

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2200) TO AUTHORIZE
THE TRANSPORTATION SECURITY ADMINISTRATION'S PROGRAMS RE-
LATING TO THE PROVISION OF TRANSPORTATION SECURITY, AND FOR
OTHER PURPOSES

MAY 21, 2009.—Referred to the House Calendar and ordered to be printed

Mr. PERLMUTTER, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 474]

The Committee on Rules, having had under consideration House Resolution 474, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2200, the “Transportation Security Administration Authorization Act,” under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Homeland Security.

The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Homeland Security shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute except those arising under clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments except those arising under

clause 9 or 10 of rule XXI are waived. Finally, the rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill (except those arising under clause 9 or 10 of rule XXI) includes a waiver of clause 3(b) of rule XIII (requiring the results of any roll call votes in the committee report). Although the rule waives all points of order against the amendment in the nature of a substitute (except those arising under clause 10 of rule XXI), the Committee is not aware of any points of order. The waiver of points of order is prophylactic.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 101

Date: May 21, 2009.

Measure: H.R. 2200.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Lungren (CA), #14, which would require the Federal Air Marshals Service to require air marshals hired no sooner than 30 days after enactment to complete the criminal investigative training program at the Federal Law Enforcement Training Center. A marshal who has previously completed the course shall not be required to repeat it. Not later than 3 years after enactment, an air marshal hired before such date who has not completed the course shall be required to complete an alternative training program.

Results: Defeated 3–7.

Vote by Members: McGovern—Nay; Hastings—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 102

Date: May 21, 2009.

Measure: H.R. 2200.

Motion by: Mr. Diaz-Balart.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Miller, Jeff (FL)/Reyes (TX), #8, which would direct the TSA to transfer annually all unclaimed monies left behind by airline passengers at airport security checkpoints to the United Services Organization, Inc., for its airport programs in support of U.S. Armed Services members.

Results: Defeated 3–7.

Vote by Members: McGovern—Nay; Hastings—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Foxx—Yea; Slaughter—Nay.

Rules Committee record vote No. 103

Date: May 21, 2009.

Measure: H.R. 2200.

Motion by: Dr. Foxx.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Souder (IN), #6, which would replace section 405 to require that all detainees held at Naval Station Guantanamo Bay as of January 1, 2009, be placed on the TSA No Fly list.

Results: Defeated 3–7.

Vote by Members: McGovern—Nay; Hastings—Nay; Arcuri—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Diaz-Balart—Yea; Foxx—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENTS TO BE MADE IN ORDER

1. Bennie Thompson (MS) Would clarify which aviation facilities qualify for general aviation security grants, including helicopter operators and heliports, establishes a plan and implements a program for screening air passengers with metal implants, improves transportation security assistance, studies the creation of new transportation security positions at TSA, and has a GAO review of other transportation security functions at TSA. (10 minutes)

2. Mica (FL)/Ehlers (MI)/Graves (MO)/Petri (WI) Would alter the standard for when TSA can issue an emergency regulation or security device without adhering to the rule making and public notice and comment provisions of the Administrative Procedures Act (APA). Would allow TSA to issue a regulation or security directive when needed “to respond to an imminent threat of finite duration” and would require TSA to comply with the rule making requirements of the APA when a security directive or emergency order has been in place for more than 180 days. (10 minutes)

3. Mica (FL) Requires the Assistant Secretary to establish a “known air traveler credential” that incorporates biometric identifier technology. (10 minutes)

4. Bachus (AL)/Dennis Moore (KS) Would direct the Transportation Security Administration (TSA) to develop and implement an expedited security screening program for members of the Armed Forces traveling on official orders while in uniform through commercial airports. Additionally, family members would be eligible to accompany the servicemembers through the expedited screening process onto the concourse. (10 minutes)

5. Alcee Hastings (FL) Requires the TSA, within 6 months of enactment, to submit a report to Congress on complaints and claims received by the TSA for loss of property with respect to passenger baggage screened by the TSA. (10 minutes)

6. Lincoln Diaz-Balart (FL) Would reimburse airports for eligible costs incurred before August 3, 2007, that were previously reimbursed at 90% of such costs. The Secretary would reimburse such airports an amount equal to the difference for such eligible costs. (10 minutes)

7. Castor (FL) Would direct the Secretary of Homeland Security to prohibit states from requiring separate security background checks for transportation security cards, and waives application of the prohibition if a compelling homeland security reason necessitates a separate background check. (10 minutes)

8. Jeff Flake (AZ) Would prevent earmarking in a new grant program established in the bill, and would clarify that Congress presumes that grants awarded through that program will be awarded

on a risk-based competitive basis, and if they are not, require the Assistant Secretary to submit a report to Congress explaining the reason. (10 minutes)

9. Lynch (MA) Would provide that any TSA personnel voluntarily may wear personal protective equipment (including surgical and N95 masks, gloves, and hand sanitizer) during any public health emergency. (10 minutes)

10. Chaffetz (UT)/Shea-Porter (NH) Would prohibit the TSA from using Whole Body-Imaging machines for primary screening at airports, and would require the TSA to give passengers the option of a pat-down search in place of going through a WBI machine, information on the images generated by the WBI, the privacy policies in place, and the right to request a pat-down search, and would prohibit the TSA from storing, transferring, or copying the images. (10 minutes)

11. Bordallo (GU) Would direct the Secretary of Homeland Security to report to Congress on a review to be conducted by the Transportation Security Administration (TSA) for preferred and alternative methods of having the airports in U.S. territories comply with TSA security regulations. The report would also address the cost differences and financing opportunities for such airports to fully comply with the TSA regulations. (10 minutes)

12. Doc Hastings (WA)/Mike Rogers (AL)/Jackson-Lee (TX) Would require TSA to increase the number of canine detection teams used for air cargo screening by a minimum of 100 from the date of enactment. (10 minutes)

13. Butterfield (NC) Would require a study on the use of the combination of facial and iris recognition to rapidly identify individuals in security checkpoint lines. The study would focus on increased accuracy of facial and iris recognition and the possibility of using this advanced technology broadly for accurate identification of individuals. (10 minutes)

14. Roskam (IL) Would require the Secretary of Homeland Security to collect public comments from transit agencies to determine the extent to which current allowable uses of grant funds under the Transit Security Grant Program are sufficient to address security improvement priorities identified by transit agencies. Where security improvement priorities identified by local transit agencies are not met by the regulations implementing the grant program, the Secretary will report to Congress on how such regulations should be changed to accommodate them or why these are not appropriate priorities. (10 minutes)

TEXT OF AMENDMENTS TO BE MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE THOMPSON OF MISSISSIPPI, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike section 103 of the bill (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly.

In section 206 of the bill in the matter to be proposed to be inserted in section 44924(f), strike “**FOREIGN**” in the section heading.

In section 206 of the bill in the matter to be proposed to be inserted in section 44924(f), insert “and domestic” after “foreign”.

In section 206 of the bill, insert “security” after “comparable”.

In section 210 of the bill in the matter proposed to be inserted as section 44947(b)(1) of title 49, United States Code, strike “facilities general aviation aircraft,” and insert “facilities, general aviation aircraft, heliports,”.

In section 212 of the bill, in the matter proposed to be inserted in section 44903(m) of title 49, United States Code, strike paragraphs (1) through (3) and insert the following:

“(m) SECURITY SCREENING OF INDIVIDUALS WITH METAL IMPLANTS TRAVELING IN AIR TRANSPORTATION.—

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

“(2) PLAN.—Not later than 6 months after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall submit a plan to the Committee on Homeland Security of the House of Representatives for improving security screening procedures for individuals with metal implants to limit disruptions in the screening process while maintaining security. The plan shall include an analysis of approaches to limit such disruptions for individuals with metal implants, and benchmarks for implementing changes to the screening process and the establishment of a credential or system that incorporates biometric technology and other applicable technologies to verify the identity of an individual who has a metal implant.

“(3) PROGRAM.—Not later than 12 months after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall implement a program to improve security screening procedures for individuals with metal implants to limit disruptions in the screening process while maintaining security, including a credential or system that incorporates biometric technology or other applicable technologies to verify the identity of an individual who has a metal implant.

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

Strike section 228 of the bill (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly.

In section 233(2) of the bill, insert “any” before “requirements”.

In section 234 of the bill, strike the section heading and insert the following: **“TRUSTED PASSENGER/REGISTERED TRAVELER PROGRAM.”**

In section 234 of the bill, insert “a trusted passenger program, commonly referred to as” before “the Registered”.

Strike section 307 of the bill and insert the following: (and conform the table of contents accordingly):

SEC. 307. IMPROVEMENT OF PUBLIC TRANSPORTATION SECURITY ASSISTANCE.

(a) IN GENERAL.—Section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135; Public Law 110–53) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by inserting “bollards,” after “including”; and

(B) in subparagraph (D), by inserting after “including” the following: “projects for the purpose of demonstrating or assessing the capability of such systems and”;

(2) by redesignating subsections (e) through (k) as subsections (f) through (l), respectively;

(3) by redesignating subsections (l) and (m) as subsections (n) and (o), respectively;

(4) by inserting after subsection (d) the following new subsection (e):

“(e) PROCEDURE.—

“(1) TIMELINE.—

“(A) AVAILABILITY OF APPLICATIONS.—Applications for grants under this section for a grant cycle shall be made available to eligible applicants not later than 30 days after the date of the enactment of the appropriations Act for the Department of Homeland Security for the same fiscal year as the grant cycle.

“(B) SUBMISSION OF APPLICATIONS.—A public transportation agency that is eligible for a grant under this section shall submit an application for a grant not later than 45 days after the applications are made available under subparagraph (A).

“(C) ACTION.—The Secretary shall make a determination approving or rejecting each application submitted under subparagraph (B), notify the applicant of the determination, and immediately commence any additional processes required to allow an approved applicant to begin to receive grant funds by not later than 60 days after date on which the Secretary receives the application.

“(2) PROHIBITION OF COST-SHARING REQUIREMENT.—No grant under this section may require any cost-sharing contribution from the grant recipient or from any related State or local agency.

“(3) ANNUAL REPORT.—Not later than the date that is 180 days after the last determination made under paragraph (1)(C) for a grant cycle, the Secretary shall submit to the Committees on Appropriations and Homeland Security of the House of Representatives and the Committees on Appropriations and Homeland Security and Governmental Affairs of the Senate a report that includes a list of all grant awarded under this section for that grant cycle for which the grant recipient is not, as of such date, able to receive grant funds and an explanation of why such funds have not yet been released for use by the recipient.

“(4) PERFORMANCE.—

“(A) DURATION.—The performance period for grants made under this section shall be a period of time not less than 36 months in duration.

“(B) TIMING.—The performance period for any grant made under this section shall not begin to run until the recipient of the grant has been formally notified that funds provided under the terms of the grant have been released for use by the recipient.”.

(5) by inserting after subsection (l), as redesignated by paragraph (2) of this section, the following new subsection (m):

“(m) ACCESS.—The Secretary shall ensure that, for each grant awarded under this section, the Inspector General of the Department is authorized to—

“(1) examine any records of the grant recipient or any contractors or subcontractors with which the recipient enters into a contract, or any State or local agency, that directly pertain to and involve transactions relating to grants under this section; and

“(2) interview any officer or employee of the recipient, any contractors or subcontractors with which the recipient enters into a contract, or State or local agency regarding such transactions.”; and

(6) in subsection (o), as redesignated by paragraph (3) of this section—

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

“(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to make grants under this section—

“(A) \$900,000,000 for fiscal year 2010, except that not more than 30 percent of such funds may be used for operational costs under subsection (b)(2) of this section; and

“(B) \$1,100,000,000 for fiscal year 2011, except that not more than 30 percent of such funds may be used for operational costs under subsection (b)(2) of this section.”;

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

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

“(3) EXCEPTION.—The limitation on the percentage of funds that may be used for operational costs under paragraph (1) shall not apply to any costs involved with or relating to explosives detection canine teams acquired or used for the purpose of securing public transportation systems or facilities.”.

(b) TECHNICAL ASSISTANCE PILOT PROGRAM.—

(1) PILOT PROGRAM REQUIRED.—

(A) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Assistant Secretary shall conduct and complete a pilot program to provide grants to not more than 7 public transportation agencies eligible for security grants under section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135; Public Law 110–53) for the purpose of obtaining external technical support and expertise to assist such agencies in conducting comprehensive security risk assessments of public transportation systems, resources, and facilities.

(B) **METHODOLOGY.**—Not later than 60 days after the date of the enactment of this Act, the Assistant Secretary shall identify—

(i) a comprehensive risk methodology for conducting comprehensive security risk assessments using grants made under this subsection that accounts for all three elements of risk, including threat, vulnerability, and consequence; and

(ii) an approved third-party provider of technical support and expertise for the purpose of providing external assistance to grantees in conducting comprehensive security risk assessments.

(C) **PARTICIPANTS.**—

(i) **IN GENERAL.**—In selecting public transportation agencies to participate in the pilot program, the Assistant Secretary shall approve eligible agencies based on a combination of factors, including risk, whether the agency has completed a comprehensive security risk assessment referred to in subparagraph (B)(i) within a year preceding the date of enactment of this Act, and geographic representation.

(ii) **PRIOR EFFORTS.**—No eligible public transportation agency may be denied participation in the pilot program on the grounds that it has applied for other grants administered by the Department for the purpose of conducting a comprehensive security risk assessment.

(D) **PROHIBITIONS.**—In carrying out the pilot program the Assistant Secretary shall ensure that—

(i) grants awarded under the pilot program shall supplement and not replace other sources of Federal funding;

(ii) other sources of Federal funding are not taken into consideration when assistance is awarded under the pilot program; and

(iii) no aspect of the pilot program is conducted or administered by a component of the Department other than the Transportation Security Administration.

(2) **REPORT.**—Not later than 180 days after the completion of the pilot program, the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives a report on the results of the pilot program, including an analysis of the feasibility and merit of expanding the pilot program to a permanent program and any recommendations determined appropriate by the Assistant Secretary.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—Of amounts made available pursuant to section 101 for fiscal year 2010, \$7,000,000 shall be available to the Assistant Secretary to carry out this subsection. Any amount made available to the Assistant Secretary pursuant to this paragraph shall remain available until the end of fiscal year 2011.

(c) **REPORT ON RECOMMENDATIONS OF COMPTROLLER GENERAL.**—

(1) **REPORT REQUIRED.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of

the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the status of the Secretary's implementation of the recommendations of the Comptroller General with respect to the improvement of the administration of security grants under section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135; Public Law 110–53).

(2) **REVIEW BY INSPECTOR GENERAL.**—Before the Secretary submits the report required under paragraph (1), the report shall be reviewed by the Inspector General of the Department of Homeland Security. When the Secretary submits the report to Congress under paragraph (1), the Secretary shall include with the report documentation verifying that the report was reviewed by the Inspector General in accordance with this paragraph.

At the end of title III of the bill, insert the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly):

SEC. 312. DEPUTY ASSISTANT SECRETARY FOR SURFACE TRANSPORTATION SECURITY.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the Transportation Security Administration's capacity to address surface transportation security would be enhanced significantly by establishing a position of Deputy Assistant Secretary for Surface Transportation Security to lead the Transportation Security Administration's surface transportation security mission; and

(2) a Deputy Assistant Secretary for Surface Transportation Security could provide the focused leadership and resource management necessary to implement the policies and programs that are critical to securing surface transportation modes and ensure the effectiveness of the Surface Transportation Security Inspection Office, security policy and grant functions affecting surface transportation modes, and the Transit Security Advisory Committee.

(b) **REPORT.**—

(1) **IN GENERAL.**—Not later than 270 days after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the feasibility and merit of establishing a Deputy Assistant Secretary for Surface Transportation Security in the Transportation Security Administration to reflect the reality of security threats that are faced by all modes of transportation in the United States and also whether establishing the position of a Deputy Assistant Secretary for Aviation Security would more effectively streamline or enhance the operational and policymaking capabilities of the Transportation Security Administration for all transportation modes.

(2) **RECOMMENDATIONS.**—The Inspector General shall include in the report recommendations on—

(A) the most effective and efficient ways to organize offices, functions, personnel, and programs of the Transportation Security Administration under or among all respective Deputy Assistant Secretary positions to be created;

(B) what offices, functions, personnel, and programs of the Transportation Security Administration would best remain outside of the scope of any new Deputy Assistant Secretary positions in order that such offices, functions, personnel, and programs maintain the status of reporting directly to the Assistant Secretary; and

(C) any other relevant matters, as the Inspector General determines appropriate.

In the heading of title IV of the bill, strike “**CREDENTIALING**” and insert “**ENHANCEMENTS**”.

In the heading of subtitle A of title IV of the bill, strike “**Credentialing**” and insert “**Enhancements**”.

Add at the end of subtitle A of title IV of the bill the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

SEC. 406. PIPELINE SECURITY STUDY.

(a) **STUDY.**—The Comptroller General shall conduct a study regarding the roles and responsibilities of the Department of Homeland Security and the Department of Transportation with respect to pipeline security. The study shall address whether—

(1) the Annex to the Memorandum of Understanding executed on August 9, 2006, between the Department of Homeland Security and the Department of Transportation adequately delineates strategic and operational responsibilities for pipeline security, including whether it is clear which Department is responsible for—

(A) protecting against intentional pipeline breaches;

(B) responding to intentional pipeline breaches; and

(C) planning to recover from the effects of intentional pipeline breaches;

(2) the respective roles and responsibilities of each Department are adequately conveyed to relevant stakeholders and to the public; and

(3) the processes and procedures for determining whether a particular pipeline breach is a terrorist incident are clear and effective.

(b) **REPORT ON STUDY.**—Not later than 180 days after the date of enactment of this section, the Comptroller General shall submit to the Committee on Homeland Security in the House of Representatives a report containing the findings of the study conducted under subsection (a).

(c) **REPORT TO CONGRESS.**—Not later than 90 days after the issuance of the report regarding the study conducted pursuant to this section, the Secretary of Homeland Security shall review and analyze the study and submit to the Committee on Homeland Security of the House of Representatives a report on such review and analysis, including any recommendations for—

(1) changes to the Annex to the Memorandum of Understanding described in subsection (a)(1); and

(2) other improvements to pipeline security activities at the Department of Homeland Security.

At the end of subtitle A of title IV (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

SEC. 407. TRANSPORTATION SECURITY ADMINISTRATION CENTRALIZED TRAINING FACILITY.

(a) **STUDY.**—The Secretary of Homeland Security shall carry out a study on the feasibility of establishing a centralized training center for advanced security training provided by the Transportation Security Administration for the purpose of enhancing aviation security.

(b) **CONSIDERATIONS.**—In conducting the study, the Secretary shall take into consideration the benefits, costs, equipment, personnel needs, and building requirements for establishing such a training center and if the benefits of establishing the center are an efficient use of resources for training transportation security officers.

(c) **REPORT.**—Not later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report regarding the results of the study.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MICA OF FLORIDA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle B of title II of the bill, add the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

SEC. 240. ISSUANCE OF REGULATIONS AND SECURITY DIRECTIVES USING EMERGENCY PROCEDURES.

(a) **IN GENERAL.**—Section 114(l) of title 49, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A) by striking “immediately in order to protect transportation security” and inserting “in order to respond to an imminent threat of finite duration”; and

(B) in subparagraph (B) by inserting “to determine if the regulation or security directive is needed to respond to an imminent threat of finite duration” before the period at the end of the first sentence;

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

“(3) **FACTORS TO CONSIDER.**—

“(A) **IN GENERAL.**—In determining whether to issue, rescind, or revise a regulation or security directive under this subsection, the Under Secretary shall consider, as factors in the final determination—

“(i) whether the costs of the regulation or security directive are excessive in relation to the enhancement of security the regulation or security directive will provide;

“(ii) whether the regulation or security directive will remain effective for more than a 90-day period; and

“(iii) whether the regulation or security directive will require revision in the subsequent 90-day period.

“(B) AUTHORITY TO WAIVE CERTAIN REQUIREMENTS.—For purposes of subparagraph (A)(i), the Under Secretary may waive requirements for an analysis that estimates the number of lives that will be saved by the regulation or security directive and the monetary value of such lives if the Under Secretary determines that it is not feasible to make such an estimate.”; and

(3) by adding at the end the following:

“(5) RULEMAKING REQUIRED.—Any regulation or security directive issued under paragraph (2) that remains effective, with or without revision, for a period of more than 180 days shall be subject to a rulemaking pursuant to subchapter II of chapter 5 of title 5.”.

(b) APPLICABILITY.—The amendment made by subsection (a)(3) shall apply to a regulation issued under section 114(l)(2) of title 49, United States Code, before, on, or after the date of enactment of this Act.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MICA OF FLORIDA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle A of title II of the bill, add the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

SEC. 214. KNOWN AIR TRAVELER CREDENTIAL.

(a) ESTABLISHMENT.—Section 44903(h) of title 49, United States Code, is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following:

“(7) KNOWN AIR TRAVELER CREDENTIAL.—Not later than 6 months after the date of enactment of the Transportation Security Administration Authorization Act, the Assistant Secretary shall—

“(A) establish a known air traveler credential that incorporates biometric identifier technology;

“(B) establish a process by which the credential will be used to verify the identity of known air travelers and allow them to bypass airport passenger and carry-on baggage screening;

“(C) establish procedures—

“(i) to ensure that only known air travelers are issued the known air traveler credential;

“(ii) to resolve failures to enroll, false matches, and false nonmatches relating to use of the known air traveler credential; and

“(iii) to invalidate any known air traveler credential that is lost, stolen, or no longer authorized for use;

“(D) begin issuance of the known air traveler credential to each known air traveler that applies for a credential; and

“(E) take such other actions with respect to the known air traveler credential as the Assistant Secretary considers appropriate.”.

(b) **KNOWN AIR TRAVELER DEFINED.**—Section 44903(h)(8) of such title (as redesignated by subsection (a) of this section) is amended—

(1) by redesignating subparagraph (F) as subparagraph (G); and

(2) by inserting after subparagraph (E) the following:

“(F) **KNOWN AIR TRAVELER.**—The term ‘known air traveler’ means a United States citizen who—

“(i) has received a security clearance from the Federal Government;

“(ii) is a Federal Aviation Administration certificated pilot, flight crew member, or cabin crew member;

“(iii) is a Federal, State, local, tribal, or territorial government law enforcement officer not covered by paragraph (6);

“(iv) is a member of the armed forces (as defined by section 101 of title 10) who has received a security clearance from the Federal Government; or

“(v) the Assistant Secretary determines has appropriate security qualifications for inclusion under this subparagraph.”.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out the amendments made by this section.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BACHUS OF ALABAMA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle B of title II of the bill, add the following (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

SEC. 240. SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES.

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

“(n) **SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES.**—

“(1) **IN GENERAL.**—The Assistant Secretary shall develop and implement a plan to provide expedited security screening services for a member of the Armed Forces, and any accompanying family member, when the member of the Armed Forces is traveling on official orders while in uniform through a primary airport (as defined by section 47102).

“(2) **PROTOCOLS.**—In developing the plan, the Assistant Secretary shall consider—

“(A) leveraging existing security screening models used by airports and air carriers to reduce passenger wait times before entering a security screening checkpoint;

“(B) establishing standard guidelines for the screening of military uniform items, including combat boots; and

“(C) incorporating any new screening protocols into an existing trusted passenger program, as established pursuant to section 109(a)(3) of the Aviation and Transportation Security Act (115 Stat. 613), or into the development of any new credential or system that incorporates biometric technology and other applicable technologies to verify the identity of individuals traveling in air transportation.

“(3) REPORT TO CONGRESS.—The Assistant Secretary shall submit to the appropriate committees of Congress a report on the implementation of the plan.”.

(b) EFFECTIVE DATE.—Not later than one year after the date of enactment of this Act, the Assistant Secretary shall establish the plan required by the amendment made by subsection (a).

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF FLORIDA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In title II, at the end of subtitle B add the following new section:

SEC. ____ . REPORT ON COMPLAINTS AND CLAIMS FOR LOSS OF PROPERTY FROM PASSENGER BAGGAGE.

Not later than six months after the date of enactment of this Act, the Assistant Secretary shall report to the Committee on Homeland Security of the House of Representatives on complaints and claims received by the Administration for loss of property with respect to passenger baggage screened by the Administration, including—

- (1) the number of such claims that are outstanding;
- (2) the total value of property alleged in such outstanding claims to be missing;
- (3) an estimate of the amount of time that will be required to resolve all such outstanding claims;
- (4) the amount of Administration resources that will be devoted to resolving such outstanding claims, including the number of personnel and funding; and
- (5) efforts that the Administration is making or is planning to make to address passenger grievances regarding such losses, enhance passenger property security, and provide effective oversight of baggage screeners and other Administration personnel who come in contact with passenger property.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LINCOLN DIAZ-BALART OF FLORIDA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 237 of the bill, insert “(a) PROCESS.—” before “Section 1604(b)(2)”.

In section 237 of the bill, insert at the end the following:

(b) REIMBURSEMENTS OF AIRPORTS FOR ELIGIBLE COSTS REIMBURSED AT LESS THAN 90 PERCENT.—If the Secretary or Assistant Secretary reimbursed, after August 3, 2007, an airport that in-

curred before August 3, 2007, an amount for eligible costs under section 44923 of title 49, United States Code, that was less than 90 percent of such costs, the Secretary or Assistant Secretary shall reimburse such airport under such section an amount equal to the difference for such eligible costs.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CASTOR OF FLORIDA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

In the heading to section 403 of the bill, insert before the period at the end the following (and conform the table of contents of the bill accordingly): “; **REDUNDANT BACKGROUND CHECKS**”.

At the end of section 403 of the bill, strike the closing quotation marks and the final period and insert the following:

“(r) **REDUNDANT BACKGROUND CHECKS.**—The Secretary shall prohibit a State or political subdivision thereof from requiring a separate security background check for any purpose for which a transportation security card is issued under this section. The Secretary may waive the application of this subsection with respect to a State or political subdivision thereof if the State or political subdivision demonstrates a compelling homeland security reason that a separate security background check is necessary.”.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In the proposed section 44947 of title 49, United States Code, as proposed to be inserted by section 210 of the bill, add at the end of subsection (a) the following new paragraph:

“(5) **PRESUMPTION OF CONGRESS RELATING TO COMPETITIVE PROCEDURES.**—

“(A) **PRESUMPTION.**—It is the presumption of Congress that grants awarded under this section will be awarded using competitive procedures based on risk.

“(B) **REPORT TO CONGRESS.**—If grants are awarded under this section using procedures other than competitive procedures, the Assistant Secretary shall submit to Congress a report explaining why competitive procedures were not used.”.

In subsection (c) of such proposed section 44947, add at the end the following new sentence: “None of the funds appropriated pursuant to this subsection may be used for a congressional earmark as defined in clause 9d, of Rule XXI of the rules of the House of Representatives of the 111th Congress.”.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LYNCH OF MASSACHUSETTS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 239 of the bill, strike subsections (a) and insert the following:

(a) **USE OF PERSONAL PROTECTIVE EQUIPMENT.**—

(1) **IN GENERAL.**—Any personnel of the Transportation Security Administration voluntarily may wear personal protective equipment during any emergency.

(2) **WRITTEN GUIDANCE.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish, coordinate, and disseminate written guidance to personnel of the Transportation Security Administration to allow for the voluntary usage of personal protective equipment.

(3) **DEFINITION.**—In this subsection, the term “personal protective equipment” includes surgical and N95 masks, gloves, and hand sanitizer.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CHAFFETZ OF UTAH, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In title II, at the end of subtitle A add the following new section:

SEC. ____ . LIMITATIONS ON USE OF WHOLE-BODY IMAGING TECHNOLOGY FOR AIRCRAFT PASSENGER SCREENING.

Section 44901 of title 49, United States Code, is amended by adding at the end the following:

“(1) LIMITATIONS ON USE OF WHOLE-BODY IMAGING TECHNOLOGY FOR SCREENING PASSENGERS.—

“(1) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall ensure that whole-body imaging technology is used for the screening of passengers under this section only in accordance with this subsection.

“(2) PROHIBITION ON USE FOR ROUTINE SCREENING.—Whole-body imaging technology may not be used as the sole or primary method of screening a passenger under this section. Whole-body imaging technology may not be used to screen a passenger under this section unless another method of screening, such as metal detection, demonstrates cause for preventing such passenger from boarding an aircraft.

“(3) PROVISION OF INFORMATION.—A passenger for whom screening by whole-body imaging technology is permissible under paragraph (2) shall be provided information on the operation of such technology, on the image generated by such technology, on privacy policies relating to such technology, and on the right to request a pat-down search under paragraph (4) prior to the utilization of such technology with respect to such passenger.

“(4) PAT-DOWN SEARCH OPTION.—A passenger for whom screening by whole-body imaging technology is permissible under paragraph (2) shall be offered a pat-down search in lieu of such screening.

“(5) PROHIBITION ON USE OF IMAGES.—An image of a passenger generated by whole-body imaging technology may not be stored, transferred, shared, or copied in any form after the boarding determination with respect to such passenger is made.

“(6) REPORT.—Not later than one year after the date of enactment of this section, and annually thereafter, the Assistant Secretary shall submit to Congress a report containing information on the implementation of this subsection, on the number of passengers for whom screening by whole-body imaging

technology was permissible under paragraph (2) as a percentage of all screened passengers, on the number of passengers who chose a pat-down search when presented the offer under paragraph (4) as a percentage of all passengers presented such offer, on privacy protection measures taken with respect to whole-body imaging technology, on privacy violations that occurred with respect to such technology, and on the effectiveness of such technology.

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

“(A) PAT-DOWN SEARCH.—The term ‘pat-down search’ means a physical inspection of the body of an aircraft passenger conducted in accordance with the Transportation Security Administration’s standard operating procedure as described in the Transportation Security Administration’s official training manual.

“(B) WHOLE-BODY IMAGING TECHNOLOGY.—The term ‘whole-body imaging technology’ means a device, including a device using backscatter x-rays or millimeter waves, used to detect objects carried on individuals and that creates a visual image of the individual’s full body, showing the surface of the skin and revealing objects that are on the body.”.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BORDALLO OF GUAM, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle B of title II of the bill, insert the following (with the correct sequential provision designations and conform the table of contents accordingly):

SEC. _____. REPORT ON CERTAIN SECURITY PLAN.

Not later than 90 days after the date of enactment of this Act, the Assistant Secretary shall submit a report to the appropriate committees of Congress that—

(1) reviews whether the most recent security plans developed by the commercial aviation airports in the United States territories meet the security concerns described in guidelines and other official documents issued by the Transportation Security Administration pertaining to parts 1544 and 1546 of title 49, Code of Federal Regulations, particularly with regard to the commingling of passengers;

(2) makes recommendations regarding best practices supported by the Transportation Security Administration and any adequate alternatives that address the problems or benefits of commingling passengers at such airports to satisfy the concerns described in paragraph (1);

(3) reviews the potential costs of implementing the preferred and alternative methods to address the Administration concerns regarding parts 1544 and 1546 of title 49, Code of Federal Regulations, particularly in regards to the commingling of passengers at the airport; and

(4) identifies funding sources, including grant programs, to implement improved security methods at such airports.

12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HASTINGS OF WASHINGTON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 230 of the bill, strike “The” and insert the following:

(a) AVIATION SECURITY.—The

In section 230 of the bill, add at the end the following:

(b) CARGO SCREENING.—The Secretary shall increase the number of canine detection teams, as of the date of enactment of this Act, deployed for the purpose of meeting the 100 percent air cargo screening requirement set forth in section 44901(g) of title 49, United States Code, by not less than 100 canine teams through fiscal year 2011.

13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BUTTERFIELD OF NORTH CAROLINA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle B of title II, insert the following new section (with the correct sequential provision designations [replacing the numbers currently shown for such designations]) and conform the table of contents accordingly:

SEC. 240. STUDY ON COMBINATION OF FACIAL AND IRIS RECOGNITION.

(a) STUDY REQUIRED.—The Assistant Secretary shall carry out a study on the use of the combination of facial and iris recognition to rapidly identify individuals in security checkpoint lines. Such study shall focus on—

- (1) increased accuracy of facial recognition;
- (2) enhancement of existing iris recognition technology; and
- (3) establishment of integrated face and iris features for accurate identification of individuals.

(b) PURPOSE OF STUDY.—The purpose of the study required by subsection (a) is to facilitate the use of a combination of facial and iris recognition to provide a higher probability of success in identification than either approach on its own and to achieve transformational advances in the flexibility, authenticity, and overall capability of integrated biometric detectors and satisfy one of major issues with war against terrorists. The operational goal of the study should be to provide the capability to non-intrusively collect biometrics (face image, iris) in less than ten seconds without impeding the movement of individuals.

14. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROSKAM OF ILLINOIS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title III of the bill, insert the following:

SEC. ____ . PUBLIC HEARINGS ON SECURITY ASSISTANCE GRANT PROGRAM AND THE RESTRICTION OF SECURITY IMPROVEMENT PRIORITIES.

(a) PUBLIC HEARINGS.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary shall conduct public hearings on the administration of the security assistance grant program under section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135). The Assistant Secretary shall—

(1) solicit information and input from the 5 urban areas that receive the largest amount of grant funds under such section, including recipients providing mass transportation and passenger rail services; and

(2) solicit feedback from such recipients on whether current allowable uses of grant funds under the regulations or guidance implementing the grant program are sufficient to address security improvement priorities identified by transit agencies.

(b) REPORT TO CONGRESS.—The Assistant Secretary shall submit to the Committees on Appropriations and Homeland Security of the House of Representatives and the Committees on Appropriations and Homeland Security and Governmental Affairs of the Senate a report on the findings of the public hearings conducted under paragraph (1). The report shall include—

(1) the Assistant Secretary's determinations with respect to the extent to which security improvement priorities identified by transit agencies are not met by the regulations or guidance implementing the grant program; and

(2) how such regulations or guidance should be changed to accommodate such priorities, or the Assistant Secretary's justification for not addressing such priorities with the grant program.

