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Selected Aviation Security Legislation in the Aftermath of the September 11 Attack

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Summary

The September 11, 2001 hijacking of four airliners, and the enormous loss of life from the use of these airplanes as weapons, has focused congressional concerns on aviation security. During the debate in Congress the overarching issue was the degree of federal involvement needed both to make commercial air travel safer and to restore the public's confidence in the security of our Nation's airway and airports.

On October 11, 2001, the Senate passed, after multiple amendments, the Aviation Security Act of 2001, S. 1447 (introduced by Senator Hollings). The bill provided for the federalization of most aspects of airport security. The responsibility for much of the law enforcement aspect of airport security would have been shifted from the Department of Transportation (DOT) to the Department of Justice (DOJ). Front-line screening of passengers and baggage would be carried out by federal agents under the authority of the Attorney General. DOT would have continued to administer the Federal Air Marshals (FAM) program but under DOJ guidelines.

On November 1, 2001, the House passed a bill that was significantly different from Senate-passed S. 1447. The Airport Security Federalization Act of 2001 (S. 1447 amended by the text of H.R. 3150, introduced by Representative Young), included provisions to shift the responsibility for the security of all modes of transportation to a new administration, the Transportation Security Administration (TSA), within DOT. The bill called for the oversight of all airport screeners by uniformed federal agents but would have allowed for the use of contract employees as front-line security screeners.

On November 19, 2001, President Bush signed the Aviation and Transportation Security Act (ATSA) (P.L. 107-71; H. Rept. 107-296). ATSA, includes elements of both the House and Senate bills as well as new provisions added to facilitate the final compromise that was agreed to in conference. On the contentious issue of whether screeners should be federal agents or contractor personnel, ATSA provides that, within one year, federal employees shall be hired to take over airport security screening services at all but five U.S. commercial airports. Two years later, however, airports may opt-out of the federal screener system and switch to contractor screeners. The Act also establishes a new Transportation Security Administration (TSA) headed by an Under Secretary of Transportation for Security. Within three months of enactment, the responsibilities for aviation security would be transferred from the Federal Aviation Administration (FAA) to the TSA. Also included in the Act are provisions: requiring that, within 60 days, airports provide for the screening or bag-matching of all checked baggage; allowing pilots to carry firearms; requiring the electronic transmission of passenger manifests on international flights prior to landing in the U.S.; requiring background checks, including national security checks, of persons who have access to secure areas at airports; and requiring that all federal security screeners be U.S. citizens.

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Selected Aviation Security Legislation in the Aftermath of the September 11 attack.

The September 11, 2001 hijacking of four airliners, and the enormous loss of life from the use of these airplanes as weapons, has focused congressional concerns on aviation security. During the debate in Congress following the attack the overarching issue was the degree of federal involvement needed to both make commercial air travel safer and to restore the public's confidence in the security of our Nation's airway and airports. On November 19, 2001, President Bush signed the Aviation and Transportation Security Act (ATSA) (P.L. 107-71).

After a brief background discussion, this report discusses different policy approaches to the federal role in aviation security. The report provides an overview of the bills that passed in the House and Senate. It then discusses the conference agreement compromise and highlights the provisions of ATSA. Finally, a side-by-side presentation of selected provisions from the House, Senate and enacted bills are displayed in **Table 1**.

Background

Airport Security

Airport security efforts are generally directed toward preventing access to aircraft or secure areas of airports by terrorists and others who pose as passengers, infiltrate as employees, or slip into restricted zones at an airport to plant explosives or hijack an aircraft. To counter these efforts, airlines screen passengers and baggage. Airports and airlines also require employee background checks.¹ They have also tightened secure area access requirements. During the past two years, however, General Accounting Office (GAO) and Department of Transportation (DOT) Inspector General (IG) investigations have criticized security measures at major airports. In its report, *Long-Standing Problems Impair Airport Screeners' Performance* (GAO/RCED-00-75; June 28, 2000), GAO found that screeners' performance in detecting dangerous objects was not satisfactory.

A DOT IG's March 23, 2001, *Aviation Security* memorandum to the FAA administrator stated that baggage screeners were screening fewer bags per day than the recently installed explosive detection systems could screen per hour. The IG also found that airport operators and airlines frequently were not complying with the background check requirements for employees with access to secure areas of their airports. The IG found that, while the FAA had made significant progress in

¹See also CRS Report RL31151. *Aviation Security Technologies and Procedures: Screening Passengers and Baggage*, by Daniel Morgan.

deploying existing advanced security technologies, it had failed to integrate the various security assets into a seamless security system.

Security in the Aircraft

Since the late 1980s, the focus of security efforts was on intercepting explosives in the airport. The September 11 terrorist attacks have changed this. Following the attack there was renewed interest in expanding the Federal Air Marshal (FAM) program in the belief that an armed federal agent might have thwarted the hijackers. Supporters of expanding the FAM program argued that an expanded program would also have a deterrent effect on would-be hijackers. The security of the cockpit has also become an issue. Supporters of stronger cockpit doors, locks, and latches argued that if the cockpits had been more secure the September 11 terrorists might not have been able to seize the controls.²

The Federal Role in Aviation Security

A history of less-than-satisfactory investigative reports on airport security and long delays in the regulatory implementation of security improvements included in legislation, led to statements of frustration by Members in both houses of Congress. This past failure to improve the current system, combined with the totally unforeseen scope of the September 11 attack by policy makers, led to a consensus for a deeper federal involvement in aviation security.

Federalizing Airport Security

For many proponents, federalizing airport security simply meant making airport security a federal law enforcement or national security function. Federal agents would screen passengers and baggage and, in some proposals, would also patrol both the secure and public areas of airports. FAA estimated that this would require 28,000 full time equivalent employees at a cost of roughly \$1.8 billion per year.³ This federalizing option had the advantage of conceptual simplicity. Having federal law enforcement agents providing the security at U.S. airports was also, according to proponents, the best way to restore public confidence in the aviation system. During the post-September 11 aviation security debate in Congress, they argued that it is doubtful that merely imposing federal oversight and supervision on the already failed U.S. system of contractor airport security screeners would achieve the scope of change needed to assure the public of the effectiveness of U.S. airport security. Critics, however, warned that this option would create a bureaucracy that could become as ineffective as the current system and at a much higher cost. Critics also argued that the change to a totally federal workforce is an enormous undertaking and that imposing strict federal control over contractors could be accomplished more

²The Bush Administration has set aside \$500 million of emergency appropriations to help pay for the retrofitting of cockpit doors. Most airlines on their own initiative have begun reinforcing the cockpit doors and locks in their aircraft.

³Since the passage of ATSA, the estimates of the costs for all its provisions (i.e. airport security, air marshals, and equipment) have been as high as \$5 billion.

easily. Finally, critics argued that to quickly improve the performance of airport security screeners, managers must have more freedom to dismiss and discipline employees than would be likely under any system that utilized federal employees.

Strengthening and Enforcing the Regulation of Airport Security

Under this option the federal presence and oversight would increase but private companies would continue to provide the security employees. They would, however, work under stricter, background checks, training, and supervision. This was seen by proponents as less expensive than hiring the estimated 28,000 federal agents that would be needed for the 100% federal employee option. They also argued that this option would also give federal security managers more freedom to hire and fire based on merit and performance than they could if employees were protected by U.S. civil service law. Opponents of this solution generally argued that in the U.S., profit-driven contract airport security services have performed poorly over many years and it is doubtful that they will ever achieve the level of security that could be provided by using federal agents.

Aviation Security: a Legislative Overview of S. 1447

The House and Senate passed significantly different aviation security bills. The Senate bill, the Aviation Security Act of 2001, S. 1447 (introduced by Senator Hollings)⁴, passed with multiple amendments, by a 100-0 vote on October 11, 2001. On November 1, 2001, the House passed the Airport Security Federalization Act of 2001 (S. 1447 as amended by the text of H.R. 3150, introduced by Representative Young). During the House debate the bill was strongly supported by the House Majority leadership and President Bush. The major issues of whether to make security screeners federal employees and whether to shift airport security responsibility to a different agency, along with many other differences had to be resolved in conference.

This section provides a brief comparative overview of the House and Senate passed versions of S. 1447. It then discusses the major provisions of The Aviation and Transportation Security Act (ASTA) (P.L. 107-71) as enacted. All three versions of the bill would have increased the federal role in assuring aviation security. The degree of federal involvement provided for in the bills, however, varied significantly. **Table 1**, at the end of this report sets forth, in side-by-side format, selected provisions from the House, Senate, and enacted versions of S. 1447.

The House and Senate-Passed Bills

Airport Security Provisions. As passed by the Senate, S. 1447 would have federalized the responsibilities for much of airport security. Most of the law

⁴In the House, H.R. 2951, contains identical language to S. 1447 as introduced. H.R. 3165 is identical to the Senate-passed version of S. 1447.

enforcement aspects of airport security would have been carried out by the Department of Justice (DOJ). Front-line screeners of passengers and baggage would have been federal employees under the authority of the Attorney General. The bill also would have required the screening of all airline, airport, and concessionaire personnel before they may enter restricted secure areas at an airport. New background checks would have been required for existing employees who have not undergone such checks within the last five years. The Senate bill included significantly more provisions concerning perimeter and secure area access at airports than the House bill.

The House bill (S. 1447 as amended by the text of H.R. 3150) provided for the creation of a new administration, the Transportation Security Administration (TSA), within the DOT. Under the House bill, a new Under Secretary for Transportation Security would head the TSA, and would be responsible for transportation security of all modes of transportation, including aviation. This bill did not specify whether, airport security screeners must be federal or contractor employees. It merely prescribed that the screening must be carried out by “persons and procedures acceptable to the Under Secretary.” Most supporters of the bill, however, voiced support for contract screener personnel under uniformed federal supervision. The bill was less directive, than the Senate version, concerning access to secured areas. It required the Under Secretary to consult with FAA and then to implement methods to impose standards for the screening of persons or vehicles having access to secure areas of an airport.

Federal Air Marshal and Cockpit Security Provisions. The Senate-passed bill, would have kept the FAM program in DOT but directed that the Secretary administer the program under guidelines prescribed by the Attorney General. The House bill would have shifted the responsibility for the FAM program from FAA to the TSA. Both bills called for a major expansion of the FAM program.

Both bills contained cockpit security provisions. The Senate-passed bill limited access to authorized flight deck personnel, required strengthening of cockpit doors and locks, and required that cockpit doors be locked during flight and restricts possession of cockpit door keys to the flight deck crew assigned to the flight. The House bill also required the strengthening of cockpit doors and restricted the opening of cockpit doors during flight but, in addition, required cabin video monitors be installed as well as switches that would allow cabin crew to secretly warn flight crews when there are security breaches in the cabin.

The House and Senate bills both included provisions that allowed pilots, after successfully completing a training program, to carry a firearm on an aircraft.

Funding Provisions.

Security Fees. The Senate-passed bill provided that air carriers pay a \$2.50 charge for each boarding passenger to offset the costs of providing aviation security services to air carriers. The revenues were only be used to for the costs of providing aviation security services.

The House bill provided for a fee, of up to \$2.50 for each one-way trip, on airline passengers to pay for the costs of screening passengers and property. Allowable costs were to be limited to salaries and benefits of screening personnel, supervisors, trainers and for the acquisition, operation, and maintenance of their equipment. In addition, the Under Secretary could impose a fee on air carriers to pay the difference between the costs and the revenues collected from the passenger fee. The passenger fee revenues were to be treated as offsets.

Authorization. The Senate-passed bill authorized such sums as may be necessary for security funding for FY2002-FY2004. It also authorized such sums as necessary for FY2002 to compensate airports for FAA mandates imposed after September 11, 2001. In addition, the bill expanded the eligibility for Airport Improvement Program funds and use of existing passenger facility charges to include funding for a broader range airport security costs.

The House-passed bill authorized \$500 million for fortifying cockpit doors, installing video monitors and continuous transponders. The bill authorized \$1.5 billion for the direct costs of FAA security related mandates following September 11. This bill also expanded AIP eligibility for FY2002 for small hub and nonhub airports to include staffing and training costs and reimbursement of law enforcement personnel.

Other Provisions. There are a number of other provisions of note. Both bills included language requiring the development of programs of training for flight crews for dealing with hijacking attempts. Both bills also included provisions requiring criminal history and background checks for students seeking flight training on certain classes of aircraft. The House bill included a provision that significantly limited the scope of liability for damages arising out of the crashes of September 11. The House version also included a provision requiring the Under Secretary for Transportation Security to deputize all airport screening personnel as federal transportation security agents.

Conference Issues

Although both the House and Senate bills included many similar provisions there were only two issues of major conflict during conference: the issue of federalization of airport security screeners and the issue of which agency should oversee aviation security.

Federalization of Airport Security Screeners. At issue was whether requiring the hiring of federal agents as passenger and baggage screeners would reassure the traveling public of the safety of air travel more than providing federal supervisory personnel to manage contractor employees. This issue was the most difficult to resolve. The compromise provided that, within one year of enactment, all screeners would be federal personnel. Up to five airports, participating in a pilot program, would be exceptions and would operate with security contractor personnel. Three years after enactment airports could opt-out of the federal screener system and contract with private companies for screener services.

What Federal Agency Should Have Security Responsibility. Both bills provided for a shift in aviation security responsibilities from the FAA but they differed over which department should take over. The underlying issue was whether aviation security is primarily an aviation issue that can be best managed by a new administration within DOT (the House bill) or is primarily a law enforcement issue that can be best managed by the Attorney General (the Senate bill). The conference agreement included the House proposal for a new Transportation Security Administration within DOT but outside of FAA.

The Aviation and Transportation Security Act (ATSA)

On November 19, 2001, President Bush signed the Aviation and Transportation Security Act (ATSA) (P.L. 107-71). ATSA shifts much of the responsibility for aviation security from the airports and airlines to the federal government. The Act establishes a new Transportation Security Administration (TSA) headed by an Under Secretary of Transportation for Security. Within three months of enactment, the responsibilities for aviation security would be transferred from the Federal Aviation Administration (FAA) to the TSA. The Under Secretary shall assume the rights and responsibilities of air carriers under their existing security screening contracts and may also make agreements with air carriers to transfer to the United States Government, at no cost, the ownership of equipment, property, and supplies associated with such security screening. The new Administration will be responsible for the security of all modes of transportation but, clearly, most of its personnel and efforts will be directed toward security at airports and of aircraft. The following discussion analyzes ATSA's provisions for airport security, funding, air marshals, cockpit security, and other measures.

Airport Security

ATSA provides for federal oversight of airport security and requires that security screening personnel be federal employees. Although these screeners would be entitled to most standard federal employee benefits, they can be dismissed at will and are prohibited from striking. The law provides for a one-year transition to a security force staffed by federal employees. Two years later, airports choosing to leave the federalized screening system can elect to return to a system utilizing some private security contractors. The law also provides that five airports can volunteer for a pilot program using private contractors.

ATSA includes additional airport security provisions:

- within 60 days, all airports must have in place a system to screen all checked baggage, using explosive detection systems (EDS), alternatives to EDS, such as manual search or bomb sniffing dogs, or a bag match system;
- all checked baggage must be screened by EDS by December 31, 2002;
- the Under Secretary can issue security rules immediately without notice and comment, DOT or OMB review, or cost-benefit analysis (subject to review by a Transportation Security Oversight Board);

- the federal government will assume existing screening contracts within 90 days; [contracts may be extended for 180 days and then an additional 90 days beyond the initial 90 day period];
- within one year, all screening personnel will be federal employees who (among other requirements) must: be United States citizens; have at least a high school diploma or equivalent; be able to speak, read, and write English; successfully undergo a background check including employment, criminal and national security risk checks; and have the necessary physical ability and dexterity to perform the duties of the screener position;
- members, former members of the armed forces and armed forces retirees are to be given a preference in the hiring of security screeners;
- screening companies participating in the security screening pilot program or contracted by airports taking advantage of ATSA's opt-out provisions, must be U.S. controlled companies;
- all individuals, goods, property, vehicles, and other equipment seeking access to secure areas at an airport, must be screened and inspected before entry;
- at no fewer than 20 airports the Administrator is to establish pilot programs to test and evaluate new and emerging technology for providing access control for closed or secure area of airports;
- the Airport Improvement Program and Passenger Facility Charge Program eligibility for security funding is expanded;
- within 30 days the Under Secretary is to transmit a report on airspace and other security measures that can be deployed to improve general aviation security.

Funding and Liability Provisions

ASTA authorizes such sums as may be necessary for aviation security for FY2002, FY2003, FY2004, and FY2005. To pay the costs of the new and expanded aviation security programs ASTA authorizes a passenger fee of \$2.50 per enplanement (capped at \$5 per one-way ticket). Additional funds may be appropriated or come from a fee imposed on air carriers. In addition, the Act authorizes a total of \$1.5 billion for FY2002 and FY2003 to reimburse airport operators and on-airport service providers for the cost of post-September 11 FAA security mandates. ASTA also authorizes \$500 million for air carriers to defray the costs of security enhancements to aircraft such as fortifying cockpit doors or installing video surveillance cameras.

The liability limitations of the Air Transportation Safety and System Stabilization Act (P.L. 107-42) are extended to aircraft manufacturers, airports, New York City, and World Trade Center owners (airport security firms are excluded from the limitations).

Federal Air Marshals

ATSA provides for the transfer of a greatly expanded Federal Air Marshals program to the TSA. Air Marshals may be deployed on every passenger flight but must be deployed on every flight determined to present high security risks. Carriers

are required to provide a free seat for an Air Marshal on any flight designated by the Secretary. A seat on a space-available basis, at no cost, is to be provided for an off-duty Air Marshal returning home after completing his or her assigned flight. The Under Secretary for Transportation Security is to provide for the appropriate training, supervision and equipping of Federal Air Marshals. The Under Secretary is also to establish procedures to ensure that Federal Air Marshals are made aware of any armed or unarmed law enforcement personnel on an aircraft. The age requirement is waived for retired law enforcement, retired military, or furloughed air carrier crew members who otherwise meets the background and fitness requirements for Federal Air Marshals.

Cockpit and Cabin Security Measures

ATSA requires the strengthening of the cockpit door and locks on any passenger aircraft that has a rigid door in a bulkhead between the flight deck (cockpit) and passenger area. Access to the cockpit is limited to authorized persons. Cockpit doors are to remain locked during flight except when needed for the entrance and exit of authorized persons. The Act prohibits possession of the cockpit door key by anyone not assigned to the flight deck.

The Under Secretary is to develop and implement methods to: use video monitors or other devices to alert pilots in the cockpit to activity in the cabin; ensure continuous operation of an aircraft transponder in the event of an emergency; provide ways that cabin crew can discreetly notify pilots of a security breach occurring in the cabin, including the installation of switches or other devices.

The FAA is directed to develop a mandatory program of instruction for flight and cabin crews in dealing with hijack situations.

Guns and Less-Than-Lethal Weaponry for Flight Crews

ATSA authorizes the pilot of a passenger aircraft to carry a firearm into the cockpit subject to the approval of the Under Secretary for Transportation Security and the air carrier. The firearm must be approved by the Under Secretary and the pilot must have had proper training in the use of the firearm.

Within 90 days of enactment, ATSA requires the National Institute of Justice (NIJ) to assess the range of less-than-lethal weaponry available for use by a cockpit crew member to temporarily incapacitate an individual who presents a clear and present danger to the safety of the aircraft, passengers, or people on the ground. If, after receiving the recommendations of the NIJ study and the approval of the Attorney General and the Secretary of State, the Secretary of Transportation determines that it is appropriate and necessary and would effectively help avoid air piracy, the Secretary may authorize members of the flight deck crew on any aircraft to carry a less-than-lethal weapon. The Secretary shall prescribe the rules for the training and proper use of the weapon and also the guidelines setting forth the situations under which the weapons may be used.

Passenger Manifests

ATSA requires that within 60 days of enactment, each air carrier operating a flight in foreign air transportation, shall provide to the Commissioner of Customs, by electronic transmission, prior to landing, in the manner, time, and form prescribed by the Customs Service, a passenger and crew manifest. The manifest is to contain for each passenger or crew the following: 1) full name; 2) date of birth and citizenship; 3) passport number and country of issuance; 4) the United States visa number or resident alien card number; and 5) such other information as the Under Secretary in consultation with the Commissioner of Customs, determines is reasonably necessary to ensure aviation safety. This information may be provided to other federal agencies, upon request, for the purpose of protecting national security.

Carry on Baggage and Unusual Cargo Provisions

ATSA includes a provision that set forth that it is the sense of the Congress that the FAA should maintain its current restriction on carry-on baggage of one bag and one personal item (a backpack is to be considered a personal item). The Act also includes sense of the House of Representatives provisions that the Under Secretary should develop security procedures to allow musicians to transport their musical instruments in the cabin notwithstanding carry-on baggage restrictions but subject to reasonable security procedures, terms, and conditions, including imposing additional charges. The other sense of the House is that air carriers that contract to carry United States Postal Service mail should transport any animal that the Postal Service allows to be shipped through the mail.

As an enhanced security measure, the Under Secretary for Transportation Security may, in consultation with the Food and Drug Administration, may develop alternative security procedures under which a medical product (including human tissues such as stem cells) would not be subject to an inspection (such as opening and handling or x-ray) that would irreversibly damage the product.

Table 1, sets forth selected provisions of the House, Senate, and enacted versions of S. 1447.

Table 1: Side-by-Side Comparison of Selected Provisions From Aviation Security Legislation in the 107th Congress

| Topic | Aviation Security Act of 2001 (S. 1447--Hollings) Passed Senate Oct. 11, 2001 | Airport Security Federalization Act of 2001 (S. 1447 as amended by H.R. 3150--Young) Passed House Nov. 1, 2001 (*...* denotes provisions from manager's amendment of Nov. 1, 2001) | Aviation and Transportation Security Act (P.L. 107-71) Enacted Nov. 19,2001 |
|--|--|---|--|
| Federalization (Many provisions could be seen as “federalizing” provisions, see also Airport Perimeter Access Provisions, Federal Air Marshals, and Security Screening entries) | In carrying out the program, the Department of Justice (DOJ) would take over passenger and property screening. The supervision of screening and the actual screening of passengers and property will be done by federal DOJ employees. (Sec. 108) The Federal Air Marshal program (FAM) would be administered by the Secretary of DOT but under guidelines prescribed by the Attorney General. It would be expanded substantially and would continue to be staffed by federal agents. (Sec. 105) | A new administration, the Transportation Security Administration (TSA) will be created and headed by a new Under Secretary for Transportation Security. The Under Secretary will be responsible for aviation security (which would be transferred from FAA) and also the security of other modes of transportation. (Sec. 2) Airport Security Screening would be supervised by uniformed federal agents, but the Under Secretary would have the option of contracting for the actual screeners. (Sec. 3) The FAM program would also be under the authority of the Under Secretary. (Sec. 104) | Creates the TSA as in the House bill. Keeps the responsibility for aviation security in DOT but out of FAA.. (Sec. 101) However, in requiring that airport security screeners be federal employees ATSA draws from the Senate bill. (Sec. 110) |
| Airport Perimeter Access Security: deployment of armed personnel | DOT, in consultation with the airport operator and law enforcement authorities, may order the deployment of such personnel as necessary to counter the risk of criminal violence, the risk of aircraft piracy at the airport, the risk to air carrier operations at the airport, or to meet national security needs. (Sec. 106) | — | Similar to Senate version. (Sec. 106) |
| Airport security plan for small and medium size airports | FAA shall develop a plan to provide technical support to small and medium airports to enhance security operations including screening operations, and to provide financial assistance to those airports to defray the costs of enhancing security. (Sec. 106) | — | Similar to Senate version. (Sec. 106) |
| Airport security for small and medium airports: threat assessment and removal of certain restrictions | Directs FAA in consultation with local and state law enforcement authorities to re-examine the safety requirements for small community airports to reflect a reasonable threat to those individual small community airports including the parking of passenger vehicles within 300 feet of the airport terminal building. (Sec. 106) | Similar to S. 1447, except that the eligibility for the restriction waiver is not limited to small community airports. (Sec. 121) | If an airport, after consultation with the appropriate state and local law enforcement authorities, determines that sufficient safeguards are in place to sufficiently protect public safety, and so certifies in writing to the Under Secretary then the restrictions shall not apply after 15days for nonhub airports, 30 days for small hub airport, 60 days for medium hub airport, and 120 days for a large hub airport; unless, the Under Secretary notifies the airport that the safeguards in place are not adequate and the restriction must be continued. (Sec. 106) |

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| Topic | Aviation Security Act of 2001 (S. 1447--Hollings) Passed Senate Oct. 11, 2001 | Airport Security Federalization Act of 2001 (S. 1447 as amended by H.R. 3150--Young) Passed House Nov. 1, 2001 (*...* denotes provisions from manager's amendment of Nov. 1, 2001) | Aviation and Transportation Security Act (P.L. 107-71) Enacted Nov. 19,2001 |
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| Airport/transportation security performance study | Within 60 days of enactment, the Attorney General and the Secretary of Transportation shall transmit a report to the Congress containing their joint recommendations on additional measures for the federal government to address transportation security functions. (Sec. 112) | — | — |
| Airport Perimeter Access Security: Awareness Programs | DOT shall require all air carriers and airports to develop security awareness programs for airport employees, ground crews, and others employed at such airports. (Sec. 106) | — | Similar to Senate version. (Sec. 106) |
| Airport Perimeter Access Security: pilot program to evaluate emerging technologies | FAA shall establish pilot programs in no fewer than 20 airports to test and evaluate new and emerging technology for providing access control and other security protections for closed or secured area of the airports. Such technology may include biometric or other technology. (Sec. 106) | — | Similar to Senate version. (Sec. 106) |
| Airport security personnel: background checks | <p>The Attorney General shall require any potential airport security screener to undergo a background check (including a criminal history record check and a national security risk assessment). Also requires background checks for currently employed security screeners. (Sec. 109)</p> <p>FAA shall require employment investigations and criminal background checks of existing employees that are security screeners or have access to aircraft or secured areas at an airport regularly serving a certificated air carrier, within 9 months unless such individuals have has such investigations and checks within 5 years of enactment. (Sec. 201)</p> | <p>The Under Secretary shall require more thorough background checks of airport security screeners and persons that have access to aircraft or to secured areas of an airport including a review of immigration records, law enforcement databases, and records of other government and international agencies to determine whether the person may be a threat to civil aviation. (Sec. 106)</p> <p>Airport operators, air carriers, or certified screening companies may implement these requirements in advance of the effective date if their security programs conform to section 44936 as amended by H.R. 3150. (Sec. 107)</p> <p>*Current employees: requires background checks (including criminal history and review of available law enforcement data bases and records of other governmental and international agencies) for any individual who currently has unescorted access to an aircraft or secure area of an airport or screens passengers or property unless the individual underwent such a check before the individual began his/her current employment.* (Sec. 107)</p> | <p>The Under Secretary shall require that individuals to be hired as security screeners must undergo and employment and criminal background check. In addition, the Under Secretary is to establish procedures to ensure that no individual who presents a threat to national security is employed as a security screener. (Sec. 111)</p> <p>Current employees: requires background checks (including criminal history and review of available law enforcement data bases and records of other governmental and international agencies) for any individual who currently has unescorted access to an aircraft or secure area of an airport or screens passengers or property. (Sec. 138)</p> |

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| Airport Perimeter Access Security: chemical and biological weapon detection. | DOT shall require airports to maximize the use of technology and equipment that is designed to detect potential chemical or biological weapons. (Sec. 106) | — | Similar to Senate version. (Sec. 120) |
| Airport Perimeter Access Security: security of aircraft and ground access | DOT, in deploying security personnel, shall consider the physical needs of air traffic control facilities, parked aircraft, aircraft servicing equipment, aircraft supplies (including fuel), automobile parking facilities within airport perimeters or adjacent to secured facilities, and access and transition areas at airports served by other means of ground or water transportation. (Sec. 106) | — | Similar to Senate version. (Sec. 106) |
| Airport Perimeter Access Security: Screening of Airport and Air Carrier Personnel | DOT, after coordination with the ASCC, shall consider whether airport and air carrier personnel with access to secure areas should be screened to prevent individuals who present a risk to aviation security or national security from gaining access to such areas. (Sec. 106) | The Under Secretary, after consultation with FAA, shall develop and implement methods to impose standards for the screening or inspection of persons and vehicles having access to secure areas of an airport. (Sec. 106) | The Under Secretary, as soon as practicable after enactment, shall require the screening or inspection of all individuals, goods, property, vehicles and other equipment before entry into a secured area of an airport. Is to establish procedures to ensure the safety and integrity of: all persons providing services; of all supplies; and all persons providing such supplies. Requires vendors to develop security programs. (Sec. 106) |
| Airport Perimeter Access Security: Improvement of Secured-Access Control | On an ongoing basis, FAA is to assess and test for compliance with access control requirements, report annually findings of the assessments, and assess the effectiveness of penalties in ensuring compliance with security procedures and take any other appropriate enforcement actions when noncompliance is found. FAA shall also work with airport operators to strengthen access control points in secured areas (including air traffic control operations, maintenance areas, crew lounges, baggage handling areas, and catering delivery areas) to ensure the security of passengers and aircraft and consider the deployment of biometric or similar technologies that identify individuals based on unique personal characteristics.(Sec.106) | The Under Secretary after consultation with FAA shall provide for the use of electronic technology that positively verifies the identity of each employee and law enforcement officer who enters a secure area of an airport. (Sec. 106) | Similar to Senate version. (Sec. 106) |

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| Airport Perimeter Access Security: deployment of federal law enforcement personnel | DOT may enter into a memorandum of understanding with the Attorney General or other federal law enforcement agency to deploy federal law enforcement personnel at an airport in order to meet aviation safety and security concerns. (Sec. 106) | — | Similar to Senate version. (Sec. 106) |
| Anti-hijacking training | DOT shall develop and implement a mandatory program of training for flight and cabin crews in dealing with attempts to commit aircraft piracy. DOT shall develop the training in consultation with federal law enforcement agencies with expertise in terrorism, self-defense, hijacker psychology and current threat conditions. FAA shall review procedures by which cabin crews can notify flight deck crew of security breaches. (Sec.107) | In consultation with FAA the Under Secretary shall develop and implement methods to update training procedures used by the FAA, law enforcement agencies, air carriers, and flight crews during hijackings to include measures relating to suicidal hijackers and other extremely dangerous events not currently described in the training procedures. (Sec. 106) | Not later than 60 days of enactment, the Administrator of FAA, in consultation with the Under Secretary for Transportation Security and appropriate experts, shall develop detailed guidance for flight and cabin crewmembers for potential threat conditions. Within 60 days later, air carriers must develop their training program based on the guidance developed by the FAA. FAA shall review the plans within 30 days. Within 180 days after approval the air carriers are to have trained all flight and cabin crew members. (Sec. 107) |
| Attorney General of the United States: responsibilities Under Secretary of Transportation Security: responsibilities | The Attorney General: 1) is responsible for the day-to-day federal security screening operations for passenger air transportation [including employment standards and training]; 2) shall work in conjunction with the FAA Administrator with respect to any actions or activities that may affect aviation safety or air carrier operations; 3) is responsible for hiring and training personnel to provide security screening at all United States airports involved in passenger air transportation in consultation with DOT, DOD, and other appropriate federal agencies; 4) shall actively cooperate and coordinate with the Secretary of DOT, the Secretary of DOD, and heads of other appropriate federal agencies with responsibilities for national security and criminal justice enforcement activities, related to aviation security, through the ASCC. (Sec. 102) | The Under Secretary's duties include to: 1) manage and provide, on a day-to-day basis, operational guidance to the field security resources of the TSA, including security managers; 2) supervise all airport security and screening services using federal uniformed personnel; 3) to assess and distribute intelligence related to transportation security; 4) assess threats to transportation; 5) develop policies, strategies for dealing with transportation security threats; 6) make plans related to transportation security, including countermeasures with other parts of the federal government; 7) serve as the primary liaison for transportation security to the intelligence and law enforcement communities; 8) enforce regulations; 9) identify and undertake R&D activities necessary to enhance transportation security; 10) inspect, maintain, and test security facilities, equipment and systems; 11) oversee implementation of security measures; 12) ensure security of cargo transportation; 13) perform background checks of screening and other critical personnel; 14) develop standards for hiring and retention of security screening personnel; 15) train and test security screening personnel. (Sec. 101) | The Under Secretary of Transportation for Security shall head the Transportation Security Administration (TSA). The Under Secretary's duties are a blend of the House and Senate versions. (Sec. 101) |

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| Aviation Security Coordination Council (ASCC) and the Transportation Security Oversight Board (TSOB): Establishment | Establishes the Aviation Security Coordination Council (ASCC), chaired by the Secretary of DOT or the Secretary's designee.(Sec. 103) | Establishes the Transportation Security Oversight Board (TSOB), chaired by the Secretary of DOT. (Sec. 112) | Similar to the House version. (Sec. 102) |
| Aviation Security Coordination Council/ Transportation Security Oversight Board: membership | The ASCC membership shall be: the Secretary of DOT or the Secretary's designee, the Attorney General or the Attorney General's designee, the Secretary of Defense or the Secretary's designee, the Secretary of the Treasury or the Secretary's designee, the Director of the Central Intelligence Agency or the Director's designee, and any other federal agency determined by the Secretary of DOT in consultation with the Attorney General. (Sec. 103) | The TSOB membership shall be: the Secretary of DOT or the Secretary's designee, the Attorney General or the Attorney General's designee, the Secretary of Defense or the Secretary's designee, the Secretary of the Treasury or the Secretary's designee, one member appointed by the President to represent the National Security Council or the Office of Homeland Security. (Sec. 112) | Similar to the House version, except that the Director of the CIA or the Director's designee is included and the National Security Council and the Office of Homeland Security both get a membership. (Sec. 102) |
| Aviation Security Coordination Council/ Transportation Security Oversight Board: function and duties | The Council shall work with the intelligence community to coordinate intelligence, security, and criminal enforcement activities affecting the safety and security of aviation at all U.S. airports and air navigation facilities involved in interstate or intrastate air transportation. The Secretary of DOT, working through the Council shall enter into memoranda of understanding with other federal agencies to share or otherwise cross-check data on such individuals identified on federal agencies databases and may utilize other available data bases and evaluate and assess technologies in development or use at federal departments, agencies, etc, that might be useful in improving the safety and security of aviation in the U.S. (Sec. 103) | The Board shall: review and ratify or disapprove any regulation or security directive issued by the Under Secretary of Transportation for Security within 30 days after issuance; share intelligence information with the Under Secretary; review plans for transportation security; review performance standards for airport security screeners; review screener compensation; review security equipment procurement; review selection performance and compensation of senior executives in the TSA; review budget requests of the Under Secretary; and make recommendations regarding the above. The Under Secretary shall establish a Transportation Security Advisory Council (TSAC) to provide advice and counsel to the Under Secretary on issues concerning the administration of the TSA. (Sec. 112) | The Board shall: review and ratify or disapprove any regulation or security directive issued by the Under Secretary of Transportation for Security within 30 days after issuance; facilitate the coordination of intelligence, security, and law enforcement activities affecting transportation; facilitate the sharing of such information among federal agencies and with carriers and other transportation providers as appropriate; explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security; review plans for transportation security; make recommendations to the Under Secretary regarding matters reviewed. (Sec. 102) |
| Background checks for aliens engaged purchase or leasing of aircraft | Prohibits the sale, lease, or charter of any aircraft to an alien without the certification of the completion of a background investigation of the alien by the Attorney General. (Sec. 131) | — | — |

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| Baggage and freight: property security program | | *Property security program: 1) final deadline for screening--no later than December 31, 2003, a system must be in operation to screen all checked baggage at all airports in the United States; 2) the Under Secretary shall ensure that explosive detection equipment installed at airports to screen checked baggage is used to the maximum extent possible; 3) the Under Secretary shall install additional explosive detection equipment at airports as soon as possible to ensure that all checked baggage is screened before being placed in an aircraft; 4) interim bag match programs--until enough detection equipment is installed to screen all baggage the Under Secretary shall require air carriers to implement bag-match programs to ensure that no baggage is stowed unless the passenger checking the baggage is on the aircraft.* (Sec. 106) | Requires that a system must be in operation to screen all checked baggage at all airports within 60 days of enactment. All commercial service airports in the United States are to have sufficient explosive detection equipment to screen all checked baggage no later than December 31, 2002. The Under Secretary is to assure that all deployed systems are fully utilized. If the equipment is not available all checked baggage must be screened by an alternative means. Where EDS is not available baggage must be screened by one or more of the following: bag match program; manual search; dog sniffing; other means approved by the Under Secretary. (Sec. 110) |
| Cabin and secure area access: identification system for armed state and local law enforcement personnel | | *The Under Secretary shall establish a uniform system of identification for all state and local law enforcement personnel for use in obtaining permission to carry weapons in aircraft cabins and in obtaining access to a secured area of an airport.* (Sec. 106) | Similar to House version. (Sec. 109) |
| Carry-on baggage: medical products | | *The Under Secretary shall, in consultation with the Commissioner of Food and Drugs, develop security procedures under which a medical product to be transported on a flight of an air carrier would not be subject to manual or x-ray inspection if conducting such an inspection would irreversibly damage the product.* (Sec. 106) | Similar to House version. (Sec 109) |
| Carry-on baggage | | The Under Secretary shall develop and implement a property security program to ensure the security of all property carried on passenger aircraft by; mandating that such property is screened; or ensuring that no checked baggage is carried on the aircraft unless the passenger who checks the baggage is aboard the aircraft; or other methods. The Under Secretary shall ensure that baggage screening equipment is used to the maximum extent. (Sec. 106) | Similar to House version. (Sec. 110) |

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| Chemical and Biological Weapon Detection | DOT shall require airports to maximize the use of technology and equipment that is designed to detect potential chemical or biological weapons. (Sec. 106) | — | Similar to Senate version. (Sec. 120) |
| Cockpit (flight deck) security: arming flight deck crew with firearms | FAA is authorized to permit, a pilot, co-pilot, or flight engineer, who has successfully passed a voluntary training program and is not otherwise prohibited by law from possessing a firearm, to possess or carry a firearm approved by the FAA for the protection of the aircraft. (Sec. 125) | DOT shall not take any action to prevent a pilot of an air carrier from taking a firearm into the cockpit, if it is the policy of the air carrier to permit pilots to be armed and the pilot has successfully completed a training program for the carriage of firearms aboard aircraft that is acceptable to the Under Secretary. (Sec. 106) | A pilot of a passenger aircraft can be authorized to carry a firearm into the cockpit, if the Under Secretary approves, the air carrier approves, the firearm is approved by the Under Secretary, and the pilot has received proper training for the use of the firearm. (Sec. 129) |
| Cockpit (flight deck) security: arming flight deck crew with less-than-lethal weaponry | Calls for a National Institute of Justice Study to assess the range of less-than-lethal weapons for use by flight crews. (Sec. 122) | The Under Secretary in consultation with FAA shall develop procedures and authorize equipment for pilots and other member of the flight crew to use to defend an aircraft against acts of criminal violence or aircraft piracy. (Sec. 106) | Calls for a National Institute of Justice Study to assess the range of less-than-lethal weapons for use by flight crews. If, after reviewing the recommendations of the study and with the approval of the Attorney General and the Secretary of State, the Secretary determines it is appropriate and necessary and would serve the public interest in avoiding air piracy, the Secretary may authorize members of the flight deck crew to carry a less-than-lethal weapon. (Sec. 126) |
| Cockpit (flight deck) security measures | 1) Limits cockpit access to authorized personnel; 2) requires strengthening of cockpit door and locks to prevent their being opened from the cabin side; 3) cockpit doors must be kept locked during flight except for passage of the flight crew in and out; 4) prohibits possession of cockpit door key by any crew member who is not assigned to the flight deck; 5) take such other action, including modification of safety and security procedures, to ensure the safety and security of the aircraft. (Sec. 104) | The Under Secretary shall develop and implement methods to restrict the opening of a cockpit door during flight and to fortify cockpit doors to deny access from the cabin to the cockpit; to use video monitors or other devices to alert pilots in the cockpit to activity in the cabin; to ensure continuous operation of an aircraft transponder in the event of an emergency; and to provide for the installation of switches in an aircraft cabin to enable flight attendants to discreetly notify pilots of a security breach in the cabin. (Sec. 106) | Combines the Senate and House provisions. (Sec. 104) |
| Department of Justice for Aviation Security: report on new responsibilities | Within 120 days of enactment, the Attorney General will report to the appropriate congressional committees on the new responsibilities fo the Department of Justice for aviation security under the Act. | — | — |

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| Deputy Secretary of Transportation for Aviation Security: National Emergency Responsibilities | The Deputy Secretary shall, during a national emergency: 1)coordinate domestic transportation, including aviation, rail, and other surface transportation, and maritime transportation (including port security); 2) coordinate the transportation-related responsibilities of other departments and agencies of the federal government (excepting DOD); 3) establish uniform national standards and practices for transportation during a national emergency; 4) coordinate and provide notice [to all levels of government] about threats to transportation; 5) carry out other duties as prescribed by the Secretary of DOT. The authority of the Deputy Secretary shall not supercede the authority of any other department or agency of the federal government. The Deputy will report to Congress on an annual basis. (Sec. 102) | | Similar to the Senate version. (Sec. 101) |
| Deputy Secretary of Transportation for Aviation Security of Under Secretary for Transportation Security: transition | Provides that until the President appoints the Deputy Administrator, his/her functions will be carried out by the Assistant Administrator for Aviation Security. (Sec. 102) | Transfer of FAA authority to the Under Secretary to take place within three months. (Sec. 101) | Same as House version. (Sec. 101) |
| Deputy Secretary of Transportation for Transportation Security or Under Secretary of Transportation for Security | Creates a new position within the DOT: Deputy Secretary for Transportation Security. Appointed by the President. The Deputy Secretary shall carry out duties and powers prescribed by the Secretary relating to security of all modes of transportation. (Sec. 102) | Creates the Transportation Security Administration (TSA) to be headed by the Under Secretary of Transportation for Security. The Under Secretary is to be appointed by the President and is to be responsible for security in all modes of transportation. (Sec. 101) | Same as House version. (Sec. 101) |

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| Deputy Secretary for Transportation Security or Under Secretary of Transportation for Security: administrative authority | The Deputy Administrator shall: coordinate and direct, as appropriate, the functions and responsibilities of the Secretary of Transportation and the Administrator of FAA under 49 U.S.C. chapter 449 [Security]; work in conjunction with the Administrator of the FAA with respect to any actions or activities that may affect aviation safety or air carrier operations; and coordinate with the Attorney General and the Secretary of Defense and other federal agencies whose responsibilities for national security and criminal justice enforcement activities are related to aviation security, through the Aviation Security Coordination Council. (Sec. 102) | The Under Secretary shall be responsible for security in carrying out 49 U.S.C. chapter 449 relating to aviation security and security responsibilities currently exercised by the modal Administrations of the DOT. Duties under chapter 449 are to be assumed not later than 3 months after enactment. Upon request by the Under Secretary, an air carrier may enter into agreement with the Under Secretary to transfer any contract the carrier has entered into with respect to carrying out any screening or security function. In addition, the Under Secretary has the administrative authority over facilities, personnel, funds transfers, and acquisition at the same level as head of other DOT Administrations. (Sec. 101) | Similar to House version. (Sec. 101) |
| Duties: to Review Security Technology | The Deputy is to review and develop ways to strengthen and enhance the ability to detect nonexplosive weapons, such as biological, chemical, or similar substances; and to evaluate such additional measures to enhance physical inspection of passengers, luggage, and cargo. (Sec. 102) | The Under Secretary shall conduct research and development activities appropriate to develop, modify, test and evaluate means of protecting passengers and property against act of criminal violence and aircraft piracy. (Sec. 101) | The TSA assumes the security research and development activities currently carried out by the FAA. (Sec. 101) |
| Encouraging airline employees to report suspicious activities | Exempts airline employees from civil liability for any truthful disclosure of suspicious activities to law enforcement officials. (Sec. 121) | — | Similar to Senate version. (Sec. 125) |
| Enhanced security for aircraft | Requires FAA, within 90 days of enactment, to implement programs to provide security screening for all aircraft larger than 12,500 pounds not yet operating under security procedures prescribed by the FAA. Within one year FAA shall implement a similar program for all aircraft under 12,500 pounds. (Sec. 131) | — | — |

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| Federal Air Marshals: appointment of retired law enforcement officers and furloughed airline flight crew personnel | DOT may appoint retired law enforcement officers or retired military as a federal air marshal, regardless of age, or discharged or furloughed from a commercial airline cockpit crew position, if the individuals otherwise meets the background and fitness qualifications required of federal air marshals. (Sec. 105) | *The Under Secretary is to provide, in choosing among applicants for a position as a federal air marshal, a preference for the hiring of a pilot of an air carrier whose employment with the air carrier was terminated as a result of a reduction in the workforce of the air carrier if the pilot is otherwise qualified for the position.* (Sec. 105) | Similar to Senate version. (Sec. 105) |
| Federal Air Marshals: Interim Measures | DOT may, after consultation with the heads of other federal agencies and departments, use personnel from those agencies and departments, to provide air marshal service on domestic or international flights. (Sec. 105) | *Provides that the U.S. may use, in consultation and concurrence of the heads of federal agencies and departments, personnel from those agencies and departments, on a non-reimbursable basis, to provide air marshal service.* (Sec. 105) | Similar to House measure. (Sec. 105) |
| Federal Air Marshals: training, supervision, and flight assignments. | Within 30 days of enactment DOT will: 1) provide for deployment of federal air marshals on air transportation flights; 2) provide background and fitness checks for air marshal candidates; 3) provide for appropriate air marshal training, supervision, and equipping; 4) require air carriers to provide seating for air marshals without regard to seat availability. (Sec. 105) | The Under Secretary shall; 1) provide for appropriate background and fitness checks for candidates for appointment as federal air marshals; 2) provide for appropriate training, supervision, and equipment of federal air marshals at the FAA's facility in New Jersey; and 3) require air carriers to provide seating for a federal air marshal at no cost and regardless of availability. 4) *requires that, on a space available basis, a seat be provided to off-duty federal air marshals returning home.* (Sec. 105) | The Under Secretary shall: 1)provide for appropriate training, supervision and equipping of federal air marshals; 2) require air carriers to provide seating for an air marshal at no cost, regardless of seat availability; 3) require that, on a space-available basis, a seat be provided to off-duty federal air marshals returning home. (Sec. 105) |
| Federal Air Marshals: deployment priority | DOT may place federal air marshals on every scheduled commercial passenger flight and shall place them on every such flight determined by DOT to present high security risk. In making this determination, nonstop long-haul flights, such as those targeted on September 11, 2001, should be a priority. (Sec. 105) | The Under Secretary shall provide for deployment of federal air marshals on selected passenger flights of air carriers. (Sec. 105) | Similar to Senate version. (Sec. 105) |

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| Federal Air Marshals: Attorney General responsibilities | <p>The Attorney General shall prescribe guidelines for the training and deployment of individuals authorized, with the approval of the Attorney General, to carry firearms and make arrests under 49 U.S.C. 44903 (d).</p> <p>The Secretary of DOT shall administer the air marshal program under that section in accordance with the guidelines prescribed by the Attorney General. (Sec. 105)</p> | <p>The Under Secretary of Transportation for Security, under the authority provided the Secretary of Transportation is to administer the deployment of federal air marshals. (Sec. 105)</p> | <p>Similar to House version. (Sec. 105)</p> |
| Federal Air Marshals: assistance from armed law enforcement personnel | <p>—</p> | <p>The Under Secretary shall enter into agreements with federal, state, and local agencies under which appropriately-trained law enforcement personnel from such agencies, when traveling on a flight, will carry a firearm and be prepared to assist federal air marshals. (Sec. 106)</p> | <p>Similar to House version. (Sec. 105)</p> |
| Flight school student background checks | <p>Requires INS status, criminal history, and national security risk background checks by the Attorney General for any aliens or others specified by DOT, before they can receive training in the operation of any jet aircraft. Flight schools must submit records of aliens receiving training for jet aircraft. DOT to work with ICAO to improve international aviation security through screening programs for candidate flight students. (Sec. 111)</p> | <p>The Under Secretary shall provide for background checks of individuals seeking instruction (including training through the use of flight simulators) in flying aircraft that has a minimum certificated takeoff weight of more than 12,500 pounds. (Sec. 106)</p> | <p>Requires INS status, criminal history, and national security risk background checks by the Attorney General for any aliens or others specified by DOT, before they can receive training (including training in a simulator) in the operation of any aircraft having a maximum certificated take-off weight of 12,500 pounds or more. DOT is to work with ICAO to improve international aviation security through screening programs for candidate flight students. (Sec. 113)</p> |
| Flights to the U.S.: passenger manifests | <p>—</p> | <p>Within 60 days the Under Secretary shall require all international flights into the U.S. to transmit electronically a passenger and crew manifest including: full name; date of birth and citizenship; gender; passport number and country of issuance; U.S. visa number or resident alien card number; passenger name record; and other information determined by the Under Secretary. (Sec. 111)</p> | <p>Identical to House version. (Sec. 117)</p> |

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| Funding: Flexibility for aviation security (AIP and PFCs) | Expands the Airport Improvement Program (AIP) eligibility to permit AIP formula or discretionary funds for FY2002 be used to defray expenses imposed after Sept. 11 th by law or regulation. For FY2002 non-capital expenses, such as hiring, training , providing appropriate personnel are also made eligible. The federal share for aviation security related costs is 100%. Passenger facility charge (PFC) requests for security purposes shall receive expedited processing and approval. (Sec. 119) | Expands AIP eligibility to include: the staffing and training costs or reimbursement for law enforcement personnel at non-hub or small hub airports; in FY2002, any non-primary airport's activities, if that airport is located within the confines of enhanced class B airspace, as defined by Notice to Airmen FDC 1/0618 issued by the FAA; in FY2002, payments for debt service on indebtedness incurred *by a sponsor or at a privately owned or operated airport passenger terminal financed by indebtedness incurred by the sponsor*, to carry out a project if the Secretary determines that such payments are necessary to prevent default. The federal share for these specific costs (but not all capital costs) is 100%. (Sec. 113) | Blend of House and Senate versions. (Sec. 119) |
| Funding: Authorization | <p>Authorizes such sums as may be necessary for aviation security funding for fiscal years 2002, 2003, and 2004. (Sec. 118)</p> <p>Employment authorization: the Attorney General is authorized to employ, appoint, and fix the compensation of such a number of individuals as may be necessary to carry out 49 U.S.C. 44901, Screening of Passengers and Property, and 49 U.S.C. 44903 [Air Transportation Security], for such a number of individuals as the Attorney General determines to be necessary to carry out the passenger security screening functions under 49 U.S.C. 44901. (Sec. 109)</p> | <p>Authorizes such sums as may be necessary for the operations of the TSA. Authorizes \$500 million to fortify cockpit doors, install video monitors, and continuous transponders. Authorizes, for FY2002 *and FY2003*, \$1.5 billion to reimburse airport operators for direct costs incurred to comply with new additional or revised security requirements imposed on airport operators by the FAA on or after Sept. 11, 2001. *Requires airport operators to provide DOT with assurances that they will meet with airport tenants to discuss rent adjustments to account for losses in revenue incurred by the tenants on and after September 11. Operators must provide DOT with an itemized list of costs incurred by the operator to comply with the security requirements and include costs relating to landing fees, automobile parking revenues, rental cars, restaurants and gift shops.* (Sec. 109)</p> | <p>Authorizes such sums as may be necessary for fiscal years 2002,2003,2004,2005 for security activities. Also authorizes \$500 million for FY2002 to fortify cockpit doors, provide for cabin video monitoring, to ensure continuous transponder use, and other technologies. (Sec. 118)</p> <p>In addition, ATSA authorizes for FY2002 and FY2003, \$1.5 billion to reimburse airport operators and vendors of on-airfield services for the direct costs incurred to comply with new, additional or revised security requirements imposed on such operators by the FAA. (Sec. 121)</p> |

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| Funding: Security fee | DOT is to collect a user fee from commercial air carriers to offset the Department's costs of providing aviation security services to air carriers. Commercial air carriers are to pay \$2.50 for each passenger enplanement. The amounts collected may be used solely for the costs associated with providing aviation security services and may be used only to the extent provided in advance in an appropriation law. Effective 180 days after enactment. (Sec.118) | Within 60 days of enactment, the Under Secretary is to impose a fee on airline passengers on flights originating at airports in the U.S. to pay for the costs of screening passengers and property. The revenues are to be treated as offsetting collections. The costs are limited to salaries and benefits of screening personnel, supervisors, trainers and for the acquisition, operation and maintenance of their equipment. The fee may not exceed \$2.50 on a 1-way trip. In addition to the fee, the Under Secretary may impose a fee on air carriers to pay for any difference between the costs and the amount collected under the passenger fee. Air carriers are not to pay more than they payed for screening activities in 2000. (Sec. 108) | The Under Secretary shall impose a fee on passengers on flights originating in the U.S. The fee is not to exceed \$2.50 per enplanement or \$5 for each one-way trip. The revenues are to be treated as off-setting receipts. The fee is to pay for the costs of Salary, benefits, retirement, etc. for screening personnel, their supervisors and managers and federal law enforcement personnel at airports; for training costs; for background check costs; for the Federal Air Marshals program; and for security research. If the passenger fee is insufficient a fee may be imposed on air carriers but they are not to pay more than their costs for security screening in calendar year 2000. (Sec. 116) |
| Funding: amending the Air Transportation Stabilization Act (P.L. 107-42) to compensate air ambulance services | -- | *The President may set aside a portion of the amount payable to air carriers under section 101(a)(2) of the Transportation Safety and System Stabilization Act (P.L. 107-42), to provide compensation to air carriers providing air ambulance services. The \$4.5 billion provided in the Act will be reduced by the amount set aside.* (Sec. 114) | Similar to House version. (Sec. 125) |
| General Aviation and Air Charter Security Report | DOT shall submit to the Congress within three month after the date of enactment a report on how to improve security with respect to general aviation and air charter operations in the U.S. (Sec. 15) | — | Similar to Senate version. |

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| Liability limitation for damages arising out of the crashes of September 11 | | *Amends the Air Transportation Safety and System Stabilization Act (P.L. 107-42) to prohibit any federal court or agency or state court or agency from enforcing a federal or state law holding any person, or any state or political subdivision thereof, liable for any damages arising out of the hijacking and subsequent crashes of Sept. 11, 2001. If any party to action is determined to be liable—total damages ordered by the court may not exceed the amount of insurance minus any payments made pursuant to a court approved settlement, which such party is determined to have obtained prior to September 11, and which is determined to cover liability for any damages arising out of the hijacking and subsequent crashes of Sept. 11. The party shall not be liable for interest prior to judgement or for punitive damages. The court shall reduce damages awarded to a plaintiff by the amount of collateral source compensation that the plaintiff has received or is entitled to receive. Attorney fees are subject to the discretion of the court but are not to exceed 20%. Exempts from these provisions the hijackers or conspirators.* (Sec. 201) | Similar to House version, however, ATSA does not protect airport security contractors from liability. (Sec. 201) |
| Limitation on liability for acts to thwart criminal violence or aircraft piracy | | An individual shall not be liable in any action in a federal or state court arising out of the acts of the individual in attempting to thwart an act of criminal violence or piracy on an aircraft if that individual in good faith believed that such an act was occurring or was about to occur. (Sec. 110) | Similar to House version. (Sec. 144) |
| Mail and freight waivers | During a national emergency, the Secretary of DOT in consultation with the ASCC may grant a full or partial waiver of restrictions on the carriage by aircraft of freight, mail, emergency medical supplies, personnel, or patients on aircraft. (Sec. 123) | The Under Secretary may grant a waiver similar to S. 1447, except that the waiver is limited to flights to or from a community that is not accessible by road, or is more than 200 miles from a hub airport and there does not have to be a national emergency. The waiver is subject to review and limitation by the TSOB. (Sec. 120) | Similar to Senate version. (Sec. 127) |

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| National air space restrictions | Within 30 days of enactment the President shall submit to certain congressional committees a report describing any remaining restrictions that are a result of the Sept. 11 th attacks and a justification for such restriction remaining place. (Sec. 129) | Rescinds any Notice to Airmen FDC 1/0618 issued by the FAA, or any other regulation, order, or directive that restricts U.S. registered aircraft in enhanced class B airspace, on the 10 th day following enactment. (Sec. 119) | Upon the request of an operator of an aircraft affected by the restrictions imposed under notice to Airmen FDC 1/0618 or any other notice issued after 9/11 that restricted registered aircraft from operating in class B air space, such restrictions shall cease to be in effect 30 days after the request unless DOT publishes a notice in the Federal Register before the 30 th day reimposing the restriction and explaining why. (Sec. 146) |
| Penalties for Interference With Security Personnel | An individual within the airport jurisdiction of the U.S. who, by assaulting or intimidating a federal, airport, or air carrier employee who has security duties within the airport interferes with the performance of the duties of the employee, shall be fined under title 18, imprisoned for not more than 10 years, or both. If a dangerous weapon is used, the individual may be imprisoned for any term of years or for life. (Sec. 16) | — | Senate provision. (Sec. 114) |
| Screening passengers and property: Deputizing state and local Law enforcement personnel Deputizing current contractor personnel | Amends the Wendell H. Ford Aviation Investment and Reform Act to permit the deputizing of state and local law enforcement officers to function as airport security screeners. (Sec. 108) | *The Under Secretary shall deputize, for enforcement of such federal laws as the Under Secretary determines appropriate, all airport screening personnel as federal transportation security agents and shall ensure that such agents operate under common standards and common uniform, insignia, and badges. The authority to arrest an individual may be exercised only by supervisory personnel who are sworn, full-time law enforcement officers.* (Sec. 102) | — |
| Security Screening by private companies | — | — | The Under Secretary shall establish a pilot program of up to 5 airports using private screening companies. (Sec. 108) |
| Screening passengers and property at small community airports | Allows small nonhub commercial airports to use state or local law enforcement personnel. Screening services must be at the same level as at checkpoints staffed by federal screeners. The Attorney General in consultation with DOT may modify the requirements under certain circumstances. (Sec. 108) | — | — |

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| Screening passengers and property: employee screening | The Attorney General shall provide for the screening of all persons, including airport, air carrier, foreign air carrier, and airport concessionaire employees, before they are allowed into sterile or secure areas of the airport, as determined by the Attorney General. The use of available nonintrusive and other inspection and detection technology is to be maximized. (Sec. 108) | | Similar to Senate provision. (Sec. 106) |
| Screening passengers and property: cross-checking security-related databases and other shared-data systems | DOT shall explore the feasibility of establishing and implementing a system for cross-checking data on individuals identified on all federal agency security-related data bases. (Sec. 103) | The Under Secretary, in consultation with air carriers and other government agencies, establish policies and procedures requiring air carriers to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation and , if an individual is identified, to notify appropriate law enforcement agencies and prohibit the individual from boarding an aircraft. (Sec. 106) | The Under Secretary is to work with the TSOB to explore the feasibility of developing a common database of individuals who may pose a threat to transportation or security. (Sec. 102) |
| Screening Passengers and Property: Manual process | The Attorney General shall require manual searches at explosive detection system screening locations in airports where explosive detection equipment is underutilized. This is to augment the Computer Assisted Passenger Pre-screening System (CAPPS) selections to assure that the minimum number of bags, prescribed by the Attorney General, is searched. In setting the number of bags to be searched, the Attorney General is to seek to maximize the use of the explosive detection equipment. (Sec. 108) | The Under Secretary shall require a manual process at explosive detection system screening locations in airports where explosive detection equipment is underutilized. This is to augment the Computer Assisted Passenger Pre-screening System (CAPPS) selections to assure that the minimum number of bags, prescribed by the Under Secretary, is searched. (Sec. 103) | Similar to House version. (Sec. 110) |

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| Screening passengers and property: the agency responsible and its role | <p>The Dept. of Justice under the Attorney General, in consultation with the Secretary of DOT, shall be responsible for the screening of all passengers and property, including the U.S. mail, cargo, carry-on and checked baggage, carried aboard or in the cabin of a commercial aircraft.</p> <p>The screening must: 1) be done prior to boarding and 2) be carried out by federal government personnel (except at small community airports). DOT is to maximize the use of available nonintrusive and other inspection and detection technology approved by the FAA.(Sec. 108)</p> | <p>The Transportation Security Administration (TSA), under the Under Secretary of Transportation for Security assumes the responsibility for the screening of passengers and property on passenger aircraft that, on date of enactment, was performed by an employee or agent of an air carrier, intrastate air carrier or foreign air carrier. *The Under Secretary may perform any additional screening that the Under Secretary deems necessary.* The Under Secretary shall prescribe regulations requiring screening of all passengers and property that will be carried in a cabin of an aircraft.</p> <p>The screening must: 1) be done prior to boarding; 2) be done by persons and procedures acceptable to the Under Secretary; 3) be supervised by uniformed federal personnel of the TSA who shall have the power to order the dismissal of nay individual performing such screening. (Sec. 102)</p> | Blend of both versions. Federal employees must do the screening after one year. (Sec. 110) |
| Screening program: opting-out of the federal screening system | — | — | If two years after the federalization of the airport security screening is certified. Airports may apply to opt out of the use of federal screeners in favor of hiring private screeners. (Sec. 108) |
| Screening Passengers and property: security firm ownership | — | *Requires that any private security firm retained to provide airport security services be owned and controlled by a citizen of the United States, to the extent that the President determines that there are firms owned and controlled by such citizens.* (Sec. 104) | Similar to House version. (Sec. 108) |

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| Security Screening Personnel: Hiring Qualifications and Employment Standards | Within 30 days of enactment the Attorney General will develop a plan for training of federal airport security screening personnel, which shall, at a minimum, require an individual to 1) get a satisfactory score on the screening exam; 2) have been a national of the U.S. for at least 5 consecutive years; 3) have passed a drug test; 4) have at least a high school diploma; 5) have a variety of physical abilities needed to properly operate the equipment and perform searches; 6) be able to adequately read, write, and speak English. 7) pass a rigorous background check. 8) pass an annual proficiency review. (Sec 109) | The Under Secretary shall prescribe employment standards for persons who screen passengers and property, which shall include: a requirement that all personnel who screen passengers and property be citizens of the United States; a preference for hiring retired armed forces personnel. Until the final rule is issued the bill specifies an number of requirements including: 1) a high school diploma, GED, or their equivalent; 2) a variety of physical abilities needed to properly operate the equipment and perform searches; *the ability to demonstrate daily a fitness for duty without any impairment due to illegal drugs, sleep deprivation, medication or alcohol*; and 3) an adequate command of English. (Sec. 104) | Blend of Senate and House versions. (Sec. 111) |
| Security screening personnel: suspension and removal | The Attorney General, notwithstanding any other provision of law, may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of federal service for such a number of individuals as the Attorney General determines to be necessary to carry out passenger screening functions. (Sec. 109) | The uniformed federal personnel of the TSA who shall supervise all screening of passengers and property at airports shall have the power to order the dismissal of any individual performing such screening. (Sec. 104) | Similar to Senate version. The report language asserts that it is the expectation of the conferees that employees shall receive the standard health, workers compensation, and retirement benefits received by federal employees. (Sec. 111) |
| Security screening personnel: strike prohibition | Applies the prohibition against strikes by federal workers to security screeners. (Sec. 109) | Individuals that screen passengers or property, or both, at an airport may not participate in a strike or assert the right to strike, against the person (including a governmental entity) employing such an individual. (Sec. 104) | |
| Security screening personnel: qualification standards | The Attorney General shall establish, within 30 days of enactment, qualification standards for individuals to be hired by the United States as airport security screening personnel, who must: 1) have a satisfactory or better score on a federal security screening personnel selection exam; 2) be a U.S. citizen; 3) meet the employment history verification and criminal history record check requirements of 14 C.F.R. 107.31; and 4) pass a drug test. (Sec. 109) | Per 49 U.S.C. 44935, as amended by the Act, the Under Secretary is to prescribe standards, within 6 months of enactment, for the employment of security screeners. (Sec. 104) | Similar to Senate version. (Sec. 111) |

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| Security screening personnel: authorization of employment | The Attorney General is authorized to employ, appoint, and fix the compensation of such a number of individuals as may be necessary to carry out 49 U.S.C. 44901, Screening of Passengers and Property, and 49 U.S.C. 44903 [Air Transportation Security], for such a number of individuals as the Attorney General determines to be necessary to carry out the passenger security screening functions under 49 U.S.C. 44901. (Sec. 109) | --- | --- |
| Security Screening Personnel: Training | The Attorney General, within 60 days of enactment, is to develop a plan for the training of security screening personnel. The plan shall, at a minimum, require: 40 hours of classroom instruction; 60 hours of on the job instruction; successful completion of an on-the-job examination (training must be equipment specific). DOT will require training in the most up-to-date equipment. DOT must make periodic assessments of dual-use items (e.g. box cutters) and inform screening personnel. (Sec. 109) | Within 6 months of enactment, the Under Secretary shall issue a final rule on the certification of screening companies. The Secretary shall require 1) all screeners, screener supervisors, and screener instructors to have satisfactorily completed all initial, recurrent, and appropriate specialized training necessary to ensure compliance with the requirements of section 44935 [Employment Standards and Training]. 2) during on-the-job training, may perform security functions if the individual is closely supervised and does not make independent judgments; 3) individuals that fail an operational test may not perform screening until the individual has successfully completed remedial training. (Sec. 104) | Similar to Senate version. (Sec. 111) |
| Security screening personnel: testing | The Attorney General must by rule require all federal screeners to be tested for proficiency not less than once each year. In addition the Attorney General shall also provide for the operational testing of such personnel. (Sec. 109) | The Under Secretary shall develop standards and procedures, *and performance goals*, for the issuance, renewal, and revocation of a certificate of qualification for airport security screeners. Also shall provide for the use of threat image projection or similar devices to test screeners and establish procedures to revoke screener certification for screeners that fail to maintain a required level of proficiency. (Sec. 106) | Similar to Senate version. (Sec. 111) |
| Security personnel: alcohol and drug testing | --- | The authority of FAA to test airport security screening personnel are transferred to the Under Secretary. Requires testing of these employees by their employers instead of by air carriers. Applies to FAA safety-sensitive employees and TSA employees whose duties include responsibility for security-sensitive functions. (Sec. 115) | Similar to House version. (Sec. 111) |

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| Security technologies deployment: deployment of emerging technologies | Within 6 months the Deputy Secretary for Aviation Security shall assess: the effectiveness of biometric system currently in use; the effectiveness of increased surveillance at access points; the effectiveness of card or key pad-based access systems; emergency exit systems; the elimination of the "piggy-backing" phenomenon. The Deputy shall commence deployment of short-term upgrades to CAPPs and the distribution of "watch list" information. (Sec. 211) | — | — |
| Security technologies deployment: research and development | Authorizes an additional \$50 million annually for FY2002 through FY2006 for research in security technologies. Also authorizes \$20 million for the FAA to issue research grants in conjunction with the Defense Advanced Research Projects Agency for research in longer term improvements to airport security including weapons detection, secure information networking, biometric, and other technologies for preventing acts of terrorism in aviation. (Sec. 221) | — | Similar to Senate version. (Sec. 137) |
| Ticket provision: honoring other air carrier tickets on war or terrorism impacted routes | — | *Provides that air carriers must honor other air carriers' tickets on a route where an air carrier has had to suspend, interrupt or discontinue air passenger service because of an act of war or terrorism.* (Sec. 122) | Same as House version. (Sec. 145) |
| Voluntary provision of emergency services during commercial flights | DOT is to carry out a program to permit qualified law enforcement officers, firefighters, and emergency medical technicians to provide emergency services on commercial air flights during emergencies. Exempts volunteers from liability. (Sec. 130) | — | Similar to Senate version. (Sec. 131) |