

FAIR, ACCURATE, SECURE, AND TIMELY REDRESS ACT
OF 2008 (FAST REDRESS ACT OF 2008)

JUNE 5, 2008.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 4179]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4179) to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	4
Background and Need for Legislation	4
Hearings	5
Committee Consideration	5
Committee Votes	6
Committee Oversight Findings	6
New Budget Authority, Entitlement Authority, and Tax Expenditures	6
Congressional Budget Office Estimate	6
Statement of General Performance Goals and Objectives	7
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	7
Federal Mandates Statement	7
Advisory Committee Statement	8
Constitutional Authority Statement	8
Applicability to Legislative Branch	8
Section-by-Section Analysis of the Legislation	8
Changes in Existing Law Made by the Bill, as Reported	10

The amendments are as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fair, Accurate, Secure, and Timely Redress Act of 2008” or the “FAST Redress Act of 2008”.

SEC. 2. ESTABLISHMENT OF APPEAL AND REDRESS PROCESS FOR INDIVIDUALS WRONGLY DELAYED OR PROHIBITED FROM BOARDING A FLIGHT, OR DENIED A RIGHT, BENEFIT, OR PRIVILEGE.

(a) IN GENERAL.—Subtitle H of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 451 et seq.) is amended by adding at the end the following new section:

“SEC. 890A. APPEAL AND REDRESS PROCESS FOR PASSENGERS WRONGLY DELAYED OR PROHIBITED FROM BOARDING A FLIGHT, OR DENIED A RIGHT, BENEFIT, OR PRIVILEGE.

“(a) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of this section, the Secretary shall establish a timely and fair process for individuals who believe they were delayed or prohibited from boarding a commercial aircraft or denied a right, benefit, or privilege because they were wrongly identified as a threat when screened against any terrorist watchlist or database used by the Transportation Security Administration (TSA) or any office or component of the Department.

“(b) OFFICE OF APPEALS AND REDRESS.—

“(1) ESTABLISHMENT.—The Secretary shall establish in the Department an Office of Appeals and Redress to implement, coordinate, and execute the process established by the Secretary pursuant to subsection (a). The Office shall include representatives from the TSA and such other offices and components of the Department as the Secretary determines appropriate.

“(2) COMPREHENSIVE CLEARED LIST.—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office, under the direction of the Secretary, will maintain and appropriately disseminate a comprehensive list, to be known as the ‘Comprehensive Cleared List’, of individuals who—

“(A) were misidentified as an individual on any terrorist watchlist or database;

“(B) completed an approved Department of Homeland Security appeal and redress request and provided such additional information as required by the Department to verify the individual’s identity; and

“(C) permit the use of their personally identifiable information to be shared between multiple Departmental components for purposes of this section.

“(3) USE OF COMPREHENSIVE CLEARED LIST.—

“(A) IN GENERAL.—The Secretary shall—

“(i) except as provided in subparagraph (B), transmit to the TSA or any other appropriate office or component of the Department, other Federal, State, local, and tribal entities, and domestic air carriers and foreign air carriers that use any terrorist watchlist or database, the Comprehensive Cleared List and any other information the Secretary determines necessary to resolve misidentifications and improve the administration of the advanced passenger prescreening system and reduce the number of false positives; and

“(ii) ensure that the Comprehensive Cleared List is taken into account by all appropriate offices or components of the Department when assessing the security risk of an individual.

“(B) TERMINATION.—

“(i) IN GENERAL.—The transmission of the Comprehensive Cleared List to domestic air carriers and foreign air carriers under clause (i) of subparagraph (A) shall terminate on the date on which the Federal Government assumes terrorist watchlist or database screening functions.

“(ii) WRITTEN NOTIFICATION TO CONGRESS.—Not later than 15 days after the date on which the transmission of the Comprehensive Cleared List to the air carriers referred to in clause (i) of this subparagraph terminates in accordance with such clause, the Secretary shall provide written notification to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate of such termination.

“(4) INTERGOVERNMENTAL EFFORTS.—The Secretary may—

“(A) enter into memoranda of understanding with other Federal, State, local, and tribal agencies or entities, as necessary, to improve the appeal and redress process and for other purposes such as to verify an individual’s identity and personally identifiable information; and

“(B) work with other Federal, State, local, and tribal agencies or entities that use any terrorist watchlist or database to ensure, to the greatest extent practicable, that the Comprehensive Cleared List is considered when assessing the security risk of an individual.

“(5) HANDLING OF PERSONALLY IDENTIFIABLE INFORMATION.—The Secretary, in conjunction with the Chief Privacy Officer of the Department, shall—

“(A) require that Federal employees of the Department handling personally identifiable information of individuals (in this paragraph referred to as ‘PII’) complete mandatory privacy and security training prior to being authorized to handle PII;

“(B) ensure that the information maintained under this subsection is secured by encryption, including one-way hashing, data anonymization techniques, or such other equivalent technical security protections as the Secretary determines necessary;

“(C) limit the information collected from misidentified passengers or other individuals to the minimum amount necessary to resolve an appeal and redress request;

“(D) ensure that the information maintained under this subsection is shared or transferred via an encrypted data network that has been audited to ensure that the anti-hacking and other security related software functions perform properly and are updated as necessary;

“(E) ensure that any employee of the Department receiving the information maintained under this subsection handles such information in accordance with section 552a of title 5, United States Code, the Federal Information Security Management Act of 2002 (Public Law 107–296), and other applicable laws;

“(F) only retain the information maintained under this subsection for as long as needed to assist the individual traveler in the appeal and redress process;

“(G) engage in cooperative agreements with appropriate Federal agencies and entities, on a reimbursable basis, to ensure that legal name changes are properly reflected in any terrorist watchlist or database and the Comprehensive Cleared List to improve the appeal and redress process and to ensure the most accurate lists of identifications possible (except that section 552a of title 5, United States Code, shall not prohibit the sharing of legal name changes among Federal agencies and entities for the purposes of this section); and

“(H) conduct and publish a privacy impact assessment of the appeal and redress process established under this section and transmit the assessment to the Committee on Homeland Security of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate.

“(6) INITIATION OF APPEAL AND REDRESS PROCESS AT AIRPORTS.—At each airport at which—

“(A) the Department has a presence, the Office shall provide written information to air carrier passengers to begin the appeal and redress process established pursuant to subsection (a); and

“(B) the Department has a significant presence, provide the written information referred to in subparagraph (A) and ensure a TSA supervisor who is trained in such appeal and redress process is available to provide support to air carrier passengers in need of guidance concerning such process.

“(7) REPORT TO CONGRESS.—Not later than 240 days after the date of the enactment of this section, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the status of information sharing among users at the Department of any terrorist watchlist or database. The report shall include the following information:

“(A) A description of the processes and the status of the implementation of this section to share the Comprehensive Cleared List with other Department offices and components and other Federal, State, local, and tribal authorities that utilize any terrorist watchlist or database.

“(B) A description of the extent to which such other Department offices and components are taking into account the Comprehensive Cleared List.

“(C) Data on the number of individuals who have sought and successfully obtained redress through the Office of Appeals and Redress.

“(D) Data on the number of individuals who have sought and were denied redress through the Office of Appeals and Redress.

“(E) An assessment of what impact information sharing of the Comprehensive Cleared List has had on misidentifications of individuals who have successfully obtained redress through the Office of Appeals and Redress.

“(F) An updated privacy impact assessment.

“(c) TERRORIST WATCHLIST OR DATABASE DEFINED.—In this section, the term ‘terrorist watchlist or database’ means any terrorist watchlist or database used by the Transportation Security Administration or any office or component of the Department of Homeland Security or specified in Homeland Security Presidential Directive-6, in effect as of the date of the enactment of this section.”.

(b) INCORPORATION OF SECURE FLIGHT.—Section 44903(j)(2) of title 49, United States Code, is amended—

(1) in subparagraph (C)(iii)—

(A) by redesignating subclauses (II) through (VII) as subclauses (III) through (VIII), respectively; and

(B) by inserting after subclause (I) the following new subclause:

“(II) ensure, not later than 30 days after the date of the enactment of the FAST Redress Act of 2008, that the procedure established under subclause (I) is incorporated into the appeals and redress process established under section 890A of the Homeland Security Act of 2002.”;

(2) in subparagraph (E)(iii), by inserting before the period at the end the following: “, in accordance with the appeals and redress process established under section 890A of the Homeland Security Act of 2002”; and

(3) in subparagraph (G)—

(A) in clause (i), by adding at the end the following new sentence: “The Assistant Secretary shall incorporate the process established pursuant to this clause into the appeals and redress process established under section 890A of the Homeland Security Act of 2002.”; and

(B) in clause (ii), by adding at the end the following new sentence: “The Assistant Secretary shall incorporate the record established and maintained pursuant to this clause into the Comprehensive Cleared List established and maintained under such section 890A.”.

(c) CONFORMING AMENDMENT.—Title 49, United States Code, is amended by striking section 44926 (and the item relating to such section in the analysis for chapter 449 of title 49).

(d) CLERICAL AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by adding after the item relating to section 890 the following new item:

“Sec. 890A. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege.”.

Amend the title so as to read:

A bill to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes.

PURPOSE AND SUMMARY

The purpose of H.R. 4179 is to amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Section 1606 of the Implementing 9/11 Commission Recommendations Act (P.L. 110-53) authorizes the establishment of an Office of Appeal and Redress for persons who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat under the regimes used by the Department of Homeland Security components such as the Transportation Security Administration (TSA) and the United States Customs and Border Protection (CBP). The Department of Homeland Security has established a redress process, the Traveler Redress Inquiry Program, known as “DHS TRIP” for persons

wrongly delayed or prohibited from boarding a flight. Once the identities of individuals who voluntarily submit additional personally identifiable information are established as non-threats, individuals who are “cleared” are then placed on the Transportation Security Administration’s cleared list, which is shared with the airlines. However, the cleared list is not being shared with other Departmental components and other Federal agencies and partners. This legislation addresses these issues.

HEARINGS

On April 19, 2007, the Subcommittee on Transportation Security and Infrastructure Protection held a hearing entitled “Airport Security: The Necessary Improvements to Secure America’s Airports.” The Subcommittee received testimony from Hon. Edmund “Kip” Hawley, Assistant Secretary, Transportation Security Administration, Department of Homeland Security; Ms. Lauren Stover, Assistant Aviation Director for Security and Communications, Miami-Dade Aviation Department; Mr. Greg Principato, President, Airports Council International—North America; and Mr. William E. Holden, Senior Vice President of Operations, Covenant Homeland Security Solutions.

On October 16, 2007, the Subcommittee on Transportation Security and Infrastructure Protection held a hearing entitled “Aviation Security: Are We Truly Protected?” The Subcommittee received testimony from Ms. Cathleen A. Berrick, Director, Homeland Security and Justice Issues, Government Accountability Office; Hon. Edmund “Kip” Hawley, Assistant Secretary, Transportation Security Administration, Department of Homeland Security; and Mr. Franklin Hatfield, Director, System Operations Security Office, Federal Aviation Administration.

On November 1, 2007, the Subcommittee on Transportation Security and Infrastructure Protection held a hearing entitled “Aviation Security Part II: A Frontline Perspective on the Need for Enhanced Human Resources and Equipment.” The Subcommittee received testimony from Mr. John Gage, National President, American Federation of Government Employees, AFL-CIO; Ms. Patricia A. Friend, International President, Association of Flight Attendants-CWA, AFL-CIO; and Mr. Robert Hesselbein, Chairman, National Security Committee, Air Line Pilots Association, International.

COMMITTEE CONSIDERATION

H.R. 4179 was introduced in the House on November 14, 2007, by Ms. Clarke, Mr. Thompson of Mississippi, and nine original cosponsors and referred solely to the Committee on Homeland Security. Within the Committee, H.R. 4179 was referred to the Subcommittee on Transportation Security and Infrastructure Protection.

The Subcommittee on Transportation Security and Infrastructure Protection met on May 1, 2008, to consider H.R. 4179.

The Subcommittee adopted H.R. 4179, as amended, by voice vote.

The following amendment was offered:

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

The Chairman discharged the Subcommittee on Transportation Security and Infrastructure Protection from further consideration of H.R. 4179 on May 20, 2008.

The Committee on Homeland Security considered H.R. 4179 on May 20, 2008, and ordered the measure reported to the House with a favorable recommendation, as amended, by unanimous consent.

The following amendment was offered:

An Amendment in the Nature of a Substitute offered by Ms. Clarke (#1); was AGREED TO by unanimous consent.

COMMITTEE VOTES

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

No recorded votes were requested during Committee consideration.

COMMITTEE OVERSIGHT FINDINGS

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

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4179, the Fair, Accurate, Secure, and Timely Redress Act of 2007, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

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

JUNE 3, 2008.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4179, the Fair, Accurate, Secure and Timely Redress Act of 2008.

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

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 4179—Fair, Accurate, Secure, and Timely Redress Act of 2008

Under current law, the federal government maintains terrorist watchlists used, among other purposes, to screen the names of domestic and international air travelers. H.R. 4179 would direct the Department of Homeland Security (DHS) to expand and refine its

appeal and redress procedures for individuals who believe they were wrongly identified as a threat by a DHS watchlist or database. It also would require DHS to establish and disseminate among federal agencies a list of individuals misidentified as threats and subsequently cleared and to report to the Congress on the status and impact of those efforts.

Based on information from DHS, CBO estimates that implementing H.R. 4179 would cost \$3 million in 2009 and about \$500,000 annually thereafter, assuming appropriation of the necessary amounts. That estimate includes one-time costs to establish systems to enable federal agencies to share information on the proposed list of cleared individuals as well as ongoing costs for additional personnel and expenses related to the bill's refined appeal and redress procedures. Enacting H.R. 4179 would not affect direct spending or revenues.

H.R. 4179 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 4179 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

This legislation requires the Department of Homeland Security to establish a timely and fair redress process for individuals that believe they were misidentified against the terrorist watchlist that includes the establishment of a comprehensive cleared list of individuals who have established their identity through the redress process. The sharing of this comprehensive cleared list with other Federal, State, local, and tribal agencies or entities that use any terrorist watchlist or database when assessing the security risk of an individual will reduce unnecessary delays and continued misidentifications of passengers. The potential vulnerability that an individual with terrorist ties will inappropriately be deemed cleared because of a legal name change will also be minimized as a result of this legislation.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

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

FEDERAL MANDATES STATEMENT

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

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

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

APPLICABILITY TO LEGISLATIVE BRANCH

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

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes that H.R. 4179 may be cited as the “Fair, Accurate, Secure, and Timely Redress Act of 2008” or the “FAST Redress Act of 2008”.

Section 2. Establishment of Appeal and Redress Process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege

This section establishes a new section at the end of Subtitle H of title VIII of the Homeland Security Act of 2002 (Pub. L. 107–296), entitled “Section 890A. Appeal and Redress Process for Passengers Wrongly Delayed or Prohibited from Boarding a Flight, or Denied a Right, Benefit, or Privilege.”

This section authorizes the Secretary of the Department of Homeland Security to establish a prompt, timely, and fair appeal and redress process for those who believe they have been misidentified as a threat when screened against any terrorist watchlist or database used by the Transportation Security Administration (TSA) or any office of the Department of Homeland Security. The Secretary is required to establish an Office of Appeals and Redress to implement, coordinate, and execute the appeal and redress process established by the Secretary. The Office shall include representation from the TSA and other Department of Homeland Security components deemed appropriate by the Secretary.

This section requires the Office of Appeals and Redress, under the direction of the Secretary, to maintain and appropriately disseminate a list of individuals who were misidentified against any terrorist watchlist or database. Those individuals have successfully completed the appeal and redress process and have permitted their Personally Identifiable Information (PII) to be shared between multiple Departmental components for purposes of identifying whether these individuals are, in fact, the persons listed on the terrorist watchlist or database. This list shall be known as the Comprehensive Cleared List. The Secretary is required to transmit the Comprehensive Cleared List to TSA or any other appropriate office or

component of the Department, other Federal, State, local, and tribal entities, and domestic and foreign air carriers that use any terrorist watchlist or database when assessing the security risk of an individual to reduce misidentifications.

The Department is required to transmit the Comprehensive Cleared List to domestic and foreign air carriers and will terminate such transmissions on the date on which the Federal Government assumes terrorist watchlist or database screening functions when the "Secure Flight" program, or its successor program, is fully operational. When the Government-administered program is operational, the Secretary will provide written notification within 15 days of the termination of the transmission of the Comprehensive Cleared List to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate.

Section 890A(b) describes how the Department will work with other Governmental entities and how the Department will conduct itself with respect to verifying name changes, handling PII, and other processes necessary to implement and execute this section. With respect to intergovernmental efforts, this section authorizes the Secretary to enter into memoranda of understanding with other Federal, State, local, and tribal agencies or entities, as necessary, to improve the appeal and redress process and for other purposes, such as to verify an individual's identity and PII. Regarding the handling of PII, the Secretary must, in conjunction with the Chief Privacy Officer of the Department, ensure that Federal employees of the Department complete privacy and security training prior to being authorized to handle PII. Further, the Secretary must ensure that the information maintained by the Department pursuant to this Act is secured by encryption or other equivalent technical security protections and that any information maintained or handled by the Department is handled in accordance with section 552a of Title 5, United States Code, the Federal Information Security Management Act of 2002 (Public Law 107-296), and other applicable laws.

Further, Section 890A(b)(5)(G) requires that the Secretary engage in the necessary agreements to ensure legal name changes are properly reflected in the terrorist watchlist and the Comprehensive Cleared List to improve the appeal and redress process. The Committee understands that some Federal agencies may be taking a more restrictive view of the Privacy Act than Congress originally intended. This provision clarifies that no Federal agency can prevent or obstruct the sharing of legal name change information pertinent to the watchlist, appeal or redress processes when requested by the Department by citing the Privacy Act. The Committee intends that the Department will enter into memoranda of understanding with appropriate Federal agencies, including but not limited to, the Social Security Administration, the Internal Revenue Service, and any others the Department deems necessary to improve the security and effectiveness of the appeal and redress process. The Secretary shall immediately engage these, and any other Federal agency that would assist in the sharing of this information with the goal of maintaining the most accurate watchlist or comprehensive cleared list. Nothing in this provision authorizes the Department to use this information for any other purpose. The De-

partment of Homeland Security shall incur all costs necessary to implement these information sharing agreements.

Section 890A(b)(6) requires the Office of Appeals and Redress to provide written information and supervisor guidance to air carrier passengers to begin the appeal and redress process at each airport at which the Department has a presence. Additionally, at each airport at which the Department has a significant presence, the Office is required to provide written information and ensure that a TSA supervisor who is trained in the appeal and redress process is available to provide support to air carrier passengers in need of guidance concerning the process.

For purposes of this measure, the term “Terrorist Watchlist or Database” is defined as any terrorist watchlist or database used by the Transportation Security Administration or any office of component of the Department of Homeland Security or any terror watchlist or database specified in Homeland Security Presidential Directive-6.

Finally, the FAST Redress Act envisions the integration of the appeal and redress process with the “Secure Flight” program, or its successor program, by amending section 44903(j)(2) of title 49, United States Code to incorporate applicable portions of the appeals and redress process and the records requirement into proposed section 890A of the Homeland Security Act of 2002.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) * * *

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

* * * * *

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

* * * * *

Subtitle H—Miscellaneous Provisions

* * * * *

Sec. 890A. *Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege.*

* * * * *

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

* * * * *

Subtitle H—Miscellaneous Provisions

* * * * *

**SEC. 890A. APPEAL AND REDRESS PROCESS FOR PASSENGERS WRONG-
LY DELAYED OR PROHIBITED FROM BOARDING A FLIGHT,
OR DENIED A RIGHT, BENEFIT, OR PRIVILEGE.**

(a) *ESTABLISHMENT.*—Not later than 30 days after the date of the enactment of this section, the Secretary shall establish a timely and fair process for individuals who believe they were delayed or prohibited from boarding a commercial aircraft or denied a right, benefit, or privilege because they were wrongly identified as a threat when screened against any terrorist watchlist or database used by the Transportation Security Administration (TSA) or any office or component of the Department.

(b) *OFFICE OF APPEALS AND REDRESS.*—

(1) *ESTABLISHMENT.*—The Secretary shall establish in the Department an Office of Appeals and Redress to implement, coordinate, and execute the process established by the Secretary pursuant to subsection (a). The Office shall include representatives from the TSA and such other offices and components of the Department as the Secretary determines appropriate.

(2) *COMPREHENSIVE CLEARED LIST.*—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office, under the direction of the Secretary, will maintain and appropriately disseminate a comprehensive list, to be known as the “Comprehensive Cleared List”, of individuals who—

(A) were misidentified as an individual on any terrorist watchlist or database;

(B) completed an approved Department of Homeland Security appeal and redress request and provided such additional information as required by the Department to verify the individual’s identity; and

(C) permit the use of their personally identifiable information to be shared between multiple Departmental components for purposes of this section.

(3) *USE OF COMPREHENSIVE CLEARED LIST.*—

(A) *IN GENERAL.*—The Secretary shall—

(i) except as provided in subparagraph (B), transmit to the TSA or any other appropriate office or component of the Department, other Federal, State, local, and tribal entities, and domestic air carriers and foreign air carriers that use any terrorist watchlist or database, the Comprehensive Cleared List and any other in-

formation the Secretary determines necessary to resolve misidentifications and improve the administration of the advanced passenger prescreening system and reduce the number of false positives; and

(ii) ensure that the Comprehensive Cleared List is taken into account by all appropriate offices or components of the Department when assessing the security risk of an individual.

(B) TERMINATION.—

(i) **IN GENERAL.—**The transmission of the Comprehensive Cleared List to domestic air carriers and foreign air carriers under clause (i) of subparagraph (A) shall terminate on the date on which the Federal Government assumes terrorist watchlist or database screening functions.

(ii) **WRITTEN NOTIFICATION TO CONGRESS.—**Not later than 15 days after the date on which the transmission of the Comprehensive Cleared List to the air carriers referred to in clause (i) of this subparagraph terminates in accordance with such clause, the Secretary shall provide written notification to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate of such termination.

(4) INTERGOVERNMENTAL EFFORTS.—The Secretary may—

(A) enter into memoranda of understanding with other Federal, State, local, and tribal agencies or entities, as necessary, to improve the appeal and redress process and for other purposes such as to verify an individual's identity and personally identifiable information; and

(B) work with other Federal, State, local, and tribal agencies or entities that use any terrorist watchlist or database to ensure, to the greatest extent practicable, that the Comprehensive Cleared List is considered when assessing the security risk of an individual.

(5) HANDLING OF PERSONALLY IDENTIFIABLE INFORMATION.—The Secretary, in conjunction with the Chief Privacy Officer of the Department, shall—

(A) require that Federal employees of the Department handling personally identifiable information of individuals (in this paragraph referred to as "PII") complete mandatory privacy and security training prior to being authorized to handle PII;

(B) ensure that the information maintained under this subsection is secured by encryption, including one-way hashing, data anonymization techniques, or such other equivalent technical security protections as the Secretary determines necessary;

(C) limit the information collected from misidentified passengers or other individuals to the minimum amount necessary to resolve an appeal and redress request;

(D) ensure that the information maintained under this subsection is shared or transferred via an encrypted data

network that has been audited to ensure that the anti-hacking and other security related software functions perform properly and are updated as necessary;

(E) ensure that any employee of the Department receiving the information maintained under this subsection handles such information in accordance with section 552a of title 5, United States Code, the Federal Information Security Management Act of 2002 (Public Law 107–296), and other applicable laws;

(F) only retain the information maintained under this subsection for as long as needed to assist the individual traveler in the appeal and redress process;

(G) engage in cooperative agreements with appropriate Federal agencies and entities, on a reimbursable basis, to ensure that legal name changes are properly reflected in any terrorist watchlist or database and the Comprehensive Cleared List to improve the appeal and redress process and to ensure the most accurate lists of identifications possible (except that section 552a of title 5, United States Code, shall not prohibit the sharing of legal name changes among Federal agencies and entities for the purposes of this section); and

(H) conduct and publish a privacy impact assessment of the appeal and redress process established under this section and transmit the assessment to the Committee on Homeland Security of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate.

(6) INITIATION OF APPEAL AND REDRESS PROCESS AT AIRPORTS.—*At each airport at which—*

(A) the Department has a presence, the Office shall provide written information to air carrier passengers to begin the appeal and redress process established pursuant to subsection (a); and

(B) the Department has a significant presence, provide the written information referred to in subparagraph (A) and ensure a TSA supervisor who is trained in such appeal and redress process is available to provide support to air carrier passengers in need of guidance concerning such process.

(7) REPORT TO CONGRESS.—*Not later than 240 days after the date of the enactment of this section, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the status of information sharing among users at the Department of any terrorist watchlist or database. The report shall include the following information:*

(A) A description of the processes and the status of the implementation of this section to share the Comprehensive Cleared List with other Department offices and components and other Federal, State, local, and tribal authorities that utilize any terrorist watchlist or database.

(B) A description of the extent to which such other Department offices and components are taking into account the Comprehensive Cleared List.

(C) Data on the number of individuals who have sought and successfully obtained redress through the Office of Appeals and Redress.

(D) Data on the number of individuals who have sought and were denied redress through the Office of Appeals and Redress.

(E) An assessment of what impact information sharing of the Comprehensive Cleared List has had on misidentifications of individuals who have successfully obtained redress through the Office of Appeals and Redress.

(F) An updated privacy impact assessment.

(c) **TERRORIST WATCHLIST OR DATABASE DEFINED.**—In this section, the term “terrorist watchlist or database” means any terrorist watchlist or database used by the Transportation Security Administration or any office or component of the Department of Homeland Security or specified in Homeland Security Presidential Directive-6, in effect as of the date of the enactment of this section.

* * * * *

TITLE 49, UNITED STATES CODE

* * * * *

SUBTITLE VII—AVIATION PROGRAMS

* * * * *

PART A—AIR COMMERCE AND SAFETY

* * * * *

SUBPART III—SAFETY

* * * * *

CHAPTER 449—SECURITY

SUBCHAPTER I—REQUIREMENTS

Sec.

44901. Screening passengers and property.

* * * * *

[44926. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight.]

* * * * *

SUBCHAPTER I—REQUIREMENTS

* * * * *

§ 44903. Air transportation security

(a) * * *

* * * * *

(j) SHORT-TERM ASSESSMENT AND DEPLOYMENT OF EMERGING SECURITY TECHNOLOGIES AND PROCEDURES.—

(1) * * *

(2) COMPUTER-ASSISTED PASSENGER PRESCREENING SYSTEM.—

(A) * * *

* * * * *

(C) ADVANCED AIRLINE PASSENGER PRESCREENING.—

(i) * * *

* * * * *

(iii) REQUIREMENTS.—In assuming performance of the function under clause (ii), the Assistant Secretary shall—

(I) * * *

(II) ensure, not later than 30 days after the date of the enactment of the FAST Redress Act of 2008, that the procedure established under subclause (I) is incorporated into the appeals and redress process established under section 890A of the Homeland Security Act of 2002;

[(II)] (III) ensure that Federal Government databases that will be used to establish the identity of a passenger under the system will not produce a large number of false positives;

[(III)] (IV) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

[(IV)] (V) establish sufficient operational safeguards to reduce the opportunities for abuse;

[(V)] (VI) implement substantial security measures to protect the system from unauthorized access;

[(VI)] (VII) adopt policies establishing effective oversight of the use and operation of the system; and

[(VII)] (VIII) ensure that there are no specific privacy concerns with the technological architecture of the system.

* * * * *

(E) AIRCRAFT CHARTER CUSTOMER AND LESSEE PRESCREENING.—

(i) * * *

* * * * *

(iii) NO FLY AND AUTOMATIC SELECTEE LISTS.—The Secretary of Homeland Security, in consultation with the Terrorist Screening Center, shall design and review, as necessary, guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the no fly and automatic selectee lists, in accordance with the appeals and redress process established under section 890A of the Homeland Security Act of 2002.

* * * * *

(G) APPEAL PROCEDURES.—

(i) IN GENERAL.—The Assistant Secretary shall establish a timely and fair process for individuals identified as a threat under one or more of subparagraphs (C), (D), and (E) to appeal to the Transportation Security Administration the determination and correct any erroneous information. *The Assistant Secretary shall incorporate the process established pursuant to this clause into the appeals and redress process established under section 890A of the Homeland Security Act of 2002.*

(ii) RECORDS.—The process shall include the establishment of a method by which the Assistant Secretary will be able to maintain a record of air passengers and other individuals who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers and other individuals, the Transportation Security Administration record shall contain information determined by the Assistant Secretary to authenticate the identity of such a passenger or individual. *The Assistant Secretary shall incorporate the record established and maintained pursuant to this clause into the Comprehensive Cleared List established and maintained under such section 890A.*

* * * * *

§ 44926. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight

[(a) IN GENERAL.—The Secretary of Homeland Security shall establish a timely and fair process for individuals who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat under the regimes utilized by the Transportation Security Administration, United States Customs and Border Protection, or any other office or component of the Department of Homeland Security.

[(b) OFFICE OF APPEALS AND REDRESS.—

[(1) ESTABLISHMENT.—The Secretary shall establish in the Department an Office of Appeals and Redress to implement, coordinate, and execute the process established by the Secretary pursuant to subsection (a). The Office shall include representatives from the Transportation Security Administration, United States Customs and Border Protection, and such other offices and components of the Department as the Secretary determines appropriate.

[(2) RECORDS.—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office, under the direction of the Secretary, will be able to maintain a record of air carrier passengers and other individuals who have been misidentified and have corrected erroneous information.

[(3) INFORMATION.—To prevent repeated delays of an misidentified passenger or other individual, the Office shall—

[(A) ensure that the records maintained under this subsection contain information determined by the Secretary to authenticate the identity of such a passenger or individual;

[(B) furnish to the Transportation Security Administration, United States Customs and Border Protection, or any other appropriate office or component of the Department, upon request, such information as may be necessary to allow such office or component to assist air carriers in improving their administration of the advanced passenger prescreening system and reduce the number of false positives; and

[(C) require air carriers and foreign air carriers take action to identify passengers determined, under the process established under subsection (a), to have been wrongly identified.

[(4) HANDLING OF PERSONALLY IDENTIFIABLE INFORMATION.—The Secretary, in conjunction with the Chief Privacy Officer of the Department shall—

[(A) require that Federal employees of the Department handling personally identifiable information of passengers (in this paragraph referred to as “PII”) complete mandatory privacy and security training prior to being authorized to handle PII;

[(B) ensure that the records maintained under this subsection are secured by encryption, one-way hashing, other data anonymization techniques, or such other equivalent security technical protections as the Secretary determines necessary;

[(C) limit the information collected from misidentified passengers or other individuals to the minimum amount necessary to resolve a redress request;

[(D) require that the data generated under this subsection shall be shared or transferred via a secure data network, that has been audited to ensure that the anti-hacking and other security related software functions properly and is updated as necessary;

[(E) ensure that any employee of the Department receiving the data contained within the records handles the information in accordance with the section 552a of title 5, United States Code, and the Federal Information Security Management Act of 2002 (Public Law 107-296);

[(F) only retain the data for as long as needed to assist the individual traveler in the redress process; and

[(G) conduct and publish a privacy impact assessment of the process described within this subsection and transmit the assessment to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and Committee on Homeland Security and Governmental Affairs of the Senate.

[(5) INITIATION OF REDRESS PROCESS AT AIRPORTS.—The Office shall establish at each airport at which the Department has a significant presence a process to provide information to

air carrier passengers to begin the redress process established pursuant to subsection (a).】

* * * * *

○