSON	MR. KING
MS. SANCHEZ	MR. ROGERS
MS. HARMAN	MR. MCCAUL
MS. NORTON	MR. DENT
MS. JACKSON-LEE	MR. BILIRAKIS
MR. CUELLAR	MR. BROUN
MS. CLARKE	MRS. MILLER
MS. RICHARDSON	MR. OLSON
MRS. KIRKPATRICK	MR. AUSTRIA
MR. LUJÁN	
MR. PASCRELL	
MR. CLEAVER	
MR. GREEN	
MR. HIMES	
MS. KILROY	
MR. MASSA	
MS. TITUS	

#### COMMITTEE OVERSIGHT FINDINGS

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

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2200, the Transportation Security Administration Authorization Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

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

MAY 18, 2009.

Hon. BENNIE G. THOMPSON,  
*Chairman, Committee on Homeland Security,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2200, the Transportation Security Administration Authorization Act.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 2200—Transportation Security Administration Authorization Act*

Summary: H.R. 2200 would authorize gross appropriations totaling \$15.7 billion over the 2010–2011 period for activities of the Transportation Security Administration (TSA), which is responsible for security of all modes of public transportation in the United States. Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 2200 would increase net discretionary spending by \$3.0 billion in 2010 and \$11.4 billion over the 2010–2014 period. Enacting the bill would not affect direct spending. H.R. 2200 could increase revenues from civil monetary penalties for violations of federal regulations related to the transportation of certain hazardous materials, but CBO estimates that any such increases would be negligible.

H.R. 2200 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would impose new planning requirements on both public and private airports. The bill also would impose private-sector mandates on U.S. air carriers and motor vehicle operators that transport certain materials. Based on information from industry sources, CBO estimates that the aggregate cost of complying with the mandates would fall below the annual thresholds established in UMRA (\$69 million for intergovernmental mandates and \$139 million for private-sector mandates in 2009, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2200 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	2014	2010–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Gross TSA Spending:						
Authorization Level .....	7,605	8,061	0	0	0	15,666
Estimated Outlays .....	5,113	7,051	2,336	863	268	15,631
Aviation Security Fees:						
Estimated Authorization Level .....	–2,100	–2,140	0	0	0	–4,240
Estimated Outlays .....	–2,100	–2,140	0	0	0	–4,240
Studies and Reports:						
Estimated Authorization Level .....	2	2	0	0	0	4
Estimated Outlays .....	2	2	0	0	0	4
Total Changes:						
Estimated Authorization Level .....	5,507	5,923	0	0	0	11,430
Estimated Outlays .....	3,015	4,913	2,336	863	268	11,395

Basis of estimate: CBO estimates that implementing H.R. 2200 would increase net discretionary spending by \$3.0 billion in 2010 and \$11.4 billion over the 2010–2014 period. Nearly all of that spending would be for TSA's activities, with additional spending by

other agencies that would be required to complete various studies and reports concerning transportation security.

*Gross TSA spending*

Excluding \$1 billion provided for TSA's aviation security activities by the American Recovery and Reinvestment Act (ARRA), TSA received gross appropriations totalling \$6.7 billion in 2009 for federal air marshals and programs to enhance the security of all modes of transportation. Most of that amount—\$4.7 billion—was provided for activities related to aviation security, particularly for salaries of screeners of passengers and baggage and related expenses. Under current law, CBO estimates that roughly \$2.0 billion of amounts appropriated for aviation security activities will be offset by fees that TSA is authorized to collect. Most of those collections will result from fees charged on tickets sold by commercial airlines. Additional collections will result from security fees paid directly to TSA by air carriers. (Under existing law, TSA can collect and spend, without further Congressional action, \$250 million a year in such fees; the agency's authority to collect and spend additional fees is subject to appropriation.)

H.R. 2200 would authorize gross appropriations of \$7.6 billion in 2010 and \$8.1 billion in 2011 for TSA to continue its major programs. Those amounts also would support new initiatives and requirements under H.R. 2200 that would:

- Authorize new programs to demonstrate the use of biometric technologies in verifying the identities of flight crews, certain airport workers, and law enforcement officers;
- Authorize grants to airports used primarily by air carriers that provide nonscheduled service to support projects to enhance the security of airport perimeters, airfields, and terminals;
  - Establish an ombudsman for federal air marshals;
  - Establish committees to advise TSA on issues related to security of aviation and other modes of transportation;
- Authorize TSA to reimburse airports for certain security-related expenses;
  - Direct TSA to hire additional security inspectors for surface transportation;
  - Modify certain credentialing programs, particularly those aimed at individuals who transport certain hazardous materials.
- Specify various new training requirements for federal flight deck officers, crew members of passenger and cargo aircraft, certain staff of air carriers, and surface transportation inspectors; and
  - Require TSA to complete demonstration projects for technologies involved in air and surface transportation security.

In total, CBO estimates that implementing H.R. 2200 would increase TSA's gross discretionary spending by \$5.1 billion in 2010 and \$15.6 billion over the 2010–2014 period. Estimates of outlays are based on information from TSA and on historical spending patterns for TSA programs. For this estimate, CBO assumes that H.R. 2200 will be enacted near the start of fiscal year 2010 and that authorized amounts will be provided near the start of each year.

*Aviation security fees*

For this estimate, CBO assumes a portion of the amounts authorized for TSA programs would come from aviation security fees.

Based on information from TSA about anticipated numbers of future airline passengers and travel patterns, CBO estimates that such fees would offset about \$2.1 billion of the amounts authorized for TSA programs in each of fiscal years 2010 and 2011, thus reducing the net appropriations that would be necessary to implement the legislation. Accordingly, we estimate that fully funding TSA's activities under H.R. 2200 would require net appropriations totaling about \$5.5 billion in 2010 and \$5.9 billion in 2011. (By comparison, excluding ARRA funding, CBO estimates that net appropriations for TSA will total \$4.7 billion for 2009.) CBO estimates that net outlays resulting from that level of funding would total \$3.0 billion in 2010 and \$11.4 billion over the 2010–2014 period.

#### *Studies and reports*

H.R. 2200 would require other agencies, particularly the Government Accountability Office, to complete various studies and reports for the Congress related to transportation security. CBO estimates that fully funding those activities would require appropriations totaling \$2 million in each of fiscal years 2010 and 2011 and increase discretionary spending by \$4 million over the next two years, assuming appropriation of the necessary amounts.

#### *Revenues*

H.R. 2200 would modify credentialing requirements for individuals that transport certain types of hazardous waste and would establish new civil penalties for violations of those requirements. Thus, the federal government might collect additional fines if the bill is enacted. Collections of civil fines are recorded as revenues and deposited in the Treasury; however, CBO expects that any increase in revenues related to those penalties would not be significant.

Intergovernmental and private-sector impact: H.R. 2200 contains intergovernmental and private-sector mandates as defined in UMRA because it would impose new planning requirements on both public and private airports. The bill also would impose private-sector mandates on U.S. air carriers and motor vehicle operators that transport certain materials. Based on information from industry sources, CBO estimates that the aggregate cost of complying with the mandates would fall below the annual thresholds established in UMRA (\$69 million for intergovernmental mandates and \$139 million for private-sector mandates in 2009, adjusted annually for inflation).

#### *Mandates that apply to both public and private entities*

Sections 208 and 221 would require airports to update their security plans. Specifically, section 208 would require airport security plans to include procedures to notify federal officials whenever law enforcement personnel are responding to a security matter involving an aircraft. Section 221 would require airports to incorporate certain TSA recommendations on the security of airport perimeters into their security plans. Those mandates would affect both public and private airports. Information from industry sources indicate that airports generally have perimeter security plans in place, and additional requirements would most likely be incremental in na-

ture. Therefore, CBO estimates that the costs to airports in both sectors would be small.

*Mandates that apply to public entities only*

Section 432 would preempt state and local laws governing background checks on individuals seeking to transport hazardous materials. That preemption would be an intergovernmental mandate as defined in UMRA. While the preemption would limit the application of state and local laws, CBO estimates that it would not impose significant costs on state or local governments.

*Mandates that apply to private entities only*

**Requirements on Air Carriers.** Section 211 would require all cabin crew members of U.S. air carriers to take five hours of training in advanced self-defense methods biannually. TSA would establish the goals and standards for the training. According to industry sources, most U.S. air carriers currently require their cabin crews to attend self-defense and security training on a recurring basis. According to information from industry experts, only minor changes in current practice would be needed to comply with the new training requirements. Therefore, CBO expects that the costs to comply with the mandate would be small relative to the annual threshold established in UMRA.

**Requirements on Certain Motor Vehicle Operators.** Section 432 would require motor vehicle operators licensed in the United States, Mexico, or Canada that transport security sensitive materials (SSMAT) in the United States to obtain a transportation worker identification credential (TWIC) from TSA. Obtaining such a card would entail submitting to a security background check, which costs less than \$150. Under current law, most operators who transport hazardous materials (including explosives) must have a hazardous materials endorsement (HME). Operators that have an HME would not have to submit to a background check to receive a TWIC. According to industry sources, most motor vehicle operators who transport SSMAT currently have a hazardous materials endorsement. Because the number of entities likely to be affected is small, CBO expects that the cost of complying with the requirements in this section would be low.

Estimate prepared by: Federal Costs: Megan Carroll—aviation security, Sarah Puro—surface transportation security; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Jacob Kuipers.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 2200 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized: To authorize appropriations for personnel, administration, and activities of the Transportation Security Administration (TSA) of the Department of Homeland Security; implement policies, plans, and benchmarks to maximize effective use of transportation security resources; establish offices and develop performance measures to streamline and enhance execution of TSA's

transportation security mission; and provide for objective qualitative analysis of and recommendations for improving the transportation security programs and policies of TSA and the Department; and make changes to transportation security law.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

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

#### FEDERAL MANDATES STATEMENT

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

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation. Although sections 209 and 304 of H.R. 2200 establish entities referred to as “advisory committees,” each section specifies that the entity established does not fall within the scope of the Federal Advisory Committee Act.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 1, which grants Congress the power to provide for the common Defense of the United States.

#### APPLICABILITY TO LEGISLATIVE BRANCH

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

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### TITLE I-AUTHORIZATION OF APPROPRIATIONS

###### *Section 101. Authorization of appropriations.*

This provision authorizes appropriations for the Transportation Security Administration (TSA), in the amount of \$7,604,561,000 for fiscal year 2010 and \$8,060,835,000 for fiscal year 2011. The amounts provided do not include funds collected by TSA in fiscal years 2010 and 2011 through its existing fee authority.

###### *Section 102. Risk-based system for allocation of resources.*

This section requires a report on the status of TSA’s implementation of recommendations prescribed in a March 2009 report issued by the Comptroller General (GAO-09-492), including assessments of

several key areas and a summary that ranks risks within and across transportation modes, as well as a description of risk-based priorities for securing the transportation sector, both within and across modes. This section also requires the report to include a description of the risk methodologies used and any relevant underlying assumptions. In addition, this section requires the Assistant Secretary of Homeland Security, Transportation Security Administration (Assistant Secretary), to define the terms “risk-based” and “risk-informed.”

The Committee shares the concerns expressed in the March 2009 report with regard to TSA’s failure to make strategic and resource decisions based upon comprehensive risk assessments or analysis - which includes all three elements of risk: threat, vulnerability, and consequences - in place of its current approach that base such determinations solely on intelligence. The Committee strongly urges TSA to incorporate comprehensive risk assessments and analysis in all resource allocation determinations, and reiterates that a comprehensive approach to assessing risk must include all three elements.

*Section 103. Ensuring contracting with small business concerns and disadvantaged business concerns.*

This section establishes reporting requirements for TSA on contracts valued at \$300,000 or more to ensure compliance with existing Federal government-wide participation goals for small and disadvantaged businesses and requires submission of small business subcontracting plans by TSA to enhance utilization of small, minority, and disadvantaged businesses consistent with government-wide acquisitions policy.

The Committee strongly supports compliance with small, minority, and disadvantaged business goals and encourages TSA to utilize alliances of small, minority, and disadvantaged businesses to enable competition as prime contractors.

## TITLE II-AVIATION SECURITY

### Subtitle A-Amendments to Chapter 449

*Section 201. Screening air cargo and checked baggage.*

This section directs TSA to establish a system for verifying that all cargo on inbound foreign passenger aircraft is being screened and directs the Assistant Secretary to address redundant inspections conducted by multiple agencies of cargo on inbound passenger aircraft, to facilitate TSA’s ability to fulfill the 100% air cargo screening mandate for domestic flights by 2010, as required by section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53). This section also eliminates “bag-match” as an alternative means of screening passenger checked baggage, but provides for an exception in cases of exigent circumstances, as determined by the Assistant Secretary.

*Section 202. Prohibition of advance notice of covert testing to security screeners.*

This section prohibits any Federal employee, or others participating in covert testing or evaluation, from providing advance notice or information concerning the covert testing or evaluation, before it is completed, to any individual except for employees or Fed-



eral officers selected by TSA, the Inspector General of the Department of Homeland Security (Department), or the Comptroller General for purposes of carrying out the test. In addition, this section establishes a mechanism for monitoring TSA testing personnel and secure covert testing and evaluation procedures to ensure that a second team of covert testing and evaluation employees accompanies the primary team to each site test to observe the test and confirm identity of personnel if necessary.

This section also authorizes the Assistant Secretary to provide Transportation Security Officers (TSOs) with a uniform allowance of not less than \$300 per year.

At the request of the Committee, the Inspector General of the Department conducted an investigation on the events surrounding the TSA e-mail on "Notice of Possible Security Test." A March 2009 report issued by the Inspector General on the findings of the investigation confirmed that TSA had compromised covert testing operations conducted by the Inspector General on April 28, 2006, when the Office of Security Operations sent a mass e-mail message, via TSA's "NetHub" system, to airport personnel (OIG-09-43). The report also highlighted the fact that no effort was made by TSA to notify the Inspector General that the covert test had been compromised. Accordingly, the Committee, in consultation with TSA, intends for this provision to strengthen the integrity of covert testing operations and prevent any future breaches.

The Committee recognizes that the language of this section authorizes the Assistant Secretary to grant a uniform allowance of not less than \$300 to any individual who screens passengers and property pursuant to 49 U.S.C. § 44935. The Committee notes that TSOs generally receive uniform allowances far below those received by other uniformed personnel employed by the Department. For example, the Committee understands that the Department provides Detention and Removal Officers and Immigration Information Officers an annual uniform allowance of \$800. The Committee urges the Assistant Secretary to work, in coordination with the Secretary, to provide uniform allowances that are consistent with other Department personnel and recognizes that the provision of a uniform allowances is an issue often addressed through collective bargaining. The Committee also acknowledges the view shared by a number of stakeholders that one reason why a lack of parity exists among the allowances conferred to TSOs and other Department personnel is that TSOs cannot engage in collective bargaining.

*Section 203. Secure verification system for law enforcement officers.*

This section requires TSA to develop a plan for the implementation of a secure verification system with a biometric component for Federal law enforcement officers, including Federal air marshals, and non-Federal law enforcement officers who are traveling by air while armed. This section also requires TSA, prior to issuing regulations for such a system, to conduct a demonstration program to test the system. In addition, this section authorizes \$10,000,000 for the demonstration program to implement the secure verification system.

At the request of the Committee, the Inspector General of the Department conducted an investigation on the efficacy and overall program management of the Law Enforcement Officers Flying

While Armed program. In September 2008, the Inspector General released a classified report on the findings of their investigation, highlighting several management and operational challenges within the program (OIG-08-90).

While the Committee recognizes TSA's ongoing efforts to improve the program and provide increased accountability and efficiency in the system, the Committee believes that little progress has been made in meeting program goals for the Law Enforcement Officers Flying While Armed program. Accordingly, the Committee intends for this section to assist TSA in making better progress in carrying out the objectives of the program in a manner that fosters accountability and efficiency.

*Section 204. Ombudsman for Federal Air Marshal Service.*

This section authorizes an ombudsman for the Federal Air Marshal Service (FAMS) and requires the ombudsman to review and implement recommendations identified by the Comptroller General that have been integrated to improve morale, training, and quality of life issues.

A January 2009 report issued by the Comptroller General concluded that FAMS has implemented several initiatives to address reported workforce morale and welfare problems at the agency (GAO-09-273). Based on the findings in the report, the Committee believes that FAMS has taken positive steps toward improving workforce issues, including establishing internal working groups.

The Committee strongly encourages FAMS to continue cultivating an internal dialogue between management and air marshals on workforce issues and urges FAMS to redesign its workforce survey in accordance with the recommendations of the Comptroller General. As such, the Committee intends for the ombudsman established in this section to be the primary official within FAMS designated to manage workforce concerns and to have a direct line to the FAMS Director.

*Section 205. Federal flight deck officer program enhancements.*

This section requires TSA to put in place an appropriately sized administrative structure to administer the Federal Flight Deck Officer (FFDO) program at TSA. This section also creates additional training sites where FFDOs can satisfy training requirements to maintain eligibility for the program and mandates. In addition, this section provides for the reimbursement of FFDOs for costs associated with completion of re-qualification or re-certification training.

*Section 206. Foreign repair stations.*

This section directs TSA to issue regulations establishing security standards for foreign repair stations that are comparable to the standards that are applied to domestic repair stations.

The Committee is concerned that since enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53), TSA has not issued regulations for foreign repair stations as required by section 1616 of such Act. The Committee believes that putting security standards in place on foreign repair stations that are consistent with domestic repair stations will enhance aviation security.

*Section 207. Assistant Secretary defined.*

This section defines “Assistant Secretary” for chapter 449, title 49, United States Code, as the Assistant Secretary for Homeland Security (Transportation Security Administration).

*Section 208. TSA and homeland security information sharing.*

This section requires Airport Security Plans to include reporting procedures to ensure that Federal Security Directors (FSDs) are immediately notified whenever any Federal, State, or local law enforcement personnel are called to an aircraft at the gate or on the airfield. This section also requires each FSD to conduct quarterly meetings with law enforcement agencies serving the airport and to consult and coordinate with airport operators, as appropriate, on security matters impacting airport operations.

*Section 209. Aviation security stakeholder participation.*

The section authorizes the Aviation Security Advisory Committee (ASAC) to advise TSA on issues pertaining to aviation security and requires the ASAC to perform specific actions and submit reports to the Assistant Secretary. This section also establishes an Air Cargo Security Working Group within the ASAC to provide stakeholders with a mechanism to provide recommendations on cargo screening initiatives, including TSA’s proposed Certified Cargo Screening Program and other programs developed by TSA to screen cargo on passenger aircraft on an ongoing basis.

The Committee has heard concerns from numerous aviation security stakeholders about the efficacy of TSA’s discretionary advisory committee currently known as the ASAC with respect to aviation policymaking and implementation. The Committee recognizes that the level of activity for the ASAC has been limited in recent years, and finds that TSA could benefit in its policy development and implementation if it received and considered input from affected stakeholders.

This section requires the ASAC to be composed of members from 27 stakeholder organizations, including passenger and all-cargo air carriers, indirect air carriers, labor organizations representing air carrier employees, air craft manufacturers, airport operators, general aviation, and the aviation technology security industry, including a representative from the biometrics industry. In addition, the Committee believes that the ASAC should include representatives from the travel and tourism sector and from foreign carriers with flights to the United States, as these stakeholder groups are impacted by the wide array of TSA aviation security policies and programs.

The Committee understands that the nature of the Air Cargo Security Working Group is such that it may be composed of stakeholders who are not members of the ASAC and has given the Assistant Secretary the discretion to appoint such members.

*Section 210. General aviation security.*

This section establishes a General Aviation Working Group within the ASAC to provide stakeholders with a mechanism for advising TSA on security policies regarding general aviation. This section also authorizes \$10,000,000 for a grant program to assist in improving security, including infrastructure security, at general aviation airports. Accordingly, this section directs the General Aviation Working Group to make recommendations for eligible security enhancement projects for general aviation airports.

In addition to advising TSA on general aviation and helicopter operations at airports, the Committee intends for the General Aviation Security Working Group to consider security issues pertaining to aviation security at heliports. The Committee understands that the nature of the General Aviation Security Working Group is such that it may benefit from the inclusion of stakeholders who are not members of the ASAC and has given the Assistant Secretary the discretion to appoint such members.

*Section 211. Security and self-defense training.*

This section requires all flight attendants to complete five hours of TSA-administered self-defense training mandatory within a two-year period. The provision allows flight attendants to opt out of engaging in physical contact during the training. The section also directs TSA to establish an oversight program for the basic security training administered by each air carrier.

The Committee finds that the Advanced Self Defense Crew Training authorized in the Vision 100 - Century of Aviation Reauthorization Act (P.L. 108-176) has suffered from very low participation, and recognizes that enhancing such training may provide an extra layer of security in the cabin during a flight. The Homeland Security Act of 2002 (P.L. 107-296) required TSA to update its training guidance and issue a rule mandating the inclusion of self-defense training elements into the recurrent training program provided by air carriers. The Vision 100 - Century of Aviation Reauthorization Act (P.L. 108-176) made the program voluntary. Participation has been extremely low, in large part because the training is primarily offered at selected community colleges rather than at air carrier recurrent training locations.

The Committee intends for this section to make this important self-defense training mandatory to enhance a critical layer of aviation security. The Committee notes that flight attendants can choose not to engage in actual physical contact during training, but must attend the training once every two years in order to understand the situational awareness necessary when working in coordination with other crew members who have attended the training. The Committee believes that the Advanced Self Defense Crew Training should be made available at recurrent air carrier training locations. This change in the instructional delivery process will require consultation between TSA, which administers the programs, and the air carriers and organizations representing the interests of flight attendants.

Further, the Committee has heard concerns about the quality of the basic security training administered by air carriers at recurrent training locations. The Committee believes that greater oversight by TSA will help improve the quality of the programs and strongly urges TSA to work with air carriers to help ensure that quality, standardized basic security training is provided to all flight attendants.

*Section 212. Security screening of individuals with metal implants traveling in air transportation.*

This section requires TSA to develop a plan for improving security screening procedures for individuals with metal implants, including benchmarks for implementing any changes to the screening process and an analysis of methods to limit disruptions for individ-

uals with metal implants undergoing security screening at checkpoints, including by migration to the Registered Traveler biometric program and the establishment of a new biometric credential or system tailored to individuals with metal implants.

The Committee does not intend for the term “metal implants” as used in this section to include cosmetic piercings that are not medically necessary.

*Section 213. Prohibition on outsourcing.*

This section prohibits any non-governmental entity from executing the function of comparing passenger information to the automatic selectee list, no-fly list, consolidated watchlists, or any list or database derived from such watchlists for aviation security activities upon full implementation of the advanced passenger prescreening program authorized under 49 U.S.C. § 44903. This section also requires the Assistant Secretary to submit a report to Congress when any non-governmental entity is authorized to access the watchlists described in this section.

The Committee acknowledges that TSA is currently in the process of implementing the Secure Flight program, full implementation of which shall consolidate the function of comparing passenger information against the terrorist watchlist exclusively within TSA in order to improve aviation security. The Committee expects TSA to fully implement the Secure Flight program by early 2010.

**Subtitle B-Other Matters**

*Section 221. Security risk assessment of airport perimeter access controls.*

This section requires TSA to develop a strategic, risk-based plan that identifies best practices for airport perimeter access controls at commercial service and general aviation airports. This section requires the plan to include an assessment of the role of new and emerging technologies in potential security measures to be implemented at commercial and general aviation airports.

The Committee encourages all general aviation airports to develop a security plan that incorporates guidance on perimeter access controls as advised by TSA. The Committee also recognizes the need for TSA to assess new and emerging technologies, including unmanned perimeter security technologies such as cameras and robotics, to help address security gaps at both commercial and general aviation airports.

*Section 222. Advanced passenger prescreening system.*

This section requires the Comptroller General to submit progress reports to Congress on a quarterly basis regarding the status of implementation of the Secure Flight program. This section also requires the Comptroller General to include an analysis that compares the total number of misidentified passengers forced to undergo secondary screening or prevented from boarding a plane before and after the full implementation of Secure Flight.

The Committee recognizes that individuals who are misidentified as matches to names on the terrorist watchlist must bear significant inconveniences when subjected to secondary screening, sometimes even missing their flights due to screening delays or because they were not permitted to board the plane on account of the misidentification.

*Section 223. Biometric identifier airport access enhancement demonstration program.*

This section authorizes \$20,000,000 for a demonstration program to study biometric-based access systems for individuals with access to secure or sterile areas of an airport, including airport employees and flight crews, for potential application at commercial service airports. This section also requires that the seven participating airports represent a diverse group of airports that vary in size, geographic region, and infrastructure capabilities. This section directs TSA to identify best practices for the administration of biometric identifier access at airports and requires TSA to submit a report to Congress at the conclusion of the demonstration program.

The Committee recognizes that this section requires at least two large - Category X - airports to be selected as participants in the demonstration program, the Committee strongly urges TSA to include smaller, regional airports in the demonstration program as well.

*Section 224. Transportation security training programs.*

This section requires TSA to establish a recurring training program for Transportation Security Officers (TSOs) in response to weaknesses identified through covert testing. This section requires the training program to include updates to screening procedures and new technologies, including mechanisms for monitoring TSO participation in retraining exercises and identifying technological infrastructure that ought to be available for such training, including high-speed internet and intranet connectivity at training facilities.

The Committee is concerned about deficiencies in TSA's training programs, specifically programs designed for remedial training, as identified in a report issued by the Comptroller General on screener training and performance measurement at TSA (GAO-05-457). The Committee strongly urges TSA to implement procedures and performance measures to improve TSO training in accordance with the recommendations and findings of the Comptroller General.

*Section 225. Deployment of technology approved by science and technology directorate.*

This section requires a strategic plan for certifying and integrating technologies for transportation security, including a cost-benefit analysis and quantifiable performance measures. This section also requires the Secretary to ensure, to the extent feasible, that operational tests and evaluations have been successfully completed in an operational environment before deploying checkpoint screening technologies to airport checkpoints. This section also establishes annual reporting requirements to address the scope, methods, and results of developmental and operational tests of screening technologies.

The Committee recognizes that the Secretary must develop, consistent with the transportation modal security plans required under 49 U.S.C. § 114(t), risk-based priorities based on risk assessments conducted or received by the Secretary across all transportation modes that consider all three elements of risk - threat, vulnerability, and consequence. The Committee intends for this section to aid in development of such priorities by requiring a strategic plan that includes the risk assessments that identify and

prioritize the greatest security needs of the aviation mode, including the needs of airport passenger checkpoints, and a report to Congress on the actions taken by the Assistant Secretary to use a comprehensive, risk-informed approach to the research, development, procurement, and deployment of airport passenger checkpoint screening technologies, and to increase the likelihood of successful procurements and deployments of such technologies.

*Section 226. In-line baggage screening study.*

This section directs TSA, in consultation with the ASAC established in section 209, to conduct a study on deploying optimal baggage screening solutions and replacing baggage screening equipment that are nearing the end of their life cycles at commercial service airports. This section also requires TSA to submit a report to Congress on the results of the study.

In February 2006, TSA released its strategic planning framework for checked baggage screening aimed at increasing security through deploying more explosives detection system (EDS) machines, lowering program life-cycle costs, minimizing impacts to TSA and airport and airline operations, and providing a flexible security infrastructure. As part of this effort, TSA identified the optional checked baggage screening solutions for the 250 airports with the highest checked baggage volume. TSA estimated that installing and operating the optimal checked baggage screening systems will cost approximately \$22,400,000,000 over 20 years, and reported that, under current investment levels, these solutions would not be realized until 2024. Accordingly, the Committee intends, through this section, for TSA, in consultation with the ASAC, to establish a baggage screening working group to advise the Assistant Secretary on this matter.

The Committee is concerned about the level of progress made in deploying optimal screening solutions, including in-line systems, and replacing aging baggage screening equipment. As part of its efforts to conduct continuing oversight of this issue, the Committee is interested in learning about TSA's plans, estimated costs and current milestones for replacing EDS and electronic trace detection (ETD) machines nearing the end of their useful product lives. The Committee also strongly urges TSA to report on its updated plans to deploy optimal baggage screening solutions at the Nation's airports, as well as what benefits have been realized from screening systems that have already been deployed. Further, the Committee urges TSA to update previous findings on alternate financing options for airports for installing in-line baggage screening system, as any improved financing options may enable airports to increase deployment of optimal baggage screening systems.

*Section 227. In-line checked baggage screening systems.*

This section requires the Comptroller General to submit semi-annual reports to Congress on TSA's expenditures on in-line systems checked baggage screening systems, as well as the progress made by TSA in the nationwide deployment of such screening systems.

*Section 228. GAO report on certain contracts and use of funds.*

This section requires the Comptroller General to submit an initial report, and additional reports every 6 months thereafter, to Congress on any funds made available by the Economic Stimulus Act of 2008 (P.L. 110-185) and the Consolidated Security, Disaster

Assistance, and Continuing Appropriation Act of 2009 (P.L. 110-329), that have been used by TSA to award contracts on explosive detection screening systems or to implement any screening or detection technology for use at an airport.

*Section 229. IG report on certain policies for Federal air marshals.*

This section requires the Inspector General of the Department to review the minimum standards and policies regarding the rest periods between deployments and any other standards or policies applicable to Federal air marshals reporting to duty, upon completion of which the Inspector General shall make recommendations on the standards and policies the Inspector General considers necessary to ensure a professional, alert, and responsible work force.

The Committee is troubled by reports that Federal air marshals have limited opportunity for sleep between transcontinental flights. The Committee intends for the Inspector General to review this and other personnel policies and to make appropriate recommendations for strengthening such policies in order to enhance the capabilities of Federal air marshals.

*Section 230. Explosives detection canine teams minimum for aviation security.*

This section requires TSA to devote not fewer than 250 explosives detection canine teams to aviation security inspection purposes through 2011.

*Section 231. Assessments and GAO Report of inbound air cargo screening.*

This section establishes quarterly reporting requirements for the Comptroller General to provide an ongoing assessment of TSA's implementation of the inbound air cargo screening verification system established in section 201 and the extent to which exemptions are utilized by TSA.

*Section 232. Status of efforts to promote air cargo shipper certification.*

This section directs TSA to report to Congress on its progress in certifying the screening methods used by shippers who want to participate in the Certified Cargo Screening Program.

*Section 233. Full and open competition in security background screening service.*

This section requires TSA to publish in the Federal Register a notice for the background screening services for persons requiring a background screening in the aviation industry, which will make such services available for open competition.

The Committee is concerned about the lack of competition and transparency in the provision of security background screening services for persons requiring security background screening in the aviation industry. Accordingly, the Committee intends for this section to require the Secretary to publish a notice in the Federal Register to ensure that the selection process for such security screening services shall be subject to full and open competition. Similarly, the Committee intends for this section to ensure that technical standards and other criteria shall also be published in the Federal Register notice.

In fulfilling the requirements of this section, the Committee expects TSA to ensure that all security screening providers can facili-



tate background screening services, including fingerprint-based criminal history record checks and other required security checks. The Committee further expects all service providers to satisfy all applicable Federal requirements, including data and privacy protection standards, any required certifications, and continuity of operation plans and facilities. The Committee strongly believes, and expects TSA to ensure, that the transition to full and open competition must be completed in such a way that the transition does not impair or diminish the level of security provided.

*Section 234. Registered traveler.*

This section requires TSA to determine whether the Registered Traveler program can be integrated, with added security benefits, into risk-based aviation security operations and requires the Assistant Secretary to submit a report to Congress on the potential risk reduction in reinstating the Registered Traveler program with security threat assessments and background checks.

The Aviation and Transportation Security Act (P.L. 107-71) authorized TSA to establish trusted passenger programs and use available technologies to expedite the security screening of passengers who participate in such programs, to free up resources and security screening personnel and enable TSA to focus on those passengers perceived to be a greater threat to aviation security. Based on this authorization, TSA created the Registered Traveler program whereby “registered travelers” who underwent a security threat assessment by TSA could access expedited screening at an airport checkpoint. Congress had intended for such trusted passenger programs to be utilized as a risk-management tool.

While the Committee has been supportive of the Registered Traveler program, it was disappointed by a TSA determination in July 2008 that there was no security benefit substantively gained by the security threat assessment. The security threat assessment process, which is also a part of routine background checks for certain airport personnel and air cargo handlers, includes a check against the terrorist watch list and the immigration and law enforcement databases. By contrast, non-Registered Traveler passengers only undergo a check against the terrorist watch list.

The Committee believes that the Registered Traveler program can be an effective risk-management tool and should be permitted to realize its full potential as envisioned by Congress. Accordingly, this section requires a determination of whether the Registered Traveler program can be integrated into risk-based airport security operations to provide Registered Traveler passengers with expedited checkpoint screening such passengers are cleared by a security threat assessment conducted by TSA and a private-sector background check as part of the Registered Traveler enrollment process. If the Assistant Secretary determines that the Registered Traveler program can be integrated into risk-based airport security operations, the Committee intends for the security threat assessments to be reinstated as part of the Registered Traveler enrollment process and for Registered Traveler providers to be permitted to perform private-sector background checks soon thereafter.

*Section 235. Report on cabin crew communication.*

This section directs TSA to report on technologies and issue standards for wireless communication devices for secure cabin crew

communication among the cabin, flight deck, and any embarked Federal air marshals. The Committee is concerned about the potential security vulnerabilities that could arise in the event of a failure of an airplane's in-flight air phone system where there is no redundant backup system in place.

*Section 236. Air cargo crew training.*

This section directs TSA to develop a plan for establishing security training for pilots and other appropriate crew operating all-cargo aircraft.

*Section 237. Reimbursement for airports that have incurred eligible costs.*

This section establishes a process for resolving reimbursement claims for airports that have incurred terminal modification costs associated with the installation of in-line explosives detection systems before TSA established the "letter of intent" reimbursement program.

*Section 238. Report on whole body imaging technology.*

This section requires the Assistant Secretary to submit a report to Congress upon completion of the ongoing pilot for testing whole body imaging technology and to include in the report a description of how privacy protections were integrated into the execution of the pilot.

The Committee acknowledges TSA's ongoing efforts to successfully integrate new technology at checkpoints after it has undergone thorough operational testing and evaluation. As part of a pilot program, TSA is currently using whole body imagers that use millimeter wave technology to screen passengers at select airports, specifically 19 airports across the United States.

The Committee also recognizes the concerns raised by privacy groups with regard to the precise imaging of the technology, and that TSA has put privacy algorithms in place that shield certain areas of a body from being seen. Additionally, TSA has reported that the images transmitted by this technology are not being stored and are eliminated seconds after a passenger is processed. Further, although the technology appears promising and TSA has plans to expand the nationwide deployment, concerns have been raised about the effectiveness of the machines in performing primary passenger screening at checkpoints. Because of these concerns, the Committee intends for TSA report on performance issues and steps taken to address passenger privacy concerns upon completion of the pilot.

*Section 239. Protective Equipment.*

This section directs the Secretary to develop protocols for the use of personal protective equipment during infectious disease outbreaks, including masks, respirators, gloves, and other equipment, for TSA employees and others.

The Committee recognizes that during the H1N1 outbreak, there were gaps in the Federal response, including the response from the Department. The Committee believes it is imperative that we learn the lessons from the Federal response and put protocols and protections in place in the event of similar-or worse-outbreaks. Further, the Committee believes that TSA personnel, as well as other front-line personnel at the Department, deserve clear guidance on the

steps they can or must take to protect themselves and others. The Committee believes that clear communication and effective protocols on the use of protective personal equipment can assist in these efforts and should be established by the Secretary.

### TITLE III-SURFACE TRANSPORTATION SECURITY

*Section 301. Assistant Secretary defined.*

This section defines “Assistant Secretary” in Title XIII of the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) as the Assistant Secretary for Homeland Security (Transportation Security Administration).

*Section 302. Surface transportation security inspection program.*

This section establishes the Surface Transportation Security Inspection Office to oversee surface transportation security inspectors, streamline their mission, and clarify their command structure. This provision also authorizes hiring of additional surface inspectors, outlines minimum requirements for field offices, and requires development of a plan for expanding the role of surface inspectors in TSA’s surface transportation security mission, including oversight of projects funded through transportation security grant programs administered by the Department.

*Section 303. Visible intermodal prevention and response teams.*

This section further defines and shapes the mission of TSA’s Visible Intermodal Prevention and Response (VIPR) program and requires the development of qualitative performance measures to assess its operations. This section also requires a plan to improve communications between VIPR teams and local agencies, and among VIPR team components.

*Section 304. Surface transportation security stakeholder participation.*

This section creates a Transit Security Advisory Committee (TSAC) to assist TSA with issues pertaining to surface transportation security, including homeland security information sharing and security background checks, and requires the TSAC to provide recommendations and submit reports to the Assistant Secretary. This section also establishes a Passenger Carrier Security Working Group and a Freight Rail Security Working Group within the TSAC to provide relevant stakeholders with a formal mechanism for providing TSA with expert feedback on its implementation of statutory requirements under the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53), and for other relevant purposes.

The Committee strongly believes that TSA could benefit significantly in its development and implementation of policies and programs that affect surface transportation modes by maintaining an ongoing dialogue with affected stakeholders. Accordingly, the Committee intends for the TSAC to be composed of members from 27 stakeholder organizations, including representatives from public transportation agencies, passenger rail agencies or operators, railroad carriers, motor carriers, owners or operators of highways, over-the-road bus operators and terminal owners and operators, pipeline operators, labor organizations representing employees of

such entities, and the surface transportation security technology industry.

*Section 305. Human capital plan for surface transportation security personnel.*

This section requires TSA to submit a human capital plan for surface transportation security personnel at TSA, including surface transportation security inspectors, which must be approved by the chief human capital officer of the Department prior to submission. This section also requires the Assistant Secretary to consult with the Surface Transportation Security Inspection Office, the Inspector General of the Department, and the Comptroller General in developing the plan.

*Section 306. Surface transportation security training.*

This section requires the Secretary to report on the status of the Department's implementation of sections 1408, 1517, and 1534 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53), which require security training for rail, public transportation, and bus workers, within 90 days of enactment.

The Committee is very concerned that TSA has not issued training for front-line employees who work in surface transportation systems. The Committee strongly believes that TSA has an important role in securing surface transportation systems, an important element of which is establishing a new layer of security in freight rail and public transportation modes through the provision of this critical security training.

*Section 307. Security assistance IG report.*

This section requires the Inspector General of the Department to report to Congress on the roles and responsibilities of TSA and other Department components involved in the administration of security grants under section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53), along with recommendations for how TSA and other relevant components can improve their coordination and better leverage substantive and administrative expertise in executing the program.

*Section 308. International lessons learned for securing passenger rail and public transportation systems.*

This section requires the Comptroller General to study all efforts undertaken by the Department, including TSA, and other relevant entities to learn from foreign nations whose passenger rail and transit systems have been attacked by terrorists and, where practicable, apply lessons learned to relevant transportation security gaps in the United States.

*Section 309. Underwater tunnel security demonstration project.*

This section requires TSA to conduct a full-scale demonstration project to test and assess technologies for securing underwater tunnels during a terrorist attack involving improvised explosive devices, including inflatable plugs. This section also authorizes \$8,000,000 to be appropriated for the Assistant Secretary to carry out the demonstration project.

The Committee recognizes that the consequences of a successful attack on a mass transit system while in an underwater tunnel could be severe. New York, Washington, D.C., and San Francisco all have underwater tunnels that are utilized by mass transit sys-

tems. With millions of passengers on these systems daily, it is vital that technologies that can prevent or mitigate such consequences be developed. The Committee is pleased that the Department has developed inflatable plug technology but believes that real-world tests, using actual water pressure, are vital to further refine the technology before deployment.

The Committee accepted by voice vote an amendment offered by Ranking Member King that added a deadline for the full-scale demonstration of inflatable plugs of not later than 180 days after enactment, as well as the authorization of \$8,000,000 for the demonstration project under this section.

*Section 310. Passenger rail security demonstration project.*

This section requires TSA to conduct a demonstration project to test and assess technologies for securing passenger rail systems during a terrorist attack involving improvised explosive devices, including foreign object detection programs to detect devices on station platforms and mechanisms to defeat devices left on rail tracks.

*Section 311. Explosives detection canine teams.*

This section increases the number of TSA-certified explosives detection canine teams devoted to passenger rail and public transportation security activities to 200 by the end of fiscal year 2011; increases the assistance provided to passenger rail and public transportation agencies for participation in TSA's canine program to \$75,000 per canine team; and expands the use of canine teams trained to detect vapor wave trails. This section also authorizes to be appropriated such sums as may be necessary to provide the increased assistance to participants in the TSA canine program.

The Committee believes that the importance of explosives detection canine teams to the mission of securing both surface transportation and aviation environments cannot be overemphasized. Accordingly, the Committee has set a minimum threshold for the number of canine teams to be deployed by TSA in surface transportation environments not fewer than 200 teams by the end of fiscal year 2011. In support of this increase, the Committee has also raised the authorization level for the minimum cooperative agreement reimbursement payment to State and local agencies to not less than \$75,000 per year, for three years. The Committee intends for these increased resources to help ensure that the needs of State and local agencies to deploy canine teams for the purpose of securing passenger rail and public transportation environments are more adequately met.

The Committee recognizes the potential for additional canine detection activities, as reflected by the expanded use of canines trained to detect vapor wake trails in rail and other public transportation environments called for in this section. The Committee believes that these specially trained dogs provide a unique capability for enhancing the security of passenger rail and public transportation systems and that their abilities should be maximized for this purpose.

TITLE IV-TRANSPORTATION SECURITY  
CREDENTIALING

**Subtitle A-Security Credentialing**

*Section 401. Report and recommendation for uniform security background checks.*

This section requires the Comptroller General to review background checks and forms of identification required under State and local transportation security programs and determine whether such programs duplicate or conflict with Federal programs. This section also requires the Comptroller General to submit recommendations for streamlining and eliminating any duplications or conflicts.

*Section 402. Animal-propelled vessels.*

This limited section prohibits the Secretary from requiring an individual to hold a Transportation Worker Identification Credential (TWIC) if the individual has been issued a license, certificate of registry, or merchant mariner's document under title 46, United States Code; the individual is not allowed unescorted access to secure or sterile areas of a vessel or related facility; and the individual is engaged in the operation of a live animal-propelled vessel.

Recently the Committee learned of two vessels operating in Pennsylvania that are drawn along a confined canal by animals and, because they carry more than six persons for hire, the individuals operating them are required to obtain licenses to do so. The requirements of 46 U.S.C. § 70105 dictate that any individual who is issued a "license, certificate of registry, or merchant mariners document" must be issued a TWIC card, with no provision for exceptions. The Committee intends for this section to provide relief for this very limited and specific category of individuals, provided the individual and the vessel operated do not enter or contain on-board "secure areas," as designated under 46 U.S.C. § 70103. The Committee acknowledges the determination made by the Department that information currently received through the regular licensing process for such individuals is sufficient for the purposes of identification and credentialing, and that this limited exemption is "risk-neutral."

This exception does not exempt individuals from the TWIC requirement if the individual is also employed in such a manner as to require unescorted access to secure areas of vessels or facilities designated under 46 U.S.C. § 70103.

*Section 403. Requirements for issuance of transportation security cards; Access pending issuance.*

This section requires the Secretary to coordinate with owners and operators to allow individuals with pending TWIC applications to work in secure areas if the individuals are escorted by others already in possession of a TWIC card. This section establishes deadlines for the processing of TWIC applications by the Department, including Initial Determination of Threat Assessment letters, and appeal and waiver requests. In addition, this section directs the Secretary to develop a process wherein TWIC cards can be mailed to applicants as an alternative to requiring a second trip to the same TWIC enrollment center. This section also requires the Secretary to establish procedures to enable TWIC applicants to be fingerprinted at any Department facility.

The Committee recognizes that the implementation of the TWIC program, which was originally established by the Maritime Transportation Security Act of 2002 (P.L. 107-295), has faced some operational challenges, including a 4- to 5-month processing time for more than 15,000 applicants. The Committee acknowledges that in recent months TSA has made progress in addressing processing delays. However, the Committee is concerned that because some applicants are unable to work while they wait for their TWIC cards, they are now facing serious economic consequences, including having property repossessed and even foreclosure.

Accordingly, the Committee intends for this section to help ease the burden on affected workers by authorizing the Secretary to coordinate with owners and operators of facilities and vessels to escort individuals who have applied for or have lost their cards, thereby enabling them to work. The Committee does not intend for the Department to require owners and operators to escort individuals who present a specific terrorism security threat.

Similarly, the Committee believes that applicants who submitted TWIC applications in a timely manner should not be prevented from working in secure areas of vessels or ports because of excessive processing delays. The Committee believes that TSA should be able to activate TWIC cards without subjecting approved applicants to the time-consuming process of returning to their original enrollment center. It is the Committee's view that if the Federal government can mail a passport to an applicant, then TSA should be able to mail a TWIC card to an applicant, at no extra cost. The Committee intends for this section to help improve timely facilitation the TWIC process by providing for a mailing process and setting deadlines for the Department to speed up its current processing time.

*Section 404. Harmonizing security card expirations.*

This section authorizes the Secretary to extend the expiration of a biometric TWIC card to align such expiration with the expiration of a merchant mariner document required under chapter 71 or chapter 73, United States Code.

The Committee intends for this section to maximize efficiency and minimize the processing time required for maritime workers who must obtain merchant marine documents in addition to TWIC cards.

*Section 405. Securing aviation from extreme terrorist threats.*

This section requires the Assistant Secretary, in coordination with the Terrorist Screening Center, to include on the no-fly list any individual who was a detainee housed at the Naval Station, Guantanamo Bay, Cuba, after January 1, 2009, upon issuance of a final disposition by the President of the United States. This section defines "detainee" as an individual in the custody or under the physical control of the United States as a result of armed conflict.

**Subtitle B-SAFE Truckers Act of 2009**

*Section 431. Short title.*

This section states that the short title of Subtitle B is the "Screening Applied Fairly and Equitably (SAFE) Truckers Act of 2009."

Subtitle B was added to H.R. 2200 by an amendment offered by Rep. Dan Lungren and co-sponsored by Rep. Sheila Jackson Lee. The SAFE Truckers Act was first introduced as H.R. 5604 in the 109th Congress and re-introduced as H.R. 5915 in the 110th Congress.

*Section 432. Surface transportation security.*

This section amends the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) by inserting a new Title XXI-Surface Transportation Security:

*Section 2101. Transportation of security sensitive materials.*

This section requires the Secretary to issue regulations, after notice and comment, defining “security sensitive materials” for the purposes of this title. This section also prohibits an individual from transporting security sensitive materials unless the individual possesses a transportation security card under 46 U.S.C. § 70105, which is currently known as the TWIC program. In addition, this section prohibits a person (as “person” is defined in 1 U.S.C. § 1, to include corporations) from offering or causing security sensitive materials to be transported in commerce unless the person transporting the security sensitive materials possesses a TWIC.

The Committee recognizes that security sensitive materials are materials that, in certain quantities, may pose a threat of being used in a terrorist attack if misappropriated or misused. The Committee intends that the transportation security card requirement under 46 U.S.C. § 70105 shall be met if an individual possesses a TWIC as they are currently being distributed on the date of this committee report. The Committee does not intend for TSA to require a different type of credential or any physical designation indicating that the TWIC will be used to transport security sensitive materials. The intent of this section is that an individual possessing a TWIC will be deemed to have cleared the security requirements to haul security sensitive materials; any safety requirements to haul hazardous materials are separate and unaffected by this title.

The Committee intends for this section to require shippers to ensure that drivers have a TWIC before they haul security sensitive materials. The Committee does not intend to require that card readers be installed at all shipping facilities, rather, the Committee recognizes that a visual inspection of the card will provide the same level of security as provided under the current HME licensing process.

*Section 2102. Enrollment locations.*

This section requires the Secretary to ensure that fingerprinting locations for TWIC applicants have flexible operating hours and to permit applicants to use locations outside their States of residence. This section also requires the Secretary to develop guidelines and procedures to permit an individual to receive a TWIC card at the individual’s place of residence.

The Committee recognizes that flexible hours, numerous locations, and the utilization of the mail system in the TWIC application process are especially important to truck drivers, given that they may often be engaged in cross-country hauls. The Committee believes that these drivers should be permitted to apply for a TWIC at locations that are most convenient for them, free of any rule re-



quiring them to return to the same location to collect their TWIC cards.

*Section 2103. Authority to ensure compliance.*

This section authorizes the Secretary to ensure compliance with Title XXI and permits the Secretary to enter into a memorandum of understanding with the Secretary of Transportation as necessary to ensure such compliance.

Similar to the Committee's intentions in section 2101, in this section the Committee does not intend for the Secretary to require that card readers be used by shippers. The Committee recognizes that current hazardous materials endorsements (HMEs) are checked by visual inspection and that the same level of security would be provided through a visual check of a TWIC card.

*Section 2104. Civil penalties.*

This section provides that a person who violates this title, or a regulation or order under this title, shall be liable to the United States Government pursuant to 49 U.S.C. § 114(v).

The Committee intends for the penalties applied to individuals to be proportionate to the violation committed and encourages the Department to review current HME penalties for guidance in applying penalties enforced under this title. The Committee recognizes, for example, that a driver hauling hazardous materials without a valid HME is usually fined an amount not more than \$250 for the first violation.

*Section 2105. Commercial motor vehicle operators registered to operate in Mexico or Canada.*

This section prohibits operators licensed in Mexico or Canada from transporting security sensitive materials in the United States unless they have successfully completed a security background check similar to the security background check required for a TWIC. This section specifies that any "similar" background check must have been conducted by a Federal agency of the United States and that the Secretary shall determine which security background checks qualify as "similar."

*Section 2106. Other security background checks.*

This section recognizes that some TWIC applicants may have already undergone an equivalent security background check as part of another program, either conducted by the Department or another Federal agency, and requires the Secretary to accept other sufficiently rigorous background checks and reduce the TWIC fee for the applicant accordingly.

The Committee believes that all of the Department's credentialing and background check programs should incorporate reciprocity with other similar checks to the extent practicable to further reduce the financial burden on applicants and the adjudicatory burden on the Department.

*Section 2107. Redundant background checks.*

This section prohibits any State or political subdivision thereof from requiring a separate security background check of individuals seeking to transport hazardous materials. This section permits the Secretary to waive the prohibition if the State or political subdivision demonstrates a compelling homeland security reason that a

separate check is necessary to ensure the secure transportation of hazardous materials in that State or political subdivision.

*Section 2108. Transition.*

This section recognizes that, until this title takes effect, individuals will continue to be required to undergo a full security background check as part of the HME licensing process. This section declares that such individuals shall be considered to have satisfied the security background check requirement for the TWIC card. This section also requires the Secretary to reduce the fees associated with obtaining a TWIC for individuals who have satisfied the security background check in such a manner.

The Committee recognizes that many HME holders will have paid at least \$94, and sometimes as much as \$130, for an HME security threat assessment. In the transition to the TWIC requirement, the Committee expects the Department to reduce the fees associated with the change in procedure to the greatest extent practicable; ideally, to an amount not more than the actual cost of the production of the TWIC card.

*Section 2109. Savings clause.*

This section clarifies that nothing in Title XXI of the Homeland Security Act of 2002 (P.L. 107-296), as amended, shall affect the Secretary of Transportation's authority to regulate hazardous materials under chapter 51, title 49, United States Code.

*Section 2110. Definitions.*

This section defines "commerce," "hazardous material," "person," "security sensitive material," "transports," and "transportation."

*Section 433. Conforming amendment.*

This section amends the table of contents contained in section 1(b) of the Homeland Security Act of 2002 (P.L. 107-296) to reflect the addition of Title XXI-Surface Transportation Security.

*Section 434. Limitation on issuance of hazmat licenses.*

This section repeals 49 U.S.C. § 5103a, which currently requires all applicants for an HME to undergo a security threat assessment.

The Committee recognizes that hazardous materials are a broad category of substances regulated for safety and environmental purposes, including paint, soda syrup, and hairspray, as well as other more toxic substances. In light of section 432, which requires all drivers who transport security sensitive materials to undergo a security background check, the Committee believes that section 5103a is no longer necessary.

*Section 435. Deadlines and effective dates.*

This section establishes deadlines and effective dates for the issuance of TWIC cards to motor vehicle operators who transport security sensitive materials and other requirements under section 432.

The Committee intends for the Secretary to begin issuing TWIC cards to truck drivers seeking to haul security sensitive materials no later than May 31, 2010. While nothing in this title prohibits the Secretary from issuing TWIC cards earlier, the Committee recognizes that May 31, 2010, marks the five-year anniversary of the HME threat assessment program and many truck drivers will be required to renew their HME beginning on that date. The Committee expects the Secretary to make every possible effort to begin

the transition to the TWIC card by that date to reduce the overlap and duplicity as much as possible.

*Section 436. Task force on disqualifying crimes.*

This section establishes a task force that includes representatives of appropriate industries, labor organizations, Federal agencies, and other appropriate entities to review the list of crimes that disqualify individuals from transportation-related employment and assess whether the disqualifying crimes are accurate indicators of a terrorism security risk.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

**TITLE 49, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE I—DEPARTMENT OF TRANSPORTATION**

\* \* \* \* \*

**CHAPTER 1—ORGANIZATION**

\* \* \* \* \*

**§ 114. Transportation Security Administration**

(a) \* \* \*

\* \* \* \* \*

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

(1) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

**SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS**

\* \* \* \* \*

**CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL**

Sec.

5101. Purpose.

\* \* \* \* \*

**[5103a. Limitation on issuance of hazmat licenses.]**

\* \* \* \* \*

**[§ 5103a. Limitation on issuance of hazmat licenses**

**[(a) LIMITATION.—**

**[(1) ISSUANCE OF LICENSES.—**A State may not issue to any individual a license to operate a motor vehicle transporting in commerce a hazardous material unless the Secretary of Homeland Security has first determined, upon receipt of a notification under subsection (d)(1)(B), that the individual does not pose a security risk warranting denial of the license.

**[(2) RENEWALS INCLUDED.—**For the purposes of this section, the term “issue”, with respect to a license, includes renewal of the license.

**[(b) HAZARDOUS MATERIALS DESCRIBED.—**The limitation in subsection (a) shall apply with respect to any material defined as hazardous material by the Secretary of Transportation for which the Secretary of Transportation requires placarding of a commercial motor vehicle transporting that material in commerce.

**[(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—**The Secretary of Health and Human Services shall recommend to the Secretary of Transportation any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) if the Secretary of Health and Human Services determines that such material or agent poses a significant risk to the health of individuals.

**[(d) BACKGROUND RECORDS CHECK.—**

**[(1) IN GENERAL.—**Upon the request of a State regarding issuance of a license described in subsection (a)(1) to an individual, the Attorney General—

**[(A) shall carry out a background records check regarding the individual; and**

**[(B) upon completing the background records check, shall notify the Secretary of Homeland Security of the completion and results of the background records check.**

**[(2) SCOPE.—**A background records check regarding an individual under this subsection shall consist of the following:

**[(A) A check of the relevant criminal history data bases.**

**[(B) In the case of an alien, a check of the relevant data bases to determine the status of the alien under the immigration laws of the United States.**

**[(C) As appropriate, a check of the relevant international data bases through Interpol-U.S. National Central Bureau or other appropriate means.**

**[(e) REPORTING REQUIREMENT.—**Each State shall submit to the Secretary of Homeland Security, at such time and in such manner as the Secretary of Homeland Security may prescribe, the name, address, and such other information as the Secretary of Homeland Security may require, concerning—

**[(1) each alien to whom the State issues a license described in subsection (a); and**

**[(2) each other individual to whom such a license is issued, as the Secretary of Homeland Security may require.**

[(f) ALIEN DEFINED.—In this section, the term “alien” has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act.

[(g) BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.—

[(1) IN GENERAL.—

[(A) EMPLOYER NOTIFICATION.—Not later than 90 days after the date of enactment of this subsection, the Director of the Transportation Security Administration, after receiving comments from interested parties, shall develop and implement a process for notifying hazmat employers designated by an applicant of the results of the applicant’s background record check, if—

[(i) such notification is appropriate considering the potential security implications; and

[(ii) the Director, in a final notification of threat assessment, served on the applicant determines that the applicant does not meet the standards set forth in regulations issued to carry out this section.

[(B) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—

[(i) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—

[(I) has performed a security threat assessment under this section; and

[(II) has issued a final notification of no security threat,

is deemed to have met the requirements of any other background check that is required for purposes of any Federal law applicable to transportation workers if that background check is equivalent to, or less stringent than, the background check required under this section.

[(ii) DETERMINATION BY DIRECTOR.—Not later than 60 days after the date of issuance of the report under paragraph (5), but no later than 120 days after the date of enactment of this subsection, the Director shall initiate a rulemaking proceeding, including notice and opportunity for comment, to determine which background checks required for purposes of Federal laws applicable to transportation workers are equivalent to, or less stringent than, those required under this section.

[(iii) FUTURE RULEMAKINGS.—The Director shall make a determination under the criteria established under clause (ii) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this subsection.

[(2) APPEALS PROCESS FOR MORE STRINGENT STATE PROCEDURES.—If a State establishes its own standards for applicants for a hazardous materials endorsement to a commercial driver’s license, the State shall also provide—

[(A) an appeals process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may appeal that denial; and

[(B) a waiver process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may apply for a waiver.

[(3) CLARIFICATION OF TERM DEFINED IN REGULATIONS.—The term “transportation security incident”, as defined in part 1572 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Not later than 30 days after the date of enactment of this subsection, the Director shall modify the definition of that term to reflect the preceding sentence.

[(4) BACKGROUND CHECK CAPACITY.—Not later than October 1, 2005, the Director shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives a report on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.

[(5) REPORT.—

[(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, the Director shall transmit to the committees referred to in paragraph (4) a report on the Director's plans to reduce or eliminate redundant background checks for holders of hazardous materials endorsements performed under this section.

[(B) CONTENTS.—The report shall—

[(i) include a list of background checks and other security or threat assessment requirements applicable to transportation workers under Federal laws for which the Department of Homeland Security is responsible and the process by which the Secretary of Homeland Security will determine whether such checks or assessments are equivalent to, or less stringent than, the background check performed under this section; and

[(ii) provide an analysis of how the Director plans to reduce or eliminate redundant background checks in a manner that will continue to ensure the highest level of safety and security.

[(h) COMMERCIAL MOTOR VEHICLE OPERATORS REGISTERED TO OPERATE IN MEXICO OR CANADA.—

[(1) IN GENERAL.—Beginning on the date that is 6 months after the date of enactment of this subsection, a commercial motor vehicle operator registered to operate in Mexico or Can-

ada shall not operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

[(2) EXTENSION.—The Director of the Transportation Security Administration may extend the deadline established by paragraph (1) for a period not to exceed 6 months if the Director determines that such an extension is necessary.

[(3) COMMERCIAL MOTOR VEHICLE DEFINED.—In this subsection, the term “commercial motor vehicle” has the meaning given that term by section 31101.]

\* \* \* \* \*

**SUBTITLE VII—AVIATION PROGRAMS**

\* \* \* \* \*

**PART A—AIR COMMERCE AND SAFETY**

\* \* \* \* \*

**SUBPART III—SAFETY**

\* \* \* \* \*

**CHAPTER 449—SECURITY**

SUBCHAPTER I—REQUIREMENTS

Sec.  
44901. Screening passengers and property.

\* \* \* \* \*

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

\* \* \* \* \*

44931. *Assistant Secretary defined.*  
[44933. *Federal Security Managers.*]  
44933. *Federal Security Directors.*

\* \* \* \* \*

44946. *Aviation Security Advisory Committee.*  
44947. *General aviation security.*

SUBCHAPTER I—REQUIREMENTS

**§ 44901. Screening passengers and property**

(a) \* \* \*

\* \* \* \* \*

(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 detec-

tion 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.】

*(1) A bag match program, ensuring that no checked baggage is placed aboard an aircraft unless the passenger who checked the baggage is aboard the aircraft, is not authorized as an alternate method of baggage screening where explosive detection equipment is available unless there are exigent circumstances as determined by the Assistant Secretary. The Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives within 90 days of the determination that bag match must be used as an alternate method of baggage screening.*

\* \* \* \* \*

(g) AIR CARGO ON PASSENGER AIRCRAFT.—

(1) \* \* \*

\* \* \* \* \*

*(3) INBOUND AIR CARGO ON PASSENGER AIRCRAFT.—Not later than 2 years after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall establish a system to verify that all cargo transported on passenger aircraft operated by an air carrier or foreign air carrier inbound to the United States be screened for explosives. The system shall include a risk assessment for inbound air cargo on passenger and all air cargo airplanes, and the Assistant Secretary shall use this assessment to address vulnerabilities in cargo screening. The Assistant Secretary shall identify redundancies in inbound cargo inspection on passenger aircraft by agencies and address these to ensure that all cargo is screened without subjecting carriers to multiple inspections by different agencies.*

【(3)】(4) REGULATIONS.—

(A) \* \* \*

\* \* \* \* \*

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

【(5)】(6) SCREENING DEFINED.—In this subsection the term “screening” means a physical examination or non-intrusive methods of assessing whether cargo poses a threat to transportation security. Methods of screening include x-ray systems, explosives detection systems, explosives trace detection, explosives detection canine teams certified by the Transportation Security Administration, or a physical search together with manifest verification. The Administrator may approve additional methods to ensure that the cargo does not pose a threat to transportation security and to assist in meeting the requirements of this subsection. Such additional cargo screening methods shall not include solely performing a review of information about the contents of cargo or verifying the identity of



a shipper of the cargo that is not performed in conjunction with other security methods authorized under this subsection, including whether a known shipper is registered in the known shipper database. Such additional cargo screening methods may include a program to certify the security methods used by shippers pursuant to paragraphs (1) and (2) and alternative screening methods pursuant to exemptions referred to in subsection (b) of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007.

\* \* \* \* \*

**§ 44903. Air transportation security**

(a) \* \* \*

\* \* \* \* \*

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

(1) \* \* \*

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

(A) \* \* \*

\* \* \* \* \*

(C) **ADVANCED AIRLINE PASSENGER PRESCREENING.—**

(i) \* \* \*

\* \* \* \* \*

(v) *OUTSOURCING PROHIBITED.—Upon implementation of the advanced passenger prescreening system required by this section, the Assistant Secretary shall prohibit any non-governmental entity from administering the function of comparing passenger information to the automatic selectee and no fly lists, consolidated and integrated terrorist watchlists, or any list or database derived from such watchlists for activities related to aviation security. The Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate when any non-governmental entity is authorized access to the watchlists described in this clause.*

(vi) *INCLUSION OF DETAINEES ON NO FLY LIST.—The Assistant Secretary, in coordination with the Terrorist Screening Center, shall include on the no fly list any individual who was a detainee housed at the Naval Station, Guantanamo Bay, Cuba, on or after January 1, 2009, after a final disposition has been issued by the President. For purposes of this clause, the term “detainee” means an individual in the custody or under the physical control of the United States as a result of armed conflict.*

\* \* \* \* \*

(m) **SECURITY SCREENING OF INDIVIDUALS WITH METAL IMPLANTS.—**

(1) *IN GENERAL.*—The Assistant Secretary shall ensure fair treatment in the screening of individuals with metal implants traveling in air transportation.

(2) *PLAN.*—The Assistant Secretary shall submit a plan to the Committee on Homeland Security of the House of Representatives for improving security screening procedures for individuals with metal implants to limit disruptions in the screening process while maintaining security. The plan shall include benchmarks for implementing changes to the screening process and analysis of approaches to limit such disruptions for individuals with metal implants including participation in the Registered Traveler program, as established pursuant to section 109(a)(3) of the Aviation Transportation Security Act (115 Stat. 597), and the development of a new credential or system that incorporates biometric technology and other applicable technologies to verify the identity of an individual who has a metal implant.

(3) *METAL IMPLANT DEFINED.*—In this subsection, the term “metal implant” means a metal device or object that has been surgically implanted or otherwise placed in the body of an individual, including any metal device used in a hip or knee replacement, metal plate, metal screw, metal rod inside a bone, and other metal orthopedic implants.

\* \* \* \* \*

**§ 44917. Deployment of Federal air marshals**

(a) \* \* \*

\* \* \* \* \*

*(e) SECURE VERIFICATION SYSTEM FOR LAW ENFORCEMENT OFFICERS.*—

(1) *IN GENERAL.*—The Assistant Secretary shall develop a plan for a system to securely verify the identity and status of law enforcement officers flying while armed. The Assistant Secretary shall ensure that the system developed includes a biometric component.

(2) *DEMONSTRATION.*—The Assistant Secretary shall conduct a demonstration program to test the secure verification system described in paragraph (1) before issuing regulations for deployment of the system.

(3) *CONSULTATION.*—The Assistant Secretary shall consult with the Aviation Security Advisory Committee, established under section 44946 of title 49, United States Code, when developing the system and evaluating the demonstration program.

(4) *REPORT.*—The Assistant Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives, evaluating the demonstration program of the secure verification system required by this section.

(5) *AUTHORIZATION OF APPROPRIATIONS.*—From the amounts authorized under section 101 of the Transportation Security Administration Authorization Act, there is authorized to be appropriated to carry out this subsection \$10,000,000, to remain available until expended.

(f) *OMBUDSMAN.*—

(1) *ESTABLISHMENT.*—The Assistant Secretary shall establish in the Federal Air Marshal Service an Office of the Ombudsman.

(2) *APPOINTMENT.*—The head of the Office shall be the Ombudsman, who shall be appointed by the Assistant Secretary.

(3) *DUTIES.*—The Ombudsman shall carry out programs and activities to improve morale, training, and quality of life issues in the Service, including through implementation of the recommendations of the Inspector General of the Department of Homeland Security and the Comptroller General.

#### § 44918. Crew training

##### (a) BASIC SECURITY TRAINING.—

(1) \* \* \*

\* \* \* \* \*

(6) *MONITORING.*—The Under Secretary, in consultation with the Administrator, shall monitor air carrier training programs under this subsection and periodically shall review an air carrier's training program to ensure that the program is adequately preparing crew members for potential threat conditions. In determining when an air carrier's training program should be reviewed under this paragraph, the Under Secretary shall consider complaints from crew members. The Under Secretary shall ensure that employees responsible for monitoring the training programs have the necessary resources and knowledge. *The Assistant Secretary shall establish an oversight program for security training of cabin crewmembers that includes developing performance measures and strategic goals for air carriers, and standard protocols for Transportation Security Administration oversight inspectors, in accordance with recommendations by the Inspector General of the Department of Homeland Security and the Comptroller General.*

\* \* \* \* \*

##### (b) ADVANCED SELF-DEFENSE TRAINING.—

【(1) *IN GENERAL.*—Not later than one year after the date of enactment of the Vision 100--Century of Aviation Reauthorization Act, the Under Secretary shall develop and provide a voluntary training program for flight and cabin crew members of air carriers providing scheduled passenger air transportation.】

(1) *SELF-DEFENSE TRAINING PROGRAM.*—Not later than 1 year after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall provide advanced self-defense training of not less than 5 hours during each 2-year period for all cabin crewmembers. The Assistant Secretary shall consult with the Advisory Committee, established under section 44946, and cabin crew and air carrier representatives in developing a plan for providing self-defense training in conjunction with existing recurrent training.

\* \* \* \* \*

【(3) *PARTICIPATION NOT REQUIRED.*—A crew member shall not be required to participate in the training program under this subsection.

[(4) COMPENSATION.—Neither the Federal Government nor an air carrier shall be required to compensate a crew member for participating in the training program under this subsection.]

(3) PARTICIPATION.—*A crewmember shall not be required to engage in any physical contact during the training program under this subsection.*

[(5)] (4) FEES.—A crew member shall not be required to pay a fee for the training program under this subsection.

[(6)] (5) CONSULTATION.—In developing the training program under this subsection, the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, representatives of air carriers, the director of self-defense training in the Federal Air Marshals Service, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

[(7)] (6) DESIGNATION OF TSA OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for implementing the training program under this subsection. The official shall consult with air carriers and labor organizations representing crew members before implementing the program to ensure that it is appropriate for situations that may arise on board an aircraft during a flight.

\* \* \* \* \*

**§ 44921. Federal flight deck officer program**

(a) ESTABLISHMENT.—[The Under Secretary of Transportation for Security] *The Secretary of Homeland Security, acting through the Assistant Secretary of Transportation Security* shall establish a program to deputize volunteer pilots of air carriers providing air transportation or intrastate air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as “Federal flight deck officers”.

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—Not later than 3 months after the date of enactment of this section, the [Under] Secretary shall establish procedural requirements to carry out the program under this section.

(2) COMMENCEMENT OF PROGRAM.—Beginning 3 months after the date of enactment of this section, the [Under] Secretary shall begin the process of training and deputizing pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

\* \* \* \* \*

(4) PREFERENCE.—In selecting pilots to participate in the program, the [Under] Secretary shall give preference to pilots who are former military or law enforcement personnel.

\* \* \* \* \*

(6) NOTICE TO CONGRESS.—The [Under] Secretary shall provide notice to the Committee on Transportation and Infrastruc-

ture of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

(7) MINIMIZATION OF RISK.—If the **Under** Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

(8) ADMINISTRATORS.—*The Assistant Secretary shall implement an appropriately sized administrative structure to manage the program, including overseeing—*

- (A) *eligibility and requirement protocols administration;*
- and*
- (B) *communication with Federal flight deck officers.*

(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

(1) \* \* \*

(2) TRAINING.—

(A) \* \* \*

\* \* \* \* \*

(C) TRAINING IN USE OF FIREARMS.—

(i) \* \* \*

\* \* \* \* \*

*(iv) USE OF FEDERAL AIR MARSHAL SERVICE FIELD OFFICE FACILITIES.—In addition to dedicated Government and contract training facilities, the Assistant Secretary shall require that field office facilities of the Federal Air Marshal Service be used for the administrative and training needs of the program. Such facilities shall be available to Federal flight deck officers at no cost for firearms training and qualification, defensive tactics training, and program administrative assistance.*

\* \* \* \* \*

*(l) REIMBURSEMENT.—The Secretary, acting through the Assistant Secretary, shall reimburse all Federal flight deck officers for expenses incurred to complete a recurrent and requalifying training requirement necessary to continue to serve as a Federal flight deck officer. Eligible expenses under this subsection include ground transportation, lodging, meals, and ammunition, to complete any required training as determined by the Assistant Secretary.*

\* \* \* \* \*

**§ 44924. Repair station security**

(a) \* \* \*

\* \* \* \* \*

**[(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.]**

*(f) REGULATIONS.—The Assistant Secretary shall issue regulations establishing security standards for foreign repair stations performing maintenance for aircraft used to provide air transportation*

*and shall ensure that comparable standards apply to maintenance work performed by employees of repair stations certified under part 121 of title 14, Code of Federal Regulations, and maintenance work performed by employees of repair stations certified under part 145 of such title.*

\* \* \* \* \*

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

**§ 44931. Assistant Secretary defined**

(a) *IN GENERAL.*—*In this chapter—*

(1) *the term “Assistant Secretary” means the Assistant Secretary of Homeland Security (Transportation Security Administration); and*

(2) *any reference to the Administrator of the Transportation Security Administration, the Under Secretary of Transportation for Security, the Under Secretary of Transportation for Transportation Security, or the Under Secretary for Transportation Security shall be deemed to be a reference to the Assistant Secretary.*

(b) *AUTHORITIES VESTED IN ASSISTANT SECRETARY.*—*Any authority vested in the Assistant Secretary under this chapter shall be carried out under the direction and control of the Secretary of Homeland Security.*

**§ 44933. Federal Security [Managers] Directors**

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

(b) *DUTIES AND POWERS.*—*The [Manager] Director at each airport shall—*

(1) \* \* \*

\* \* \* \* \*

(c) *INFORMATION SHARING.*—*Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall—*

(1) *require an airport security plan to have clear reporting procedures to provide that the Federal Security Director of the airport is immediately notified whenever any Federal, State, or local law enforcement personnel are called to an aircraft at a gate or on an airfield at the airport to respond to any security matter;*

(2) *require each Federal Security Director of an airport to meet at least quarterly with law enforcement agencies serving the airport to discuss incident management protocols; and*

(3) *require each Federal Security Director at an airport to inform, consult, and coordinate, as appropriate, with the airport operator in a timely manner on security matters impacting airport operations and to establish and maintain operational pro-*

*ocols with airport operators to ensure coordinated responses to security matters.*

\* \* \* \* \*

**§ 44935. Employment standards and training**

(a) \* \* \*

\* \* \* \* \*

(j) UNIFORMS.—**[The Under Secretary]**

(1) *UNIFORM REQUIREMENT.*—*The Assistant Secretary shall require any individual who screens passengers and property pursuant to section 44901 to be attired while on duty in a uniform approved by the Under Secretary.*

(2) *ALLOWANCE.*—*The Assistant Secretary may grant a uniform allowance of not less than \$300 to any individual who screens passengers and property pursuant to section 44901.*

**[(i)] (k) ACCESSIBILITY OF COMPUTER-BASED TRAINING FACILITIES.**—*The Under Secretary shall work with air carriers and airports to ensure that computer-based training facilities intended for use by security screeners at an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation are conveniently located for that airport and easily accessible.*

**(l) PROHIBITION OF ADVANCE NOTICE TO SECURITY SCREENERS OF COVERT TESTING AND EVALUATION.**—

(1) *IN GENERAL.*—*The Assistant Secretary shall ensure that information concerning a covert test of a transportation security system to be conducted by a covert testing office, the Inspector General of the Department of Homeland Security, or the Government Accountability Office is not provided to any individual prior to the completion of the test.*

(2) *EXCEPTIONS.*—*Notwithstanding paragraph (1)—*

(A) *an authorized individual involved in a covert test of a transportation security system may provide information concerning the covert test to—*

(i) *employees, officers, and contractors of the Federal Government (including military personnel);*

(ii) *employees and officers of State and local governments; and*

(iii) *law enforcement officials who are authorized to receive or directed to be provided such information by the Assistant Secretary, the Inspector General of the Department of Homeland Security, or the Comptroller General, as the case may be; and*

(B) *for the purpose of ensuring the security of any individual in the vicinity of a site where a covert test of a transportation security system is being conducted, an individual conducting the test may disclose his or her status as an individual conducting the test to any appropriate individual if a security screener or other individual who is not a covered employee identifies the individual conducting the test as a potential threat.*

(3) *SPECIAL RULES FOR TSA.*—

(A) **MONITORING AND SECURITY OF TESTING PERSONNEL.**—*The head of each covert testing office shall ensure that a person or group of persons conducting a covert*

test of a transportation security system for the covert testing office is accompanied at the site of the test by a cover team composed of one or more employees of the covert testing office for the purpose of monitoring the test and confirming the identity of personnel involved in the test under subparagraph (B).

(B) *RESPONSIBILITY OF COVER TEAM.*—Under this paragraph, a cover team for a covert test of a transportation security system shall—

(i) monitor the test; and

(ii) for the purpose of ensuring the security of any individual in the vicinity of a site where the test is being conducted, confirm, notwithstanding paragraph (1), the identity of any individual conducting the test to any appropriate individual if a security screener or other individual who is not a covered employee identifies the individual conducting the test as a potential threat.

(C) *AVIATION SCREENING.*—Notwithstanding subparagraph (A), the Transportation Security Administration is not required to have a cover team present during a test of the screening of persons, carry-on items, or checked baggage at an aviation security checkpoint at or serving an airport if the test—

(i) is approved, in coordination with the designated security official for the airport operator by the Federal Security Director for such airport; and

(ii) is carried out under an aviation screening assessment program of the Department of Homeland Security.

(D) *USE OF OTHER PERSONNEL.*—The Transportation Security Administration may use employees, officers, and contractors of the Federal Government (including military personnel) and employees and officers of State and local governments to conduct covert tests.

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

(A) *APPROPRIATE INDIVIDUAL.*—The term “appropriate individual”, as used with respect to a covert test of a transportation security system, means any individual that—

(i) the individual conducting the test determines needs to know his or her status as an individual conducting a test under paragraph (2)(B); or

(ii) the cover team monitoring the test under paragraph (3)(B)(i) determines needs to know the identity of an individual conducting the test.

(B) *COVERED EMPLOYEE.*—The term “covered employee” means any individual who receives notice of a covert test before the completion of a test under paragraph (2)(A).

(C) *COVERT TEST.*—

(i) *IN GENERAL.*—The term “covert test” means an exercise or activity conducted by a covert testing office, the Inspector General of the Department of Homeland Security, or the Government Accountability Office to intentionally test, compromise, or circumvent transpor-



tation security systems to identify vulnerabilities in such systems.

(ii) *LIMITATION.*—Notwithstanding clause (i), the term “covert test” does not mean an exercise or activity by an employee or contractor of the Transportation Security Administration to test or assess compliance with relevant regulations.

(D) *COVERT TESTING OFFICE.*—The term “covert testing office” means any office of the Transportation Security Administration designated by the Assistant Secretary to conduct covert tests of transportation security systems.

(E) *EMPLOYEE OF A COVERT TESTING OFFICE.*—The term “employee of a covert testing office” means an individual who is an employee of a covert testing office or a contractor or an employee of a contractor of a covert testing office.

\* \* \* \* \*

**§ 44940. Security service fees**

(a) *GENERAL AUTHORITY.*—

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

(A) \* \* \*

\* \* \* \* \*

(F) The costs of Federal Security [Managers] Directors under section 44903.

\* \* \* \* \*

**§ 44946. Aviation Security Advisory Committee**

(a) *ESTABLISHMENT OF AVIATION SECURITY ADVISORY COMMITTEE.*—

(1) *IN GENERAL.*—The Assistant Secretary shall establish in the Transportation Security Administration an advisory committee, to be known as the Aviation Security Advisory Committee (in this chapter referred to as the “Advisory Committee”), to assist the Assistant Secretary with issues pertaining to aviation security, including credentialing.

(2) *RECOMMENDATIONS.*—The Assistant Secretary shall require the Advisory Committee to develop recommendations for improvements to civil aviation security methods, equipment, and processes.

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

(4) *UNPAID POSITION.*—Advisory Committee members shall serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

(b) *MEMBERSHIP.*—

(1) *MEMBER ORGANIZATIONS.*—The Assistant Secretary shall ensure that the Advisory Committee is composed of not more than one individual representing not more than 27 member organizations, including representation of air carriers, all cargo air transportation, indirect air carriers, labor organizations representing air carrier employees, aircraft manufacturers, airport operators, general aviation, and the aviation technology security industry, including biometrics.

(2) *APPOINTMENTS.*—Members shall be appointed by the Assistant Secretary, and the Assistant Secretary shall have the discretion to review the participation of any Advisory Committee member and remove for cause at any time.

(c) *NONAPPLICABILITY OF FACA.*—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee under this section.

(d) *AIR CARGO SECURITY WORKING GROUP.*—

(1) *IN GENERAL.*—The Assistant Secretary shall establish within the Advisory Committee an air cargo security working group to provide recommendations for air cargo security issues, including the implementation of the air cargo screening initiatives proposed by the Transportation Security Administration to screen air cargo on passenger aircraft in accordance with established cargo screening mandates.

(2) *MEETINGS.*—The working group shall meet at least semi-annually and provide annual reports to the Assistant Secretary with recommendations to improve the Administration's cargo screening initiatives established to meet all cargo screening mandates set forth in section 44901(g) of title 49, United States Code.

(3) *MEMBERSHIP.*—The working group shall include members from the Advisory Committee with expertise in air cargo operations and representatives from other stakeholders as determined by the Assistant Secretary.

(4) *REPORTS.*—

(A) *IN GENERAL.*—The working group shall prepare and submit reports to the Assistant Secretary in accordance with this paragraph that provide cargo screening mandate implementation recommendations.

(B) *SUBMISSION.*—Not later than one year after the date of enactment of this section and on an annual basis thereafter, the working group shall submit its first report to the Assistant Secretary, including any recommendations of the group—

(i) to reduce redundancies and increase efficiencies with the screening and inspection of inbound cargo; and

(ii) on the potential development of a fee structure to help sustain cargo screening efforts.

#### **§ 44947. General aviation security**

(a) *GENERAL AVIATION SECURITY GRANT PROGRAM.*—

(1) *IN GENERAL.*—The Assistant Secretary shall carry out a general aviation security grant program to enhance transportation security at general aviation airports by making grants to

operators of general aviation airports for projects to enhance perimeter security, airfield security, and terminal security.

(2) *ELIGIBLE PROJECTS.*—Not later than one year after the date of submission of the first report of the working group under subsection (b), the Assistant Secretary shall develop and make publically available a list of approved eligible projects for such grants under paragraph (1) based upon recommendations made by the working group in such report.

(3) *FEDERAL SHARE.*—The Federal share of the cost of activities for which grants are made under this subsection shall be 90 percent.

(b) *GENERAL AVIATION SECURITY WORKING GROUP.*—

(1) *IN GENERAL.*—The Assistant Secretary shall establish, within the Aviation Security Advisory Committee established under section 44946, a general aviation working group to advise the Transportation Security Administration regarding transportation security issues for general aviation facilities general aviation aircraft, and helicopter operations at general aviation and commercial service airports.

(2) *MEETINGS.*—The working group shall meet at least semi-annually and may convene additional meetings as necessary.

(3) *MEMBERSHIP.*—The Assistant Secretary shall appoint members from the Aviation Security Advisory Committee with general aviation experience.

(4) *REPORTS.*—

(A) *SUBMISSION.*—The working group shall submit a report to the Assistant Secretary with recommendations on ways to improve security at general aviation airports.

(B) *CONTENTS OF REPORT.*—The report of the working group submitted to the Assistant Secretary under this paragraph shall include any recommendations of the working group for eligible security enhancement projects at general aviation airports to be funded by grants under subsection (a).

(C) *SUBSEQUENT REPORTS.*—After submitting the report, the working group shall continue to report to the Assistant Secretary on general aviation aircraft and airports.

(c) *AUTHORIZATION OF APPROPRIATIONS.*—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there is authorized to be appropriated for making grants under subsection (a) \$10,000,000 for each of fiscal years 2010 and 2011.

\* \* \* \* \*

**IMPLEMENTING RECOMMENDATIONS OF THE 9/11 COMMISSION ACT OF 2007**

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) \* \* \*

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

\* \* \* \* \*

TITLE XIII—TRANSPORTATION SECURITY ENHANCEMENTS

Sec. 1301. Definitions.

\* \* \* \* \*

Sec. 1311. Transit Security Advisory Committee.

\* \* \* \* \*

**TITLE XIII—TRANSPORTATION  
SECURITY ENHANCEMENTS**

**SEC. 1301. DEFINITIONS.**

For purposes of this title, the following terms apply:

(1) \* \* \*

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

[(2)] (3) *DEPARTMENT.*—The term “Department” means the Department of Homeland Security.

[(3)] (4) *SECRETARY.*—The term “Secretary” means the Secretary of Homeland Security.

[(4)] (5) *STATE.*—The term “State” means any one of the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

[(5)] (6) *TERRORISM.*—The term “terrorism” has the meaning that term has in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

[(6)] (7) *UNITED STATES.*—The term “United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

\* \* \* \* \*

**SEC. 1303. AUTHORIZATION OF VISIBLE INTERMODAL PREVENTION AND RESPONSE TEAMS.**

(a) *IN GENERAL.*—The Secretary, acting through the [Administrator of the Transportation Security Administration,] “Assistant Secretary,” may develop Visible Intermodal Prevention and Response (referred to in this section as “VIPR”) teams to augment the security of any mode of transportation at any location within the United States. In forming a VIPR team, the Secretary—

(1) \* \* \*

\* \* \* \* \*

(4) shall, prior to and during the deployment, consult with all transportation entities directly affected by the deployment of a VIPR [team,] *team as to specific locations and times within their facilities at which VIPR teams should be deployed to maximize the effectiveness of such deployment and other matters*, as appropriate, including railroad carriers, air carriers, airport owners, over-the-road bus operators and terminal owners and operators, motor carriers, public transportation agencies, owners or operators of highways, port operators and facility owners, vessel owners and operators and pipeline operators.

[(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section such sums as necessary for fiscal years 2007 through 2011.]

(b) *PERFORMANCE MEASURES.*—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall develop and implement a system of qualitative performance measures and objectives by which to assess the roles, activities, and effectiveness of VIPR team operations on an ongoing basis, including a mechanism through which the transportation entities listed in subsection (a)(4) may submit feedback on VIPR team operations involving their systems or facilities.

(c) *PLAN.*—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall develop and implement a plan for ensuring the interoperability of communications among all participating VIPR team components as designated under subsection (a)(1) and between VIPR teams and any relevant transportation entities as designated in subsection (a)(4) whose systems or facilities are involved in VIPR team operations, including an analysis of the costs and resources required to carry out the plan.

(d) *AUTHORIZATION OF APPROPRIATIONS.*—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there are authorized to be appropriated to the Secretary to carry out this section such sums as may be necessary for fiscal years 2010 and 2011.

**SEC. 1304. SURFACE TRANSPORTATION SECURITY INSPECTORS.**

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

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

(a) *SURFACE TRANSPORTATION SECURITY INSPECTION OFFICE.*—

(1) *ESTABLISHMENT.*—The Secretary, acting through the Assistant Secretary, shall establish an office to be known as the Surface Transportation Security Inspection Office (in this section referred to as the “Office”).

(2) *MISSION.*—The Secretary shall use the Office to train, employ, and utilize surface transportation security inspectors to—

(A) assist surface transportation carriers, operators, owners, entities, and facilities to enhance their security against terrorist attacks and other security threats; and

(B) assist the Secretary in enforcing applicable surface transportation security regulations and directives.

(3) *OFFICERS.*—

(A) *DIRECTOR.*—The head of the Office shall be the Director, who shall—

(i) oversee and coordinate the activities of the Office, including all officers and any corresponding surface transportation modes in which the Office carries out

such activities, and the surface transportation security inspectors who assist in such activities; and

(ii) act as the primary point of contact between the Office and other entities that support the Department's surface transportation security mission to ensure efficient and appropriate use of surface transportation security inspectors and maintain strong working relationships with surface transportation security stakeholders.

(B) *DEPUTY DIRECTOR.*—There shall be a Deputy Director of the Office, who shall—

(i) assist the Director in carrying out the responsibilities of the Director under this subsection; and

(ii) serve as acting Director in the absence of the Director and during any vacancy in the office of Director.

(4) *APPOINTMENT.*—

(A) *IN GENERAL.*—The Director and Deputy Director shall be responsible on a full-time basis for the duties and responsibilities described in this subsection.

(B) *CLASSIFICATION.*—The position of Director shall be considered a position in the Senior Executive Service as defined in section 2101a of title 5, United States Code, and the position of Deputy Director shall be considered a position classified at grade GS-15 of the General Schedule.

(5) *LIMITATION.*—No person shall serve as an officer under subsection (a)(3) while serving in any other position in the Federal Government.

(6) *FIELD OFFICES.*—

(A) *ESTABLISHMENT.*—The Secretary shall establish primary and secondary field offices in the United States to be staffed by surface transportation security inspectors in the course of carrying out their duties under this section.

(B) *DESIGNATION.*—The locations for, and designation as “primary” or “secondary” of, such field offices shall be determined in a manner that is consistent with the Department's risk-based approach to carrying out its homeland security mission.

(C) *COMMAND STRUCTURE.*—

(i) *PRIMARY FIELD OFFICES.*—Each primary field office shall be led by a chief surface transportation security inspector, who has significant experience with surface transportation systems, facilities, and operations and shall report directly to the Director.

(ii) *SECONDARY FIELD OFFICES.*—Each secondary field office shall be led by a senior surface transportation security inspector, who shall report directly to the chief surface transportation security inspector of a geographically appropriate primary field office, as determined by the Director.

(D) *PERSONNEL.*—Not later than 18 months after the date of enactment of the Transportation Security Administration Authorization Act, field offices shall be staffed with—

(i) not fewer than 7 surface transportation security inspectors, including one chief surface transportation security inspector, at every primary field office; and

(ii) not fewer than 5 surface transportation security inspectors, including one senior surface transportation security inspector, at every secondary field office.

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

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

[(e)] (d) LIMITATIONS.—

(1) \* \* \*

\* \* \* \* \*

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

[(1)] 100 surface transportation security inspectors in fiscal year 2007;

[(2)] 150 surface transportation security inspectors in fiscal year 2008;

[(3)] 175 surface transportation security inspectors in fiscal year 2009; and

[(4)] 200 surface transportation security inspectors in fiscal years 2010 and 2011.]

(e) NUMBER OF INSPECTORS.—Subject to the availability of appropriations, the Secretary shall hire not fewer than—

(1) 200 additional surface transportation security inspectors in fiscal year 2010; and

(2) 100 additional surface transportation security inspectors in fiscal year 2011.

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

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

(1) \* \* \*

\* \* \* \* \*

[(i)] (h) REPORT.—Not later than September 30, [2008] 2011, the Department of Homeland Security Inspector General shall transmit a report to the appropriate congressional committees on the performance and effectiveness of surface transportation secu-

rity inspectors, whether there is a need for additional inspectors, and other recommendations.

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

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

(i) PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a plan for expanding the duties and leveraging the expertise of surface transportation security inspectors to further support the Department’s surface transportation security mission.

(2) CONTENTS.—The plan shall include—

(A) an analysis of how surface transportation security inspectors could be used to conduct oversight activities with respect to surface transportation security projects funded by relevant grant programs administered by the Department;

(B) an evaluation of whether authorizing surface transportation security inspectors to obtain or possess law enforcement qualifications or status would enhance the capacity of the Office to take an active role in the Department’s surface transportation security operations; and

(C) any other potential functions relating to surface transportation security the Secretary determines appropriate.

(j) AUTHORIZATION OF APPROPRIATIONS.—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there are authorized to be appropriated such sums as may be necessary to the Secretary to carry out this section for fiscal years 2010 and 2011.

\* \* \* \* \*

**SEC. 1307. NATIONAL EXPLOSIVES DETECTION CANINE TEAM TRAINING PROGRAM.**

(a) \* \* \*

(b) IN GENERAL.—

(1) INCREASED CAPACITY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall—

(A) begin to increase the number of explosives detection canine teams certified by the Transportation Security Administration for the purposes of transportation-related security by up to 200 canine teams annually by the end of [2010] 2011; and

\* \* \* \* \*

(3) ALLOCATION.—

(A) IN GENERAL.—The Secretary shall increase the number of canine teams certified by the Transportation Security



*Administration for the purpose of passenger rail and public transportation security activities to not less than 200 canine teams by the end of fiscal year 2011.*

*(B) COOPERATIVE AGREEMENTS.—The Secretary shall expand the use of canine teams to enhance passenger rail and public transportation security by entering into cooperative agreements with passenger rail and public transportation agencies eligible for security assistance under section 1406 of this Act for the purpose of deploying and maintaining canine teams to such agencies for use in passenger rail or public transportation security activities and providing for assistance in an amount not less than \$75,000 for each canine team deployed, to be adjusted by the Secretary for inflation.*

*(C) AUTHORIZATION OF APPROPRIATIONS.—From amounts made available under section 101 of the Transportation Security Administration Authorization Act, there are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this paragraph for fiscal years 2010 and 2011.*

\* \* \* \* \*

(d) DEPLOYMENT.—The Secretary shall—

(1) \* \* \*

\* \* \* \* \*

(3) encourage, but not require, any transportation facility or system to deploy TSA-certified explosives detection canine teams developed under this section; **[and]**

(4) consider specific needs and training requirements for explosives detection canine teams to be deployed across the Nation's transportation network, including in venues of multiple modes of transportation, as appropriate**].**; and

(5) *expand the use of canine teams trained to detect vapor wave trails in passenger rail and public transportation security environments, as the Secretary, in consultation with the Assistant Secretary, determines appropriate.*

(e) CANINE PROCUREMENT.—The Secretary, acting through the Administrator of the Transportation Security Administration, shall work to ensure that explosives detection canine teams are procured as efficiently as possible and at the best price, while maintaining the needed level of quality, including**], if appropriate,], to the extent practicable,** through increased domestic breeding.

**[(f) STUDY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall report to the appropriate congressional committees on the utilization of explosives detection canine teams to strengthen security and the capacity of the national explosive detection canine team program.]**

*(f) REPORT.—Not later than one year after the date of the enactment of the Transportation Security Administration Authorization Act, the Comptroller General shall submit to the appropriate congressional committees a report on—*

*(1) utilization of explosives detection canine teams to strengthen security in passenger rail and public transportation environments;*

(2) *the capacity of the national explosive detection canine team program as a whole; and*

(3) *how the Assistant Secretary could better support State and local passenger rail and public transportation entities in maintaining certified canine teams for the life of the canine, including by providing financial assistance.*

\* \* \* \* \*

**SEC. 1311. TRANSIT SECURITY ADVISORY COMMITTEE.**

*(a) ESTABLISHMENT.—*

*(1) IN GENERAL.—The Assistant Secretary shall establish in the Transportation Security Administration an advisory committee, to be known as the Transit Security Advisory Committee (in this section referred to as the “Advisory Committee”), to assist the Assistant Secretary with issues pertaining to surface transportation security.*

*(2) RECOMMENDATIONS.—*

*(A) IN GENERAL.—The Assistant Secretary shall require the Advisory Committee to develop recommendations for improvements to surface transportation security planning, methods, equipment, and processes.*

*(B) PRIORITY ISSUES.—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, the Advisory Committee shall submit to the Assistant Secretary recommendations on—*

*(i) improving homeland security information sharing between components of the Department of Homeland Security and surface transportation security stakeholders, including those represented on the Advisory Committee; and*

*(ii) streamlining or consolidating redundant security background checks required by the Department under relevant statutes governing surface transportation security, as well as redundant security background checks required by States where there is no legitimate homeland security basis for requiring such checks.*

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

*(4) UNPAID POSITION.—Advisory Committee Members shall serve at their own expense and receive no salary, reimbursement for travel expenses, or other compensation from the Federal Government.*

*(b) MEMBERSHIP.—*

*(1) IN GENERAL.—The Assistant Secretary shall ensure that the Advisory Committee is composed of not more than one individual representing not more than 27 member organizations, including representatives from public transportation agencies, passenger rail agencies or operators, railroad carriers, motor carriers, owners or operators of highways, over-the-road bus operators and terminal owners and operators, pipeline operators, labor organizations representing employees of such entities, and the surface transportation security technology industry.*

*(2) APPOINTMENTS.—Members shall be appointed by the Assistant Secretary and the Assistant Secretary shall have the dis-*

cretion to review the participation of any Advisory Committee member and remove for cause at any time.

(c) *NONAPPLICABILITY OF FACA.*—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee under this section.

(d) *PASSENGER CARRIER SECURITY WORKING GROUP.*—

(1) *IN GENERAL.*—The Assistant Secretary shall establish within the Advisory Committee a passenger carrier security working group to provide recommendations for successful implementation of initiatives relating to passenger rail, over-the-road bus, and public transportation security proposed by the Transportation Security Administration in accordance with statutory requirements, including relevant grant programs and security training provisions.

(2) *MEETINGS.*—The working group shall meet at least semi-annually and provide annual reports to the Assistant Secretary with recommendations to improve the Transportation Security Administration's initiatives relating to passenger rail, over-the-road bus, and public transportation security, including grant, training, inspection, or other relevant programs authorized in titles XIII and XIV, and subtitle C of title XV of this Act.

(3) *MEMBERSHIP.*—The working group shall be composed of members from the Advisory Committee with expertise in public transportation, over-the-road bus, or passenger rail systems and operations, all appointed by the Assistant Secretary.

(4) *REPORTS.*—

(A) *IN GENERAL.*—The working group shall prepare and submit reports to the Assistant Secretary in accordance with this paragraph that provide recommendations as described in paragraphs (1) and (2).

(B) *SUBMISSION.*—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, and on an annual basis thereafter, the working group shall submit a report on the findings and recommendations developed under subparagraph (A) to the Assistant Secretary.

(e) *FREIGHT RAIL SECURITY WORKING GROUP.*—

(1) *IN GENERAL.*—The Assistant Secretary shall establish within the Advisory Committee a freight rail security working group to provide recommendations for successful implementation of initiatives relating to freight rail security proposed by the Transportation Security Administration in accordance with statutory requirements, including relevant grant programs and security training provisions.

(2) *MEETINGS.*—The working group shall meet at least semi-annually and provide annual reports to the Assistant Secretary with recommendations to improve the Transportation Security Administration's initiatives relating to freight rail security, including grant, training, inspection, or other relevant programs authorized in titles XIII and XV of this Act.

(3) *MEMBERSHIP.*—The working group shall be composed of members from the Advisory Committee with expertise in freight rail systems and operations, all appointed by the Assistant Secretary.

(4) *REPORTS.*—

(A) *IN GENERAL.*—The working group shall prepare and submit reports to the Assistant Secretary in accordance with this paragraph that provide recommendations as described in paragraphs (1) and (2).

(B) *SUBMISSION.*—Not later than one year after the date of enactment of the Transportation Security Administration Authorization Act, and on an annual basis thereafter, the working group shall submit a report on the findings and recommendations developed under subparagraph (A) to the Assistant Secretary.

\* \* \* \* \*

TITLE XVI—AVIATION

\* \* \* \* \*

**SEC. 1602. SCREENING OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.**

(a) \* \* \*

\* \* \* \* \*

(c) *ASSESSMENT OF INBOUND COMPLIANCE.*—Upon establishment of the inbound air cargo screening system, the Assistant Secretary shall submit a report to the Committee on Homeland Security in the House of Representatives on the impact, rationale, and percentage of air cargo being exempted from screening under exemptions granted under section 44901(i)(1) of title 49, United States Code.

(d) *GAO REPORT.*—Not later than 120 days after the date of enactment of this Act and quarterly thereafter, the Comptroller General shall review the air cargo screening system for inbound passenger aircraft and report to the Committee on Homeland Security in the House of Representatives on the status of implementation, including the approximate percentage of cargo being screened, as well as the Administration’s methods to verify the screening system’s implementation.

\* \* \* \* \*

**SEC. 1604. IN-LINE BAGGAGE SYSTEM DEPLOYMENT.**

(a) \* \* \*

(b) **PRIORITIZATION OF PROJECTS.**—

(1) \* \* \*

**[(2) AIRPORTS THAT HAVE INCURRED ELIGIBLE COSTS.**—The schedule shall include airports that have incurred eligible costs associated with development of partial or completed in-line baggage systems before the date of enactment of this Act in reasonable anticipation of receiving a grant under section 44923 of title 49, United States Code, in reimbursement of those costs but that have not received such a grant.]

(2) **AIRPORTS THAT HAVE INCURRED ELIGIBLE COSTS.**—

(A) *IN GENERAL.*—Not later than 60 days after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall establish a process for resolving reimbursement claims for airports that have incurred, before the date of enactment of

*this Act, eligible costs associated with development of partial or completed in-line baggage systems.*

*(B) PROCESS FOR RECEIVING REIMBURSEMENT.—The process shall allow an airport—*

*(i) to submit a claim to the Assistant Secretary for reimbursement for eligible costs described in subparagraph (A); and*

*(ii) not later than 180 days after date on which the airport submits the claim, to receive a determination on the claim and, if the determination is positive, to be reimbursed.*

*(C) REPORT.—Not later than 60 days after the date on which the Assistant Secretary establishes the process under subparagraph (B), the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives a report containing a description of the process, including a schedule for the timely reimbursement of airports for which a positive determination has been made.*

\* \* \* \* \*

**TITLE 46, UNITED STATES CODE**

\* \* \* \* \*

**Subtitle VII—Security and Drug Enforcement**

\* \* \* \* \*

**§ 70105. Transportation security cards**

(a) \* \* \*

(b) ISSUANCE OF CARDS.—(1) \* \* \*

\* \* \* \* \*

*(6) The Secretary may extend for up to one year the expiration of a biometric transportation security card required by this section to align the expiration with the expiration of a license, certificate of registry, or merchant mariner document required under chapter 71 or 73.*

\* \* \* \* \*

*(n) ESCORTING.—The Secretary shall coordinate with owners and operators subject to this section to allow any individual who has a pending application for a transportation security card under this section or is waiting for reissuance of such card, including any individual whose card has been lost or stolen, and who needs to perform work in a secure or restricted area to have access to such area for that purpose through escorting of such individual in accordance with subsection (a)(1)(B) by another individual who holds a transportation security card.*

*(o) PROCESSING TIME.—The Secretary shall review an initial transportation security card application and respond to the applicant, as appropriate, including the mailing of an Initial Determination of Threat Assessment letter, within 30 days after receipt of the initial application. The Secretary shall, to the greatest extent practicable, review appeal and waiver requests submitted by a transpor-*

tation security card applicant, and send a written decision or request for additional information required for the appeal or waiver determination, within 30 days after receipt of the applicant's appeal or waiver written request. For an applicant that is required to submit additional information for an appeal or waiver determination, the Secretary shall send a written decision, to the greatest extent practicable, within 30 days after receipt of all requested information.

(p) RECEIPT OF CARDS.—Within 180 days after the date of enactment of the Transportation Security Administration Authorization Act, the Secretary shall develop a process to permit an individual approved for a transportation security card under this section to receive the card at the individual's place of residence.

(q) FINGERPRINTING.—The Secretary shall establish procedures providing for an individual who is required to be fingerprinted for purposes of this section to be fingerprinted at facilities operated by or under contract with an agency of the Department of the Secretary that engages in fingerprinting the public for transportation security or other security purposes.

\* \* \* \* \*

**HOMELAND SECURITY ACT OF 2002**

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) \* \* \*

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

\* \* \* \* \*

**TITLE XXI—SURFACE TRANSPORTATION SECURITY**

- Sec. 2101. Transportation of security sensitive materials.
- Sec. 2102. Enrollment locations.
- Sec. 2103. Authority to ensure compliance.
- Sec. 2104. Civil penalties.
- Sec. 2105. Commercial motor vehicle operators registered to operate in Mexico or Canada.
- Sec. 2106. Other security background checks.
- Sec. 2107. Redundant background checks.
- Sec. 2108. Transition.
- Sec. 2109. Savings clause.
- Sec. 2110. Definitions.

\* \* \* \* \*

**TITLE XXI—SURFACE TRANSPORTATION SECURITY**

**SEC. 2101. TRANSPORTATION OF SECURITY SENSITIVE MATERIALS.**

(a) SECURITY SENSITIVE MATERIALS.—Not later than 120 days after the date of enactment of this section, the Secretary shall issue final regulations, after notice and comment, defining security sensitive materials for the purposes of this title.

(b) MOTOR VEHICLE OPERATORS.—The Secretary shall prohibit an individual from operating a motor vehicle in commerce while transporting a security sensitive material unless the individual holds a

valid transportation security card issued by the Secretary under section 70105 of title 46, United States Code.

(c) **SHIPPERS.**—The Secretary shall prohibit a person from—

(1) offering a security sensitive material for transportation by motor vehicle in commerce; or

(2) causing a security sensitive material to be transported by motor vehicle in commerce,

unless the motor vehicle operator transporting the security sensitive material holds a valid transportation security card issued by the Secretary under section 70105 of title 46, United States Code.

**SEC. 2102. ENROLLMENT LOCATIONS.**

(a) **FINGERPRINTING LOCATIONS.**—The Secretary shall—

(1) work with appropriate entities to ensure that fingerprinting locations for individuals applying for a transportation security card under section 70105 of title 46, United States Code, have flexible operating hours; and

(2) permit an individual applying for such transportation security card to utilize a fingerprinting location outside of the individual's State of residence to the greatest extent practicable.

(b) **RECEIPT AND ACTIVATION OF CARDS.**—The Secretary shall develop guidelines and procedures to permit an individual to receive a transportation security card under section 70105 of title 46, United States Code, at the individual's place of residence and to activate the card at any enrollment center.

(c) **NUMBER OF LOCATIONS.**—The Secretary shall develop and implement a plan—

(1) to offer individuals applying for a transportation security card under section 70105 of title 46, United States Code, the maximum number of fingerprinting locations practicable across diverse geographic regions; and

(2) to conduct outreach to appropriate stakeholders, including owners, operators, and relevant entities (and labor organizations representing employees of such owners, operators, and entities), to keep the stakeholders informed of the timeframe and locations for the opening of additional fingerprinting locations.

(d) **AUTHORIZATION.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 2103. AUTHORITY TO ENSURE COMPLIANCE.**

(a) **IN GENERAL.**—The Secretary is authorized to ensure compliance with this title.

(b) **MEMORANDUM OF UNDERSTANDING.**—The Secretary may enter into a memorandum of understanding with the Secretary of Transportation to ensure compliance with section 2101.

**SEC. 2104. CIVIL PENALTIES.**

A person that violates this title or a regulation or order issued under this title is liable to the United States Government pursuant to the Secretary's authority under section 114(v) of title 49, United States Code.

**SEC. 2105. COMMERCIAL MOTOR VEHICLE OPERATORS REGISTERED TO OPERATE IN MEXICO OR CANADA.**

The Secretary shall prohibit a commercial motor vehicle operator licensed to operate in Mexico or Canada from operating a commercial motor vehicle transporting a security sensitive material in commerce in the United States until the operator has been subjected to,

and not disqualified as a result of, a security background records check by a Federal agency that the Secretary determines is similar to the security background records check required for commercial motor vehicle operators in the United States transporting security sensitive materials in commerce.

**SEC. 2106. OTHER SECURITY BACKGROUND CHECKS.**

The Secretary shall determine that an individual applying for a transportation security card under section 70105 of title 46, United States Code, has met the background check requirements for such card if the individual was subjected to, and not disqualified as a result of, a security background records check by a Federal agency that the Secretary determines is equivalent to or more stringent than the background check requirements for such card.

**SEC. 2107. REDUNDANT BACKGROUND CHECKS.**

(a) *IN GENERAL.*—After the date of enactment of this title, the Secretary shall prohibit a State or political subdivision thereof from requiring a separate security background check of an individual seeking to transport hazardous materials.

(b) *WAIVERS.*—The Secretary may waive the application of subsection (a) with respect to a State or political subdivision thereof if the State or political subdivision demonstrates a compelling homeland security reason that a separate security background check is necessary to ensure the secure transportation of hazardous materials in the State or political subdivision.

(c) *LIMITATION ON STATUTORY CONSTRUCTION.*—Nothing in this section shall limit the authority of a State to ensure that an individual has the requisite knowledge and skills to safely transport hazardous materials in commerce.

**SEC. 2108. TRANSITION.**

(a) *TREATMENT OF INDIVIDUALS RECEIVING PRIOR HAZARDOUS MATERIALS ENDORSEMENTS.*—The Secretary shall treat an individual who has obtained a hazardous materials endorsement in accordance with section 1572 of title 49, Code of Federal Regulations, before the date of enactment of this title, as having met the background check requirements of a transportation security card under section 70105 of title 46, United States Code, subject to reissuance or expiration dates of the hazardous materials endorsement.

(b) *REDUCTION IN FEES.*—The Secretary shall reduce, to the greatest extent practicable, any fees associated with obtaining a transportation security card under section 70105 of title 46, United States Code, for any individual referred to in subsection (a).

**SEC. 2109. SAVINGS CLAUSE.**

Nothing in this title shall be construed as affecting the authority of the Secretary of Transportation to regulate hazardous materials under chapter 51 of title 49, United States Code.

**SEC. 2110. DEFINITIONS.**

In this title, the following definitions apply:

(1) *COMMERCE.*—The term “commerce” means trade or transportation in the jurisdiction of the United States—

(A) between a place in a State and a place outside of the State; or

(B) that affects trade or transportation between a place in a State and a place outside of the State.



(2) *HAZARDOUS MATERIAL.*—The term “hazardous material” has the meaning given that term in section 5102 of title 49, United States Code.

(3) *PERSON.*—The term “person”, in addition to its meaning under section 1 of title 1, United States Code—

(A) includes a government, Indian tribe, or authority of a government or tribe offering security sensitive material for transportation in commerce or transporting security sensitive material to further a commercial enterprise; but

(B) does not include—

(i) the United States Postal Service; and

(ii) in section 2104, a department, agency, or instrumentality of the Government.

(4) *SECURITY SENSITIVE MATERIAL.*—The term “security sensitive material” has the meaning given that term in section 1501 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1151).

(5) *TRANSPORTS; TRANSPORTATION.*—The term “transports” or “transportation” means the movement of property and loading, unloading, or storage incidental to such movement.

COMMITTEE CORRESPONDENCE

BART GORDON, TENNESSEE  
CHAIRMAN

RALPH M. HALL, TEXAS  
RANKING MEMBER

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE AND TECHNOLOGY

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6301  
(202) 225-6375  
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May 15, 2009

The Honorable Bennie G. Thompson  
Chairman  
Committee on Homeland Security  
H2-176 Ford House Office Building  
Washington, DC 20515

Dear Mr. Chairman,

I am writing to you concerning the jurisdictional interest of the Committee on Science and Technology in H.R. 2200, the Transportation Security Administration Authorization Act. H.R. 2200 was introduced and referred to the Committee on Homeland Security on April 30, 2009.

H.R. 2200 contains provisions that fall within the jurisdiction of the Committee on Science and Technology. I acknowledge the importance of H.R. 2200 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over this bill, I agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forgo a sequential referral waives, reduces, or otherwise affects the jurisdiction of the Committee on Science and Technology, and that a copy of this letter and of your response will be included in the legislative report on H.R. 2200 and in the *Congressional Record* when the bill is considered on the House Floor.

I also ask for your commitment to support our request to be conferees during any House-Senate conference on H.R. 2200 or similar legislation.

Thank you for your attention to this matter.

Sincerely,

  
BART GORDON  
Chairman

cc: The Honorable Nancy Pelosi  
The Honorable Ralph Hall  
The Honorable John V. Sullivan

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN



PETER T. KING, NEW YORK  
RANKING MEMBER

One Hundred Eleventh Congress  
U.S. House of Representatives  
Committee on Homeland Security  
Washington, DC 20515

May 15, 2009

The Honorable Bart Gordon  
Chairman  
Committee on Science and Technology  
2321 Rayburn House Office Building  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding H.R. 2200, the "Transportation Security Administration Authorization Act," introduced by Congresswoman Sheila Jackson-Lee on April 30, 2009.

I appreciate your willingness to work cooperatively on this legislation. I acknowledge that the Committee on Science and Technology has a jurisdictional interest in certain provisions of H.R. 2200. I appreciate your agreement to not seek a sequential referral of this legislation and I acknowledge that your decision to forgo a sequential referral does not waive, alter, or otherwise affect the jurisdiction of the Committee on Science and Technology.

I will ensure that this exchange of letters is included in the legislative report on H.R. 2200 and in the *Congressional Record* during floor consideration of the bill. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

A handwritten signature in black ink that reads "Bennie G. Thompson".

Bennie G. Thompson  
Chairman

cc: The Honorable Nancy Pelosi, Speaker  
The Honorable Peter T. King, Ranking Member  
The Honorable John Sullivan, Parliamentarian

## ADDITIONAL, MINORITY, AND DISSENTING VIEWS

### MINORITY VIEWS

#### COMMITTEE REPORT TO ACCOMPANY H.R. 2200—TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION ACT

##### INTRODUCTION

The Republican Members of the Committee on Homeland Security (“Committee”) are generally pleased that the Committee reported favorably to the full House the Transportation Security Administration Authorization Act (“the Act”), H.R. 2200. Republican Members are very concerned, however, by several trends manifested in the Committee’s consideration of this legislation. Specifically, (1) the Democratic Majority rejected consideration of proposed amendments that might possibly trigger another Committee’s jurisdiction; (2) the Majority continued to refuse to address President Obama’s plan to relocate some Guantanamo Bay detainees to the United States of America; and (3) despite requests from President Obama’s Administration to delay House consideration of the bill until the President names a new Assistant Secretary (Transportation Security Administration), the Majority insists on moving this bill forward precipitously to the House floor and is including unclear and unfunded mandates under an artificial sense of urgency.

##### GENERAL REPUBLICAN PROVISIONS

The Republican Members are pleased that several Republican provisions were included in the final legislation reported from the Committee.

##### *Section 213—Prohibition on outsourcing*

In October 2008, the TSA issued a Notice of Proposed Rulemaking (TSA–2008–0021) outlining its “Large Aircraft Security Program” (LASP). In that rulemaking, the TSA proposed using third-party private contractors to review general aviation manifest and conduct watch list verifications; the TSA was considering outsourcing “no fly” and “selectee” checks. The Republican Members find this intolerable, and the Committee adopted an amendment introduced by Representative Pete Olson that prohibits such a practice.

Any check against the terrorist watch list, the “no fly” list, or the “selectee” list is an inherently governmental function and must be conducted by an authorized Federal, state, or local entity. The Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108–458) required that the Department of Homeland Security reassume the responsibilities of conducting watch list verifications and the Congress appropriated tens of millions of dollars to that end. When

the Secure Flight program is implemented, the Department shall no longer allow any non-governmental agency access to the consolidated terrorist watch list, no fly list, selectee list, or other derived sub-list. If the Department intends to include watch list checks as part of its Large Aircraft Security Program, then the Department must conduct those checks.

*Section 227—In-line checked baggage screening systems*

Since 2007, the Congress has appropriated nearly \$2 billion for the installation of in-line baggage and explosive detection systems (EDS). These systems improve airport efficiency, provide for more capable state-of-the-art technology, and reduce Transportation Security Administration (TSA) employee injuries by minimizing the manual handling of checked baggage. However, the Comptroller General of the United States (Comptroller General) has found that the TSA does not employ a risk-based resource allocation model in procuring and deploying these costly systems.

Representative Charles Dent inserted section 227, which requires the Comptroller General to assess the TSA's progress in deploying in-line baggage and EDS, including estimated costs and milestones for replacing current systems nearing the end of their useful product life. The section requires semi-annual briefings following the initial report to ensure the Committee is updated on of this costly but necessary program. Given that many of these systems were purchased immediately following the terrorist attacks of September 11, 2001, most will need to be replaced simultaneously. It is therefore imperative that the TSA develop a replacement program that includes a mix of refurbishments and replacements to ensure a multi-billion dollar recapitalization effort can be distributed over several fiscal years.

*Section 234—Registered traveler*

Section 109(a)(3) of the Aviation Transportation Security Act (P.L. 107-71), authorized the TSA to establish "trusted passenger programs" and use available technologies to expedite the security screening of passengers who participate in such programs to focus security screening resources on those passengers perceived to be an unknown or greater threat to aviation security. Based on this authorization, TSA created the "Registered Traveler" program whereby travelers who underwent a comprehensive security threat assessment by the TSA could receive expedited screening at airport security checkpoints.

The Republican Members are supportive of the Registered Traveler program and were disappointed when, in July 2008, TSA unilaterally determined that there was no security benefit substantively gained by the TSA's security threat assessment. The security threat assessment process, which is also part of routine background checks for certain airport personnel and air cargo handlers, includes a check against the consolidated terrorist watch list, immigration, and law enforcement databases. Non-Registered Traveler passengers only undergo a terrorist watch list check.

Representative Daniel Lungren included section 234 during Subcommittee consideration, requiring the Assistant Secretary to make a determination within 120 days of enactment of whether the Reg-

istered Traveler program could be integrated into risk-based airport security operations whereby a Registered Traveler would receive expedited screening at airport security checkpoints. If the Assistant Secretary does determine that the Registered Traveler program can be integrated into risk-based airport security operations, then security threat assessments would be reinstated as part of the Registered Traveler enrollment process, and Registered Traveler providers would be permitted to perform private sector background checks.

The Committee believes that the Registered Traveler program can be an effective risk-management tool and should be permitted to realize its full potential as envisioned by the Congress.

*Section 237—Reimbursement for airports that have incurred eligible costs*

Republican Members are pleased that the bill approved by the Committee includes a provision authored by Representative Gus Bilirakis. This provision provides for reimbursement of airports that used their own funding to install explosive detection systems after the September 11th terrorist attacks. These airports installed these systems after receiving assurances from the Federal government that they would be reimbursed; to date, they have not received the promised reimbursement.

Congress addressed this issue in section 1604 of the Implementing Recommendations of the 9/11 Commission Act (P.L. 110–53) (9/11 Act), but despite this explicit direction in 2007, the TSA has not yet reimbursed eligible airports. As a result, Representative Bilirakis' provision requires the TSA to establish a process for resolving reimbursement claims within six months of receiving them. It also requires TSA to report to the Committee on Homeland Security and outline the process used for the consideration of reimbursement claims, including a reimbursement schedule.

Republican Members of the Committee intend to continue their oversight of this issue to ensure that airports that did the right thing to protect the traveling public after the September 11th terrorist attacks receive the reimbursement Congress required in a timely fashion.

*Sections 309 and 310—Underwater tunnel and passenger rail security demonstration projects*

Section 309 requires the Department to begin actual testing of promising technologies to prevent the flooding of underwater tunnels in the event of a terrorist attack. Similarly, section 310 requires the Department to test technologies designed to detect and defeat improvised explosive devices left on open rail tracks and station platforms. Ranking Member Peter King sponsored both of these sections.

Members on both sides of the aisle recognize that the consequences and potential loss of life of a successful attack on a mass transit passenger train in an underwater tunnel could be severe. Washington, D.C., San Francisco, and New York City all have underwater tunnels that are utilized by mass transit. With millions of passengers on these systems daily, it is vital that technologies that can prevent such catastrophes or mitigate their consequences

be developed. The Republican Members are pleased that the Department is developing such technologies, but believes that real-world tests, using actual water pressure, are vital to further refining these systems before deployment. The Committee also adopted an amendment by Ranking Member King that sets a deadline for a full-scale demonstration of this technology within 180 days of enactment and authorizes \$8 million for the pilot program under this section.

Further, Republican Members remain concerned that, despite significant technological advances on the battlefield to address the threat of improvised explosive devices (IEDs), not enough has been done to migrate this technology toward civilian application. Given the enemy's propensity to attack passenger rail lines (Spain, England, India), developing and fielding new technologies to defeat these relatively simple but effective weapons must be a priority.

#### *Section 311—Explosives detection canine teams*

The importance of explosive detection canine teams to the mission of security in both aviation and surface transportation environments cannot be overemphasized. Canines are unmatched in their ability to detect explosives and to deter their introduction. For these reasons, the Committee adopted an amendment by Representative Mike Rogers of Alabama requiring that the TSA deploy no fewer than 200 explosive detection canine teams by the end of fiscal year 2011. To support this increase, Representative Rogers' amendment establishes a minimum authorization level of \$75,000 per year for reimbursement to state and local agencies. This will ensure that the needs of states and localities to secure their transportation environments with canines and canine handlers are more adequately met.

Funds appropriated pursuant to this authorization shall go solely toward reimbursements for canine handler expenses, and not to any other program. This section also requires an expansion of the use of canines trained to detect vapor wake trails in rail and other public transportation environments.

#### *Section 402—Animal propelled vessels*

Recently, the Committee learned that two vessels in Pennsylvania drawn along a confined canal by animals are required by the U.S. Coast Guard to be operated by licensed mariners because they carry more than six persons for hire. The requirements of 46 U.S.C. 70105 dictate that any individual who is issued a "license, certificate of registry, or merchant mariners document" must be issued a TWIC card, with no provision for exceptions. This section, included by Representative Dent, provides relief for this very limited and specific group of individuals, provided the individuals operate a vessel that does not enter or contain onboard "secure areas," as designated under 46 U.S.C. 70103. The Committee recognizes that the Department has determined that information currently received through the regular licensing process for such operators is sufficient for the purposes of identifying and credentialing these mariners, and that this limited exemption is "risk neutral." This exception does not, however, exempt individuals from possessing a transportation security card if the individual is also employed in

such a manner as to require unescorted access to secure areas of vessels or facilities designated under 46 U.S.C. 70103.

REPUBLICAN PROVISIONS REJECTED OR DEFEATED BECAUSE OF  
JURISDICTION

A number of common sense provisions were not included by the Majority, or were watered down to avoid implicating the jurisdiction of other committees. Rather than produce a good bill and negotiate final language with other committees as Republicans did many times before, the Majority repeatedly opts to allow only provisions to be considered in Committee that are wholly within the Committee on Homeland Security's Rule X jurisdiction.

For example, Republican Members are extremely disappointed that Representative Lungren's amendment to provide criminal investigative training to Federal Air Marshals (FAMs) was not adopted. Prior to 9/11, the criminal investigative training program at the Federal Law Enforcement Training Center was an essential part of basic training for FAMs. Following 9/11, however, the explosive growth in the FAMs program necessitated the rapid hiring, training, and deployment of thousands of FAMs. To meet these new deployment mandates, newly hired FAMs without prior Federal law enforcement experience were not required to take the criminal investigative training program. Nevertheless, it has always been the intent of the Federal Air Marshal Service to once again include this program as part of basic training. Representative Lungren's amendment would have restored the criminal investigative training program as part of basic training for FAMs.

FAMs consistently seek greater training opportunities to improve the Federal Air Marshal Service. Such training increases morale, provides more opportunities for advancement within the Service, and affords FAMs the opportunity to pursue other Federal law enforcement opportunities. While section 204 of the Act establishes an Office of the Ombudsman in the Federal Air Marshal Service to improve morale, training, and quality of life issues, the failure to adopt Representative Lungren's amendment clearly reflects the Majority's disingenuous intent.

Committee Democrats opposed this amendment citing (wrongly) that if FAMs were to receive criminal investigative training, they could be reclassified as criminal investigators. Such a reclassification could allegedly open the debate on whether FAMs are exempt from the overtime pay provisions of the Fair Labor Standards Act. This conclusion was surprising given that Representative Lungren's amendment expressly provided that "nothing in this subsection shall be construed to reclassify Federal Air Marshals as criminal investigators." In truth, the Majority objected to the provision because, as drafted, it could have triggered a referral to the Committee on the Judiciary and would have, in effect, slowed the bill's fast track to consideration on the House Floor. This worthy provision, which would have improved FAMs' morale and employment opportunities, was rejected out of fear of a possible jurisdictional squabble.

Republicans are similarly disappointed that the Majority saw no value in affirming TSA employees' rights to protect themselves during a public health emergency. A Republican amendment offered by



Representative Broun would simply have allowed any TSA employee to choose to wear a protective facemask in the event of a pandemic flu outbreak or other public health emergency. TSA employees encounter two million domestic and international passengers every day and should not be prohibited by their supervisors from wearing the appropriate personal protective equipment in the event of a public health emergency, particularly when the disease is both contagious and deadly. The National Treasury Employees Union (NTEU), which represents many of these employees, voiced strong support for this provision designed to protect the TSA's front-line officers. Rejection of this provision served neither person nor principle. In fact, the only reason this provision was essentially gutted by the Majority with a "perfecting" amendment, and any references to a public health emergency removed, is because the provision could have allowed the Committee on Energy and Commerce to review the language requiring the Secretary of Homeland Security to collaborate with the Secretary of Health and Human Services.

Republican Members of the Committee also support a provision authored by Representative Bilirakis that would require the Comptroller General to conduct a study on the roles and responsibilities of the Department of Homeland Security and the Department of Transportation with respect to pipeline security, and provide a report on the results of the study to the Committee on Homeland Security within six months. The Majority rejected the study, not as a matter of policy, but rather because the study would have required consultations with the Committee on Transportation and Infrastructure.

The study was to include an assessment of whether the Annex to the Memorandum of Understanding, executed on August 9, 2006, between the Department of Homeland Security and the Department of Transportation adequately delineated strategic and operational responsibilities for pipeline security, including whether it is clear which Department is responsible for protecting against intentional pipeline breaches; responding to intentional pipeline breaches; and planning to recover from the effects of intentional pipeline breaches. The study was also to include an assessment of whether the respective roles and responsibilities of each Department are adequately conveyed to relevant stakeholders and to the public, and whether the processes and procedures for determining whether a particular pipeline breach is a terrorist incident are clear and effective.

The provision required the Secretary of Homeland Security to review and analyze the Government Accountability Office study and report to the Committee on Homeland Security on the review and analysis, including any recommendations for changes to the Annex to the Memorandum of Understanding between the Department of Homeland Security and the Department of Transportation or other improvements to pipeline security activities at the Department of Homeland Security.

Republican Members of the Committee are disappointed that this provision was not included in the bill during Committee consideration due to these jurisdictional concerns. The exclusion of this provision is just one more example of the need to consolidate congress-

sional jurisdiction over the Department of Homeland Security, a key recommendation of the 9/11 Commission. However, Republican Members are pleased that the Majority indicated its commitment to work with Representative Bilirakis to include this provision when H.R. 2200 is considered by the full House.

MAJORITY'S REFUSAL TO ADDRESS HOMELAND SECURITY THREATS  
POSED BY POSSIBLE GUANTANAMO BAY DETAINEE RELOCATION

Republican Members of the Committee strongly oppose President Obama's precipitous and premature decision to close the detention center at the Naval Station at Guantanamo Bay, Cuba, before a plan is in place identifying where to relocate and try these detainees. The potential transfer or release of any Guantanamo (GTMO) detainee into the United States is a significant homeland security risk to our Nation.

As such, Republican Members at the markup unanimously supported an amendment authored by Representative Mark Souder that would have placed any detainee housed at Guantanamo Bay on or after January 1, 2009 on the TSA's "no fly" list. However, Republican Members strongly opposed the adoption of a "perfecting" amendment authored by Representative Bill Pascrell that returned to the President the sole authority to determine if a former Guantanamo detainee should be assigned to the "no fly" list.

Republican Members believe the Committee must assert its jurisdiction and conduct vigorous oversight of the transfer or release of detainees currently housed at Guantanamo Bay. This Committee is the primary authorizing Committee for the Department of Homeland Security, which was created to protect our homeland after the September 11, 2001 attacks that killed nearly 3,000 Americans. With many detainees currently at Guantanamo Bay guilty or complicit in those attacks, including admitted mastermind Khalid Sheik Mohammad, it is logical and justified for the Committee to take a lead role in securing American citizens. As a member of the President's task force for review of detention policy, the Secretary of Homeland Security is playing an integral role in the disposition of Guantanamo detainees.

Ranking Member Souder made the case on behalf of Republican Members when he stated that the transfer or release of any detainee was a matter of homeland security and the Committee needed to have a serious debate about if, and under what circumstances it would be appropriate to bring GTMO detainees into the United States.

Ranking Member King pointed out that the term "disposition" in Representative Pascrell's perfecting amendment was vague and created ambiguity about whether a former Guantanamo detainee could fly into the United States. For example, if the President determined that a detainee should be added to the "no fly" list and the detainee was later released by a court into the United States, would that supersede the President's determination? Republican Members continue to believe that the only way to ensure GTMO detainees can no longer threaten U.S. commercial aviation is through Congressional action.

Republican Members also wholeheartedly support Representative Lungren's seemingly obvious point that if the Federal government

were going to start from scratch to create a “no fly” list, at the very least it should include terrorists detained at GTMO. Americans should be confident that they would not be seated on an airplane next to a former Guantanamo detainee who has killed Americans, plotted attacks, and sympathized with terrorist organizations such as al Qaeda.

Republican Members are disappointed to hear from Chairman Bennie Thompson that the Majority staff—without Minority staff—has been briefed on the progress of the Obama Administration’s disposition process for detainees. To date, Committee Republican staff has only participated in an expedited House-wide briefing that yielded no new information that wasn’t already available from open media sources. Despite repeated requests, Republican Members have yet to receive an offer for a classified briefing from the Administration regarding the detainee review process, and Chairman Thompson has thus far rejected Republican requests for a Committee-wide oversight inspection of GTMO facilities.

Media reports indicate the Administration has determined that 17 Chinese Uighurs deemed “non-threatening” will be released into the United States in the near future. In addition, according to Director of National Intelligence Dennis Blair, the Uighurs could be given monetary support to assimilate into the United States. Republican Members are deeply concerned by the lack of information provided regarding the circumstances of the Uighurs’ capture, and believe classified briefings to Members of Congress are required to determine the threat posed to the homeland.

Despite the public perception of the Chinese Uighurs as innocent farmers in the wrong place at the wrong time, Republican Members believe their release into the United States is dangerous. The Uighurs are members of the East Turkmenistan Islamic Movement, an Islamic separatist group classified by the U.S. State Department as a terrorist organization. Furthermore, the Uighurs were trained at terrorist training camps in Afghanistan and captured by the U.S. military during bombing campaigns at Tora Bora, Afghanistan in 2002. More information is required for the American public to fully understand the ramifications of the release of the Chinese Uighurs into the United States.

Republican Members are also concerned that any location the President chooses for transfer or release of a Guantanamo detainee will immediately become a target for future terrorist attacks. Release or transfer of detainees to locations such as New York City and Northern Virginia—both previous terrorist targets—creates major security challenges. Republican Members believe these locations should not be made any more vulnerable, and that the President should take this into consideration as he implements his as yet undeveloped detainee policies.

For these reasons, Republican Members believe the President shouldn’t arbitrarily decide on behalf of all Americans which detainees should be allowed in the country or to fly on commercial aircraft. As President Obama himself admitted on March 22, 2009 during an interview with 60 Minutes, it is very difficult for the United States to determine which detainees are not truly dangerous individuals. In fact, military experts now believe that over 60 former detainees have returned to the battlefield after release

from GTMO. Based on the President's own statement, and official statistics provided by the Department of Defense, the adoption by the Majority of Representative Pascrell's perfecting amendment means that Americans cannot be 100% sure they will not be seated next to a former GTMO detainee while flying commercially.

#### UNANSWERED QUESTIONS BECAUSE OF AN ARTIFICIAL URGENCY

The Republican Members are concerned by the Committee's swift action on H.R. 2200, which received no legislative hearings prior to either Subcommittee or full Committee consideration. New programs and initiatives included in this bill never received a public airing, and the cost associated with several of these new programs is unknown and a cause for concern.

For example, section 211 of the Act requires all flight attendants to receive not less than five hours of advanced self-defense training every two years, but is completely silent as to where such training should be given, and who should pay for it. According to the Bureau of Labor Statistics, there were over 96,700 flight attendants in 2006. Presumably the Majority's intent is to force the airlines to pay for the training of nearly 100,000 flight attendants, but given current financial hardships and the President's stated intention to increase passenger security fees beginning in 2012, the resultant fare increases necessary to maintain airline solvency could result in fewer passengers and further erode the economic health of some airlines.

Republican Members recognize that flight attendants play an integral role in the safety and security of passenger air travel, and commend the bravery and sacrifice of those flight attendants who were killed during the course of the 9/11 hijackings. This is precisely why the current optional training regiment provides for eight hours of annual training. TSA currently allocates over \$2 million annually to provide this free and optional eight-hour training course to flight attendants. Reducing the training from eight hours annually to five hours biennially decreases the training time spent on learning these techniques by more than two-thirds. Further, mandating such training without allowing flight attendants to opt out significantly changes the public expectations of the role of the flight attendant in the event of an unruly passenger. Does the Majority now expect the flight attendant to forcibly subdue an intoxicated or otherwise unruly passenger?

Republican Members are frustrated that section 201 of the Act quietly extends the screening deadline for inbound air cargo on passenger aircraft from August 3, 2010, to two years after the Act's enactment. Similarly, section 206 of the Act removes the deadline for the Secretary to issue regulations addressing foreign repair station security. These regulations, due in April 2008, were never issued. These extensions clearly show that, as the Republican Minority highlighted repeatedly during debate on the 9/11 Act, the Democratic Majority instituted unobtainable policies in the 110th Congress for political gain, without regard to feasibility or cost, and now finds itself in the difficult situation of walking back those policies.

Each of these provisions was pushed through Committee without any input from the Department of Homeland Security (DHS) or the

Transportation Security Administration. Rather than waiting for President Obama to name an Assistant Secretary (Transportation Security Administration), the Majority is moving this piece of legislation forward aggressively to the House floor for consideration. It should be noted that, aside from extending missed Democratic-instituted deadlines or rescinding unrealistic Democratic policies included in the 9/11 Act, there are no expiring authorities that necessitate such swift action on this legislation. In addition, Congress has not passed a TSA authorization bill since the agency was created in 2001 and moved to DHS in 2003. Therefore, it defies reason as to why the Majority insists on moving this legislation forward so quickly, especially when President Obama's Administration asked for a reasonable delay to ensure senior DHS officials are in place to provide critical input.

It remains the Republican Members' sincere hope that the Department of Homeland Security and the Transportation Security Administration are both provided ample opportunity to provide substantive input on this legislation before it moves forward to the House floor and the Members of Congress are asked to vote on a \$15.7 billion authorization absent all the facts. To do anything less would be ill advised and contrary to repeated requests by Republican Members and the Obama Administration.

PETER T. KING.  
MIKE ROGERS.  
PAUL C. BROUN.  
MICHAEL T. McCAUL.  
LAMAR S. SMITH.  
MARK E. SOUDER.  
DANIEL E. LUNGREN.  
GUS M. BILIRAKIS.  
CHARLES W. DENT.  
PETE OLSON.  
ANH CAO.  
STEVE AUSTRIA.

## ADDITIONAL AND DISSENTING VIEWS OF MARK SOUDER

Protecting Americans is the primary responsibility of the U.S. government and the reason the Committee on Homeland Security was created. There are over 200 detainees being held at Naval Station Guantanamo Bay (GTMO). The President decided to close GTMO without a plan or strategy in place regarding where they will be held, what type of legal review they will receive and what security measures will be in place for those released into U.S. communities.

I offered an amendment during the Committee markup of H.R. 2200, to protect the American traveling public by requiring all detainees held at GTMO be placed on the No Fly List maintained by the Transportation Security Administration (TSA). While I do not agree with President Obama's intent to close GTMO, especially without having a clear plan, I believe it is essential that Congress take proactive measures to ensure safety of the American people.

On April 30th, Defense Secretary Gates confirmed that a number of Chinese Uyghurs will be released in the U.S. as soon as final details are complete. While most of the details regarding these detainees are classified, public reports state that they trained with Al Qaeda, have possible links with the East Turkestan Islamic Movement, and are linked to Al Qaeda leadership. If the President insists on releasing these individuals into the United States, I believe that these security concerns demonstrate a clear need for restrictions on their freedom to travel within the U.S.

On May 13, 2009, during the Committee hearing on the FY10 budget with Secretary Napolitano, in response to questions about DHS security responsibilities should GTMO detainees be transferred to the U.S., stated that efforts have to be taken "to ensure Americans are confident in their safety" and recognized that the Department has a role "to provide information on what protections are needed in the homeland should GTMO detainees be released." However, given that the Secretary failed to specify what these "protections" might be with this Committee in public and can't commit to doing so in a closed briefing, I believe we have an obligation to take appropriate steps to protect citizens and the traveling public.

In addition to the Uyghurs, there is the danger that other detainees will be transferred into U.S. prisons or DHS detention facilities, where they will have Constitutional protections, and a Judge could order their release. Based on a Supreme Court ruling, DHS is forced to release illegal aliens, including many dangerous ones, after 180 days if they are unable to deport them. How can we be assured that the GTMO detainees would be treated differently?

While I do not support closing GTMO, I think we have to take steps bolster security should they come here. Instead of supporting this common sense security amendment, the Democrats changed this provision, scaling back the important security enhancement,

and allowing the President sole discretion in determining whether or not to place detainees on the No Fly list.

I chose not to vote in support of the final bill, voting “present” instead, to voice my disappointment and displeasure that this provision was weakened and creates a terrorist loophole in domestic aviation. I will work through the House Floor process and during conference negotiations with the Senate to strengthen this critical provision to ensure that air travelers within the United States are secure and not at risk of flying home for Christmas next to a GTMO detainee.

MARK E. SOUDER.

#### ADDITIONAL COMMENTS OF CONGRESSMAN PETE OLSON

I was unavoidably delayed for the vote on the adoption of the amendment in the nature of a substitute, as amended, for H.R. 2200, the Transportation Security Administration Authorization Act. At the time I was fulfilling an obligation as a member of the Committee on Science and Technology. Had I been present I would have voted “aye.”

H.R. 2200 is an important, bi-partisan piece of legislation and I support its passage. In particular, I was pleased the Committee adopted my common-sense amendment regarding outsourcing of the terrorist watch list to third party private contractors. Access to the terrorist watch list, no fly list, and selectee list should be limited to only governmental agencies.

When Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458), it included a requirement that the Department of Homeland Security begin assuming the responsibilities of prescreening airline passengers by July 2005. Congress then delayed the implementation of the program, dubbed “Secure Flight,” largely out of privacy concerns. It therefore defies logic as to why the Transportation Security Administration would again consider outsourcing its selectee and no fly lists to contractors.

Denying an individual their right to travel on public transportation is an inherently governmental function. It must be carried out by a government agency and be subject to regular scrutiny.

My amendment ensures that once the government fully implements the Secure Flight program and assumes the responsibilities of watch list verifications, it does not revert back to allowing private entities to conduct no fly, selectee, or watch list checks. Based on the TSA’s Large Aircraft Security Program proposal, it seems that outsourcing the watch list verifications was something being considered. I say “absolutely not.”

My amendment also takes the next step by requiring the TSA to inform this Committee whenever it authorizes a non-governmental entity from conducting watch list verifications. With so much controversy surrounding the terrorist watch list, the selectee list, and the no fly list, it only makes sense to ensure the Congress maintains strict scrutiny on these programs.

PETE OLSON.

