

112TH CONGRESS  
1ST SESSION

# S. 1092

To address aviation security in the United States by bolstering passenger and air cargo screening procedures, to ensure that purchases of screening technologies are thoroughly evaluated for the best return on investment of the taxpayer's money, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 26, 2011

Mr. CARPER (for himself and Mr. BROWN of Massachusetts) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To address aviation security in the United States by bolstering passenger and air cargo screening procedures, to ensure that purchases of screening technologies are thoroughly evaluated for the best return on investment of the taxpayer's money, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Aviation Security Inno-  
5 vation & Reform Act of 2011” or the “AIR Act of 2011”.

1 **SEC. 2. OFFICE OF BEHAVIOR ANALYSIS.**

2 Section 114 of title 49, United States Code, is  
3 amended—

4 (1) in subsection (a), by striking “Department  
5 of Transportation” and inserting “Department of  
6 Homeland Security”;

7 (2) by striking “Under Secretary of Transpor-  
8 tation for Security” each place it appears and insert-  
9 ing “Assistant Secretary of Homeland Security  
10 (Transportation Security Administration)”;

11 (3) by striking “Under Secretary” each place it  
12 appears and inserting “Assistant Secretary”; and

13 (4) by inserting after subsection (s) the fol-  
14 lowing:

15 “(t) OFFICE OF BEHAVIOR ANALYSIS.—

16 “(1) ESTABLISHMENT.—There is established in  
17 the Transportation Security Administration the Of-  
18 fice of Behavior Analysis (in this subsection referred  
19 to as the ‘Office’).

20 “(2) LOCATION.—The Office of Behavior Anal-  
21 ysis shall be within the Office of Security Operations  
22 of the Transportation Security Administration in the  
23 Department of Homeland Security and shall be  
24 headed by a Transportation Security Administration  
25 career employee, who shall be appointed by the As-

1       assistant Secretary of Homeland Security (Transportation Security Administration).

2               “(3) DUTIES.—To the extent and in the manner determined to be appropriate by the Assistant Secretary, the head of the Office shall be responsible for—

3                       “(A) advising the Transportation Security Administration and other Federal, State, and local government law enforcement agencies on behavior detection methodologies and best practices; and

4                       “(B) providing behavior detection training to law enforcement personnel to facilitate the prevention of terrorist attacks on aviation and mass transportation systems.”.

5       **SEC. 3. CONTINUING SECURITY TRAINING.**

6       Section 44935 of title 49, United States Code, is amended—

7               (1) by striking “Under Secretary of Transportation for Security” each place it appears and inserting “Assistant Secretary of Homeland Security (Transportation Security Administration)”;

8               (2) by striking “Under Secretary” each place it appears and inserting “Assistant Secretary”;

1           (3) by amending subsection (g) to read as fol-  
2 lows:

3           “(g) TRAINING.—

4           “(1) TRAINING PLAN.—The Assistant Secretary  
5 shall maintain a plan for the training of Transpor-  
6 tation Security Officers that—

7           “(A) to the maximum extent practicable,  
8 ensures that the training received by Transpor-  
9 tation Security Officers is standardized; and

10           “(B) meets the requirements of this sub-  
11 section.

12           “(2) GENERAL TRAINING REQUIREMENTS.—  
13 The plan required by paragraph (1) shall require, at  
14 a minimum, that an individual employed as a Trans-  
15 portation Security Officer—

16           “(A) receives, before the individual per-  
17 forms any screening functions as a Transpor-  
18 tation Security Officer, training in basic secu-  
19 rity screening skills and in criminal and  
20 antiterrorism awareness;

21           “(B) completes a program that the Assist-  
22 ant Secretary determines will train individuals  
23 to a level of proficiency to adequately perform  
24 on the job;

1           “(C) successfully completes an up-to-date  
2           technical training examination prescribed by the  
3           Assistant Secretary; and

4           “(D) in the case of a Transportation Secu-  
5           rity Officer who will be responsible for verifying  
6           travel documents, completes up-to-date tech-  
7           nical training in document fraud identification,  
8           as considered appropriate by the Assistant Sec-  
9           retary.

10          “(3) EQUIPMENT-SPECIFIC TRAINING.—An in-  
11          dividual employed as a Transportation Security Offi-  
12          cer may not use any security screening device or  
13          equipment in the scope of that individual’s employ-  
14          ment unless the individual has been trained on that  
15          device or equipment and has successfully completed  
16          a test on the use of the device or equipment.

17          “(4) CONTINUING EDUCATION.—The plan re-  
18          quired by paragraph (1) shall require an individual  
19          employed as a Transportation Security Officer to re-  
20          ceive annual training, as considered appropriate by  
21          the Assistant Secretary.

22          “(5) USE OF OTHER AGENCIES.—The Assistant  
23          Secretary may enter into a memorandum of under-  
24          standing or other arrangement with any other Fed-  
25          eral agency or department with appropriate law en-

1 enforcement responsibilities, to provide personnel, re-  
 2 sources, or other forms of assistance in the training  
 3 of Transportation Security Officers.”;

4 (4) by moving subsection (h) 2 ems to the left;  
 5 and

6 (5) by redesignating the second subsection (i)  
 7 (relating to accessibility of computer-based training  
 8 facilities) as subsection (k).

9 **SEC. 4. PARTNERSHIPS WITH STATE AND LOCAL LAW EN-**  
 10 **FORCEMENT AGENCIES, INTERNATIONAL**  
 11 **GOVERNMENTS, AND THE PRIVATE SECTOR.**

12 (a) IN GENERAL.—The Assistant Secretary of Home-  
 13 land Security (Transportation Security Administration)  
 14 (in this Act referred to as the “Assistant Secretary”) shall  
 15 develop and maintain partnerships with State and local  
 16 law enforcement agencies to improve the coordination of  
 17 behavior detection activities.

18 (b) COLLABORATION IN TRAINING AND BEHAVIOR  
 19 DETECTION ACTIVITIES.—In implementing partnerships  
 20 under subsection (a), the Assistant Secretary shall—

21 (1) coordinate the provision of behavior detec-  
 22 tion training for State and local law enforcement of-  
 23 ficers with similar training provided for Transpor-  
 24 tation Security Officers of the Transportation Secu-  
 25 rity Administration; and

1           (2) provide behavior detection officers with the  
2           opportunity to cross-train with State and local law  
3           enforcement agencies and other Federal law enforce-  
4           ment agencies that are responsible for protecting  
5           critical infrastructure facilities and mass transit sys-  
6           tems, as the Assistant Secretary considers appro-  
7           priate.

8           (c) STUDY ON REAL-TIME INFORMATION SHAR-  
9           ING.—

10           (1) IN GENERAL.—The Secretary of Homeland  
11           Security shall conduct a study on the feasibility of  
12           creating an Aviation Sharing Analysis Center (in  
13           this Act referred to as “ASAC”) to provide real-time  
14           information sharing relating to threats to the avia-  
15           tion sector.

16           (2) SCOPE.—The Secretary shall study the fea-  
17           sibility of providing information sharing and analysis  
18           on a formal and informal basis among public and  
19           private sector entities in a manner that ensures a  
20           better understanding of security problems in the  
21           aviation sector, better communication of critical in-  
22           frastructure information, and better prevention, de-  
23           tection, and mitigation of security threats related to  
24           critical aviation infrastructure.

1           (3) REPORTS.—The Secretary shall submit a  
2           report to Congress not later than 180 days after the  
3           date of the enactment of this Act on the results of  
4           the study conducted under this subsection.

5           (d) INTERNATIONAL COOPERATION.—The Secretary  
6           of Homeland Security shall continue to advocate for inter-  
7           national cooperation in the development of international  
8           aviation security standards, using both bilateral and mul-  
9           tilateral approaches by working with foreign governments  
10          and organizations to strengthen security while promoting  
11          travel and protecting travelers' rights.

12       **SEC. 5. ACCESS TO INFORMATION DATABASES.**

13          The Assistant Secretary shall—

14               (1) require the Transportation Security Admin-  
15               istration's Transportation Security Operations Cen-  
16               ter to utilize all of the law enforcement and intel-  
17               ligence databases available to the Center when  
18               checking passengers whose behavior warrants inter-  
19               vention by a law enforcement official; and

20               (2) standardize and streamline threat-reporting  
21               guidelines to allow behavior detection officers or  
22               other designated Transportation Security Adminis-  
23               tration officials to receive information from the  
24               Transportation Security Operations Center in a  
25               timely manner.



1 **SEC. 6. STANDARDIZATION OF POLICIES OF THE TRANS-**  
2 **PORTATION SECURITY ADMINISTRATION.**

3 The Assistant Secretary shall, to the maximum ex-  
4 tent practicable, continue to ensure the standardization of  
5 the security and personnel procedures of the Transpor-  
6 tation Security Administration at airports in the United  
7 States, including by—

8 (1) requiring standard operating procedures to  
9 be consistently enforced by the Transportation Secu-  
10 rity Administration at each airport in the United  
11 States;

12 (2) standardizing career advancement policies  
13 based on merit; and

14 (3) establishing timeframes and milestones for  
15 systematically conducting evaluations of the Screen-  
16 ing of Passengers by Observation Techniques  
17 (SPOT) training program, in order to ensure behav-  
18 ior detection officers possess the knowledge and  
19 skills needed to perform their duties.

20 **SEC. 7. DEPLOYMENT OF ADDITIONAL SECURITY.**

21 The Assistant Secretary shall—

22 (1) deploy behavior detection officers to events  
23 designated as National Special Security Events by  
24 the Secretary of Homeland Security, as deemed ap-  
25 propriate; and

1           (2) deploy Visible Intermodal Prevention and  
2           Response teams at passenger rail facilities to en-  
3           hance security and cross-training opportunities for  
4           behavior detection officers, as deemed appropriate.

5 **SEC. 8. EMPLOYEE FEEDBACK.**

6           The Assistant Secretary shall establish an electronic  
7           medium through which Transportation Security Officers  
8           and behavior detection officers of the Transportation Se-  
9           curity Administration may anonymously submit feedback  
10          to the Assistant Secretary regarding—

11           (1) the effectiveness of transportation security  
12          programs; and

13           (2) any management issue that such personnel  
14          may wish to bring to the attention of the Assistant  
15          Secretary.

16 **SEC. 9. AIR CARGO SECURITY.**

17          The Assistant Secretary shall develop and implement  
18          a system to verify the accuracy of air carrier screening  
19          data to determine the level of compliance with the congres-  
20          sionally mandated 100-percent air cargo screening re-  
21          quirements specified in section 232 of the SAFE Port Act  
22          (6 U.S.C. 982).

1 **SEC. 10. EFFECTIVENESS AND EFFICIENCY OF SCREENING**  
2 **TECHNOLOGIES.**

3 (a) **IN GENERAL.**—The Assistant Secretary shall de-  
4 velop a technology implementation plan that establishes  
5 how screening technologies will be integrated into overall  
6 aviation security systems at airports. As part of the plan,  
7 the Assistant Secretary shall—

8 (1) perform an internal study and evaluation of  
9 passenger and cargo screening technologies and  
10 equipment before entering into any contract to pur-  
11 chase a new technology; and

12 (2) ensure that all passenger and cargo screen-  
13 ing technology and equipment can be upgraded and  
14 easily integrated with other technologies.

15 (b) **SPECIAL REQUIREMENTS.**—Before deploying any  
16 passenger or screening technology or equipment that is de-  
17 signed to detect explosive compounds, the Assistant Sec-  
18 retary shall ensure that the technology and equipment can  
19 detect all explosive compounds that are known and charac-  
20 terized, such as pentaerythritol tetranitrate (PETN) and  
21 acetone peroxide (TATP).

22 (c) **REPORT.**—Not later than 90 days after the date  
23 of the enactment of this Act, and for each of the 5 years  
24 thereafter, the Assistant Secretary shall report to Con-  
25 gress on the actions the Assistant Secretary is taking to  
26 address—

1           (1) the recommendations included in Depart-  
2           ment of Homeland Security’s April 2011 Science  
3           and Technology Directorate study on the Transpor-  
4           tation Security Administration’s behavior detection  
5           (commonly referred to as “SPOT”);

6           (2) the recommendations included in the Gov-  
7           ernment Accounting Office’s May 2010 SPOT re-  
8           port; and

9           (3) any additional steps the Assistant Secretary  
10          has taken, or is considering taking, to ensure that  
11          the behavior analysis program is a cost-effective and  
12          valid counterterrorism screening tool.

13 **SEC. 11. FREQUENT TRAVELER PROGRAM.**

14          The Secretary of Homeland Security shall explore ex-  
15          panding access to international trusted traveler programs  
16          for international passengers entering the United States by  
17          looking at other domestic and foreign government trusted  
18          traveler programs and identifying the best practices. The  
19          Secretary shall also take the lead in establishing a multi-  
20          national network of streamlined entry procedures for low-  
21          risk travelers. The Assistant Secretary shall report to Con-  
22          gress not later than 1 year after the date of the enactment  
23          of this Act with recommendations for changes in law that  
24          may be necessary to streamline entry procedures.

1 **SEC. 12. AIRPORT INFRASTRUCTURE.**

2 In carrying out this Act, the Assistant Secretary shall  
3 work with each airport and offsite airport-related facility  
4 to continue to obtain sufficient physical space for Trans-  
5 portation Security Officers to work or train when not per-  
6 forming screening duty and report to Congress not later  
7 than 1 year after the date of the enactment of this Act  
8 on the status of the effort to obtain such space.

9 **SEC. 13. AVIATION ADVISORY PANEL.**

10 (a) IN GENERAL.—To assist in carrying out the pro-  
11 visions of this Act, the Assistant Secretary shall establish  
12 an independent panel of experts comprised of leaders from  
13 State and local governments, first responder communities,  
14 the private sector, and academia, with appropriate secu-  
15 rity clearances to review Transportation Security Adminis-  
16 tration aviation security programs, including passenger  
17 screening programs, checked baggage screening programs,  
18 and air cargo screening programs—

19 (1) to assess the risk each program is designed  
20 to mitigate; and

21 (2) to develop metrics for measuring the  
22 progress of each program in lessening that risk.

23 (b) REPORT.—Not later than 90 days after com-  
24 pleting a review of each program described in subsection  
25 (a), the Assistant Secretary shall submit to Congress a  
26 copy of the report completed by the panel of experts under

- 1 subsection (a) and an action plan with defined milestones
- 2 for addressing the findings and recommendations of the
- 3 panel.

