

Calendar No. 166

107TH CONGRESS
1ST SESSION

S. 1447

To improve aviation security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2001

Mr. HOLLINGS (for himself, Mr. McCAIN, Mr. KERRY, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. BREAUX, Mr. BURNS, Mr. REID, Mr. CLELAND, Mr. SMITH of Oregon, Mr. EDWARDS, Mr. NELSON of Florida, Mrs. CARNAHAN, Mr. WELLSTONE, Mr. WYDEN, Mrs. BOXER, Mrs. CLINTON, Ms. MIKULSKI, Mr. DASCHLE, Mr. DORGAN, Mr. INOUE, Mr. HARKIN, Mr. STEVENS, and Ms. SNOWE) introduced the following bill; which was read the first time

SEPTEMBER 24, 2001

Read the second time and placed on the calendar

A BILL

To improve aviation security, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. FINDINGS.**

6 The Congress finds the following:

1 (1) The safety and security of the civil air
2 transportation system is critical to the United
3 States' security and its national defense.

4 (2) A safe and secure United States civil air
5 transportation system is essential to the basic free-
6 dom of Americans to move in intrastate, interstate,
7 and international transportation.

8 (3) The terrorist hijackings and crashes of pas-
9 senger aircraft on September 11, 2001, converting
10 civil aircraft into guided bombs for strikes against
11 civilian and military targets requires the United
12 States to change fundamentally the way it ap-
13 proaches the task of ensuring the safety and security
14 of the civil air transportation system.

15 (4) The existing fragmentation of responsibility
16 for that safety and security among government
17 agencies and between government and nongovern-
18 ment entities is inefficient and unacceptable in light
19 of the hijackings and crashes on September 11th.

20 (5) The General Accounting Office, as well as
21 other independent investigators, have recommended
22 that security functions and security personnel at
23 United States airports should become a Federal gov-
24 ernment responsibility.

1 (6) Although the number of Federal air mar-
2 shals is classified, their presence on both inter-
3 national and domestic flights would have a deterrent
4 effect on hijacking and would further bolster public
5 confidence in the safety of air travel.

6 (7) The effectiveness of existing security meas-
7 ures, including employee background checks and
8 passenger profiling, is impaired because of the inac-
9 cessibility of, or the failure to share information
10 among, data bases maintained by different Federal
11 and international agencies for criminal behavior or
12 pertinent intelligence information.

13 **SEC. 3. DEPUTY ADMINISTRATOR FOR AVIATION SECURITY.**

14 (a) IN GENERAL.—Section 106 of title 49, United
15 States Code, is amended—

16 (1) by striking the second sentence of sub-
17 section (b) and inserting “The Administration has 2
18 Deputy Administrators: (1) A Deputy Administrator
19 for Administration; and (2) A Deputy Administrator
20 for Aviation Security.”; and

21 (2) by striking subsection (i) and inserting the
22 following:

23 “(i) FUNCTIONS OF DEPUTY ADMINISTRATORS.—

24 “(1) DEPUTY ADMINISTRATOR FOR ADMINIS-
25 TRATION.—The Deputy Administrator for Adminis-

1 tration shall carry out duties and power prescribed
2 by the Administrator. The Deputy Administrator for
3 Administration acts for the Administrator when the
4 Administrator is absent or unable to serve, or when
5 the office of Administrator is vacant.

6 “(2) DEPUTY ADMINISTRATOR FOR AVIATION
7 SECURITY.—

8 “(A) IN GENERAL.—The Deputy Adminis-
9 trator for Aviation Security—

10 “(i) is responsible for hiring and
11 training employees engaged in providing
12 aviation-related security at all United
13 States airports and air navigation facilities
14 involved in interstate air transportation or
15 intrastate air transportation by civil air-
16 craft;

17 “(ii) is responsible for day-to-day
18 aviation-related security operations for
19 such transportation; and

20 “(iii) shall actively cooperate and co-
21 ordinate with other Federal agencies with
22 responsibilities for national security and
23 criminal justice enforcement activities that
24 are related to aviation security through the
25 Aviation Security Coordination Council.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 106 of title 49, United States Code,
3 is amended—

4 (A) by striking “The Deputy” in sub-
5 section (d)(1) and inserting “Each Deputy”;

6 (B) by striking the first sentence of sub-
7 section (d)(1) and inserting “Each Deputy Ad-
8 ministrator must be a citizen of the United
9 States. The Deputy Administrator for Adminis-
10 tration must have experience in a field directly
11 related to aviation. The Deputy Administrator
12 for Aviation Security must have experience in a
13 field directly related to law enforcement, na-
14 tional security, or intelligence.”;

15 (C) by inserting “for Administration” after
16 “Deputy Administrator” in the third sentence
17 of subsection (d)(1);

18 (D) by striking “The Deputy” in sub-
19 section (d)(2) and inserting “Such a Deputy”;

20 (E) by striking “the Deputy” in subsection
21 (d)(3) and inserting “a Deputy”; and

22 (F) by striking “the Deputy” in subsection
23 (e) and inserting “a Deputy”.

24 (2) Section 44932 of title 49, United States
25 Code, is amended—

1 (A) by striking subsection (a) and insert-
2 ing the following:

3 “(a) ORGANIZATION.—The Deputy Administrator for
4 Aviation Security reports directly to the Administrator of
5 the Federal Aviation Administration and is subject to the
6 authority of the Administrator.”;

7 (B) by striking “Assistant” in subsection
8 (b) and inserting “Deputy”;

9 (C) by striking “title;” in subsection (b)(1)
10 and inserting “title and individuals authorized
11 to carry firearms and make arrests under sec-
12 tion 44903(d);”;

13 (D) by striking “Assistant” in subsection
14 (c) and inserting “Deputy”; and

15 (E) by striking “x-ray” in subsection
16 (c)(4) and inserting “screening”.

17 (3) Chapter 449 of title 49, United States
18 Code, is amended—

19 (A) by striking the section heading for sec-
20 tion 44932 and inserting the following:

21 “§ 44932. Deputy Administrator for Civil Aviation
22 Security”;

23 and

1 (B) by striking the item relating to that
 2 section in the chapter analysis for that chapter
 3 and inserting the following:

“44932. Deputy Administrator for Civil Aviation Security”.

4 (c) **TRANSITION.**—Until the Deputy Administrator
 5 for Aviation Security in the Federal Aviation Administra-
 6 tion is appointed by the President, the functions of the
 7 Deputy Administrator shall be carried out by the Assist-
 8 ant Administrator for Aviation Security.

9 **SEC. 4. AVIATION SECURITY COORDINATION COUNCIL.**

10 (a) **IN GENERAL.**—Chapter 449 of title 49, United
 11 States Code, is amended by adding at the end the fol-
 12 lowing:

13 “**SUBCHAPTER III.—AVIATION SECURITY**
 14 **COORDINATION COUNCIL**

15 “**§ 44951. Aviation Security Coordination Council**

16 “(a) **IN GENERAL.**—There is established an Aviation
 17 Security Coordination Council.

18 “(b) **FUNCTION.**—The Council shall coordinate intel-
 19 ligence, security, and criminal enforcement activities af-
 20 fecting the safety and security of aviation at all United
 21 States airports and air navigation facilities involved in
 22 interstate air transportation or intrastate air transpor-
 23 tation by public aircraft.

24 “(c) **MEMBERSHIP.**—The members of the Council
 25 are:

1 “(1) The Deputy Administrator for Aviation
2 Security in the Federal Aviation Agency.

3 “(2) A senior representative of equivalent rank
4 with security-related responsibilities from—

5 “(A) the Department of Justice, des-
6 igned by the Attorney General;

7 “(B) the Department of Defense, des-
8 igned by the Secretary of Defense;

9 “(C) the Central Intelligence Agency, des-
10 igned by the Director of Central Intelligence;
11 and

12 “(D) any other Federal agency the partici-
13 pation of which is determined by the Deputy
14 Administrator to be appropriate, designated by
15 the head of that agency.”.

16 (b) CONFORMING AMENDMENT.—The chapter anal-
17 ysis for chapter 449 of title 49, United States Code, is
18 amended by adding at the end the following:

“SUBCHAPTER III.—AVIATION SECURITY COORDINA-
TION COUNCIL
“Sec. 44951. Aviation Security Coordination Council”

19 **SEC. 5. IMPROVED FLIGHT DECK INTEGRITY MEASURES.**

20 (a) IN GENERAL.—The Administrator of the Federal
21 Aviation Agency shall, as soon as possible after the date
22 of enactment of this Act, issue an order (without regard
23 to the provisions of chapter 5 of title 5, United States
24 Code)—

1 (1) prohibiting access to the flight deck of com-
2 mercial aircraft engaged in interstate or intrastate
3 transportation while the aircraft is so engaged by
4 any person other than a member of the flight deck
5 crew;

6 (2) requiring the strengthening of the flight
7 deck door and locks on any such aircraft operating
8 under part 121 of title 14, Code of Federal Regula-
9 tions, that has a door in a bulkhead between the
10 flight deck and the passenger area to prevent them
11 being forced open from inside the aircraft;

12 (3) requiring that such flight deck doors remain
13 locked while any such aircraft is in flight except
14 when necessary to permit the flight deck crew access
15 and egress; and

16 (4) prohibit the possession of a key to any such
17 flight deck door by any member of the flight crew
18 who is not assigned to the flight deck.

19 (b) COMMUTER AIRCRAFT.—The Administrator shall
20 investigate means of securing the flight deck of aircraft
21 operating under the authority of part 135 of title 14, Code
22 of Federal Regulations that are engaged in interstate or
23 intrastate air transportation that do not have a fixed door
24 with a lock between the passenger compartment and the
25 flight deck and issue such an order as the Secretary deems

1 appropriate (without regard to the provisions of chapter
2 5 of title 5, United States Code) to ensure the inacces-
3 sibility, to the greatest extent feasible, of the flight deck
4 while the aircraft is so engaged.

5 **SEC. 6. DEPLOYMENT OF FEDERAL AIR MARSHALS.**

6 (a) IN GENERAL.—Within 30 days after the date of
7 enactment of this Act, the Administrator of the Federal
8 Aviation Administration, under the authority provided by
9 section 44903(d) of title 49, United States Code, shall—

10 (1) provide for random deployment of Federal
11 air marshals on domestic commercial air passenger
12 flights in the United States, and all international
13 flights on American carriers into or out of the
14 United States;

15 (2) provide for appropriate background and fit-
16 ness checks for candidates for appointment as Fed-
17 eral air marshals;

18 (3) provide for appropriate training, super-
19 vision, and equipment of Federal air marshals; and

20 (4) require commercial air carriers to provide
21 seating for a Federal air marshal on any selected air
22 passenger flight without regard to the availability of
23 seats on that flight.

24 (b) INTERNATIONAL FLIGHTS.—The Administrator
25 shall work with appropriate aeronautic authorities of for-

1 eign governments under section 44907 of title 49, United
2 States Code, to address security concerns on international
3 flights.

4 (c) INTERIM MEASURES.—Until the Administrator
5 can fully implement subsection (a), the Administrator
6 shall, after consultation with the heads of other Federal
7 agencies and departments, use personnel from those agen-
8 cies and departments, on a reimbursable or nonreimburs-
9 able basis, to provide air marshal service on domestic and
10 international flights.

11 (d) REPORT.—No later than 18 months after the
12 date of enactment of this Act, the Administrator shall sub-
13 mit a report to the Senate Committee on Commerce,
14 Science, and Transportation and the House of Represent-
15 atives Committee on Transportation and Infrastructure
16 setting forth—

17 (1) an assessment of the effectiveness of the
18 program;

19 (2) the Administrator’s recommendation as to
20 whether the program should be continued; and

21 (3) any recommendations the Administrator
22 may have for improving the effectiveness of the pro-
23 gram if it is to be continued.

1 **SEC. 7. FEDERALIZATION OF AIRPORT SECURITY OPER-**
2 **ATIONS.**

3 (a) IN GENERAL.—Section 44903(c) of title 49,
4 United States Code, is amended to read as follows:

5 “(c) SECURITY PROGRAM.—

6 “(1) IN GENERAL.—The Administrator shall es-
7 tablish an air transportation security program at
8 each airport regularly serving an air carrier holding
9 a certificate issued by the Secretary of Transpor-
10 tation that provides a law enforcement presence and
11 capability at each of those airports that is adequate
12 to ensure the safety of passengers. In carrying out
13 that program, the Administrator may use—

14 “(A) the services of qualified State, local,
15 and private law enforcement personnel;

16 “(B) personnel employed by the Adminis-
17 trator; or

18 “(C) personnel employed by another de-
19 partment, agency, or instrumentality of the
20 Government with the consent of the head of the
21 department, agency, or instrumentality.

22 “(2) DEPLOYMENT OF ARMED PERSONNEL.—In
23 carrying out the program established under para-
24 graph (1), the Administrator shall order the deploy-
25 ment of personnel authorized to carry firearms as
26 follows:

1 “(A) LARGEST AIRPORTS.—At the 100
2 largest airports in the United States, in terms
3 of average annual passenger boardings, the Ad-
4 ministrator shall order the deployment of a suf-
5 ficient number of personnel at each airport se-
6 curity screening location as may be necessary to
7 ensure passenger safety.

8 “(B) OTHER AIRPORTS.—At United States
9 airports not described in subparagraph (A), the
10 Administrator shall order the deployment of at
11 least 1 of such personnel at each such location.

12 “(C) OTHER AREAS.—The Administrator,
13 in consultation with the airport operator and
14 law enforcement authorities, may order the de-
15 ployment of such personnel at any secure area
16 of the airport as necessary to counter the risk
17 of criminal violence, the risk of aircraft piracy
18 at the airport, or the risk to air carrier aircraft
19 operations at the airport.”.

20 (b) SECURITY OF AIRCRAFT AND GROUND AC-
21 CESS.—Section 44903 of title 49, United States Code, is
22 amended by adding at the end the following:

23 “(h) SECURITY OF AIRCRAFT AND GROUND AC-
24 CESS.—The Administrator shall establish and enforce
25 rules to improve the physical security of air traffic control

1 facilities, parked aircraft, aircraft servicing equipment,
2 aircraft supplies (including fuel), automobile parking fa-
3 cilities at airports, and access and transition areas at air-
4 ports served by other means of ground or water transpor-
5 tation.”.

6 **SEC. 8. ENHANCED ANTI-HIJACKING TRAINING FOR**
7 **FLIGHT CREWS.**

8 The Administrator of the Federal Aviation Adminis-
9 tration shall develop and implement a mandatory program
10 of training for flight crews of aircraft providing interstate
11 or intrastate air transportation in dealing with attempts
12 to commit aircraft piracy (as defined in section
13 46502(a)(1)(A) of title 49, United States Code).

14 **SEC. 9. IMPROVED PASSENGER SCREENING PROCESS.**

15 Section 44901 of title 49, United States Code, is
16 amended to read as follows:

17 **“§ 44901. Screening passengers and property**

18 “(a) IN GENERAL.—The Administrator of the Fed-
19 eral Aviation Administration shall be responsible for the
20 screening of all passengers and property that will be car-
21 ried in a cabin of an aircraft in air transportation or intra-
22 state air transportation. The screening must take place
23 before boarding and be carried out by certified Federal
24 security screening personnel using equipment approved for
25 that purpose by the Administration.

1 “(b) EXEMPTIONS.—The Administrator may exempt
2 any class of air transportation operations from this section
3 except scheduled passenger operations of an air carrier
4 providing air transportation under a certificate issued
5 under section 41102 of this title or a permit issued under
6 section 41302 of this title.

7 “(c) CROSS-CHECKING DATA BASE INFORMATION.—
8 The Deputy Administrator, acting through the Aviation
9 Security Coordination Council, shall establish and imple-
10 ment a system for cross-checking data on individuals iden-
11 tified on all Federal agency security-related data bases.”.

12 **SEC. 10. TRAINING AND EMPLOYMENT OF SECURITY**
13 **SCREENING PERSONNEL.**

14 (a) USE OF OTHER AGENCIES.—The Administrator
15 of the Federal Aviation Administration shall enter into a
16 memorandum of understanding with any other Federal
17 agency or department with law enforcement responsibil-
18 ities to provide cooperation and assistance in the training
19 of Federal airport security screening personnel.

20 (b) IN GENERAL.—The Administrator of the Federal
21 Aviation Administration shall establish a program for the
22 hiring and training of airport security screening personnel.

23 (c) HIRING.—

24 (1) QUALIFICATIONS.—The Administrator shall
25 establish, within 30 days after the date of enactment

1 of this Act, qualification standards for individuals to
2 be hired by the United States as airport security
3 screening personnel. Those standards shall, at a
4 minimum, require an individual—

5 (A) to have a satisfactory or better score
6 on a Federal security screening personnel selec-
7 tion examination;

8 (B) to be a national of the United States
9 as defined in section 101(a)(22) of the Immi-
10 gration and Nationality Act (8 U.S.C.
11 1101(a)(22));

12 (C) to meet the requirements set forth in
13 section 108.31(a) of title 14, Code of Federal
14 Regulations; and

15 (D) to have passed an examination for re-
16 cent consumption of a controlled substance.

17 (2) EXAMINATION; REVIEW OF EXISTING
18 RULES.—The Administrator shall develop a Federal
19 security screening personnel examination for use in
20 determining the qualification of individuals seeking
21 employment as airport security screening personnel.
22 The Administrator shall also review, and revise as
23 necessary, any rule or regulation governing the em-
24 ployment of individuals as airport security screening
25 personnel.

1 (d) TRAINING.—

2 (1) IN GENERAL.—The Administrator shall,
3 within 60 days after the date of enactment of this
4 Act, develop a plan for the training of Federal air-
5 port security screening personnel. The plan shall, at
6 a minimum, require—

7 (A) 40 hours of classroom training; and

8 (B) 60 hours of on-the-job training.

9 (2) EQUIPMENT-SPECIFIC TRAINING.—An indi-
10 vidual employed as a Federal airport security screen-
11 er may not use any security screening device or
12 equipment in the scope of that individual’s employ-
13 ment unless the individual has been trained and cer-
14 tified as proficient on that device or equipment.

15 (3) CONFORMING AMENDMENTS.—Section
16 44935(e) of title 49, United States Code, is
17 amended—

18 (A) by striking paragraph (1) and insert-
19 ing the following:

20 “(1) In general.—The Administrator shall es-
21 tablish training standards for screeners.”;

22 (B) by striking “As part of the final rule,
23 the” in paragraph (2)(A) and inserting “The”;

1 (C) by striking “(2), as part of the final
2 rule,” in paragraph (3) and inserting “(2)”;
3 and

4 (D) by striking “40” in paragraph (3) and
5 inserting “60”.

6 (e) TESTING.—

7 (1) ANNUAL TESTING.—The Administrator
8 shall by rule require that individuals employed as
9 Federal airport security screening personnel be test-
10 ed for proficiency not less often than once annually.

11 (2) RANDOM AND SPOT TESTING.—The Admin-
12 istrator shall review and revise as necessary, or pre-
13 scribe, rules governing the random, spot, or other
14 testing of such personnel in addition to the annual
15 testing required by paragraph (1).

16 (f) AUTHORIZATION OF EMPLOYMENT.—The Sec-
17 retary of Transportation is authorized to employ, appoint,
18 and fix the compensation of such a number of individuals
19 as may be necessary to carry out sections 44901 and
20 44903 of title 49, United States Code, in accordance with
21 the provisions of part III of title 5, United States Code,
22 without regard to any limitation on number of employees
23 imposed by any other law or Executive Order.

1 **SEC. 11. BACKGROUND CHECKS ON HEAVY PLANE FLIGHT**
 2 **TRAINING APPLICANTS.**

3 Section 44936(a) of title 49, United States Code, is
 4 amended by striking “access, to—” in subsection (a) and
 5 inserting “access, and of each individual seeking flight
 6 training for an aircraft larger than an aircraft described
 7 in (f)(14)(A), to—”.

8 **SEC. 12. SECURITY FEE.**

9 (a) IN GENERAL.—Chapter 481 is amended by add-
 10 ing at the end thereof the following:

11 **“§ 48114. Security fee**

12 “(a) IN GENERAL.—The Secretary of Transportation
 13 shall collect a user fee from commercial air carriers.
 14 Amounts collected under this section shall be treated as
 15 offsetting collections to partially offset the Federal Avia-
 16 tion Administration’s costs of providing aviation security
 17 services to air carriers. The amounts collected shall be im-
 18 mediately available to the Administration for obligation
 19 and expenditure for its activities, and shall remain avail-
 20 able in a revolving fund, to be established by the Adminis-
 21 tration, until expended.

22 “(b) AMOUNT OF FEE.—Commercial air carriers
 23 shall pay \$1.00 for each one-way revenue passenger, on
 24 the basis of on-line origin-destination travel.

25 “(c) DEFINITIONS.—As used in this section—

1 “(1) **COMMERCIAL AIR CARRIER.**—The term
2 ‘commercial air carrier’ means a commercial oper-
3 ator that engages in the carriage of persons in air
4 commerce for compensation or hire.

5 “(2) **REVENUE PASSENGER.**—The term ‘rev-
6 enue passenger’ means a passenger on board a flight
7 in revenue service and does not include passengers
8 traveling for a zero fare on frequent flyer or mileage
9 programs or non-revenue air carrier employees.”.

10 (b) **CLERICAL AMENDMENT.**—The table of sections
11 for chapter 481 is amended by adding at the end thereof
12 the following:

“48114. Security fee”.

13 (c) **EFFECTIVE DATE.**—The amendment made by
14 subsection (a) shall apply with respect to transportation
15 beginning after the date which is 90 days after the date
16 of enactment of this Act.

17 **SEC. 13. INCREASED AVIATION SECURITY FUNDING.**

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

21 **“CHAPTER 483.—AVIATION SECURITY FUNDING.**

“Sec. 48301. Aviation security funding

22 **“§ 48301. Aviation security funding**

23 “There are authorized to be appropriated to the Sec-
24 retary of Transportation for fiscal years 2002, 2003, and

1 2004, such sums as may be necessary to carry out chapter
2 449 and related aviation security activities under this
3 title.”.

4 (b) CONFORMING AMENDMENT.—The subtitle anal-
5 ysis for subtitle VII of title 49, United States Code, is
6 amended by inserting after the item relating to chapter
7 482 the following:

“483. Aviation Security Funding 48301”.

8 **SEC. 14. DEFINITIONS.**

9 Except as otherwise explicitly provided, any term
10 used in this Act that is defined in section 40102 of title
11 49, United States Code, has the meaning given that term
12 in that section.

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A BILL

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SEPTEMBER 24, 2001

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