

108TH CONGRESS  
2D SESSION

# S. 2268

To provide for recruiting, training, and deputizing persons for the Federal flight deck officer program.

---

IN THE SENATE OF THE UNITED STATES

APRIL 1, 2004

Mr. BUNNING (for himself, Mrs. BOXER, and Mr. BURNS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

## A BILL

To provide for recruiting, training, and deputizing persons for the Federal flight deck officer program.

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 “Cockpit Security Tech-  
5 nical Corrections and Improvements Act of 2004”.

6 **SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.**

7 Except as otherwise specifically provided, whenever in  
8 this Act an amendment or repeal is expressed in terms  
9 of an amendment to, or repeal of, a section or other provi-  
10 sion of law, the reference shall be considered to be made

1 to a section or other provision of title 49, United States  
2 Code.

3 **SEC. 3. ELIGIBILITY FOR THE FEDERAL FLIGHT DECK OF-**  
4 **FICER PROGRAM.**

5 (a) IN GENERAL.—Section 44921(a) is amended to  
6 read as follows:

7 “(a) ESTABLISHMENT; DEFINITIONS.—

8 “(1) IN GENERAL.—The Secretary of Homeland  
9 Security shall establish the Federal flight deck offi-  
10 cer program to deputize eligible pilots as Federal  
11 law enforcement officers to defend against acts of  
12 criminal violence or air piracy. Such an officer shall  
13 be known as a ‘Federal flight deck officer’.

14 “(2) DEFINITIONS.—In this section:

15 “(A) AIR TRANSPORTATION.—The term  
16 ‘air transportation’ includes all-cargo air trans-  
17 portation.

18 “(B) PILOT.—The term ‘pilot’ means an  
19 individual who—

20 “(i) is employed by an air carrier that  
21 provides air transportation or intrastate  
22 air transportation; and

23 “(ii)(I) has final authority and re-  
24 sponsibility for the operation and safety of  
25 the flight; or

1                   “(II) is otherwise a member of the  
2                   flight deck crew.

3                   “(C) PROGRAM.—The term ‘program’  
4                   means the Federal flight deck officer program  
5                   established under paragraph (1).

6                   “(D) SECRETARY.—The term ‘Secretary’  
7                   means the Secretary of Homeland Security.”.

8                   (b) ELIGIBILITY CRITERIA.—Section 44921(d) is  
9                   amended to read as follows:

10                  “(d) ELIGIBILITY.—

11                   “(1) CRITERIA.—A pilot is eligible to be a Fed-  
12                   eral flight deck officer under this section if the  
13                   pilot—

14                   “(A) submits an application to the Sec-  
15                   retary;

16                   “(B) may lawfully transport in interstate  
17                   or foreign commerce, and possess in commerce  
18                   a firearm or ammunition under Federal law;

19                   “(C)(i) has successfully completed the Fed-  
20                   eral flight deck officer training required by the  
21                   Secretary; or

22                   “(ii) is eligible to be deputized prior to  
23                   completing the Federal flight deck officer train-  
24                   ing pursuant to paragraph (2); and

1           “(D) presents a valid First-Class Airman  
2 Medical Certificate or Second-Class Airman  
3 Medical Certificate indicating that the pilot has  
4 met the mental standards prescribed in part 67  
5 of title 14, Code of Federal Regulations, that  
6 applied on December 31, 2003.

7           “(2) EXCEPTION FOR CERTAIN PILOTS.—

8           “(A) IN GENERAL.—A pilot is eligible to  
9 be deputized prior to the pilot completing the  
10 Federal flight deck officer training if the  
11 pilot—

12           “(i)(I) is or has been an active or re-  
13 serve member of the United States Armed  
14 Forces, the National Guard, or a Federal,  
15 State, or local law enforcement agency;

16           “(II) provides evidence of satisfactory  
17 completion of firearms training by an enti-  
18 ty that is approved for requalification  
19 training under subsection (c) during the  
20 12-month period ending on the date the  
21 Secretary receives the application sub-  
22 mitted by the pilot; and

23           “(III) presents a valid First-Class  
24 Airman Medical Certificate or Second-  
25 Class Airman Medical Certificate indi-

1 cating that the pilot has met the mental  
2 standards prescribed in part 67 of title 14,  
3 Code of Federal Regulations, that applied  
4 on December 31, 2003; or

5 “(ii)(I) during the 90-day period be-  
6 ginning on the date the Secretary receives  
7 the application submitted by the pilot, is  
8 not offered Federal flight deck officer  
9 training;

10 “(II) provides evidence of satisfactory  
11 completion of firearms training by an enti-  
12 ty that is approved for requalification  
13 training under subsection (c)—

14 “(aa) during the 12-month period  
15 ending on the date the Secretary re-  
16 ceives an application submitted by the  
17 pilot; or

18 “(bb) during the 120-day period  
19 beginning on the date the Secretary  
20 receives an application submitted by  
21 the pilot; and

22 “(III) presents a valid First-Class  
23 Airman Medical Certificate or Second-  
24 Class Airman Medical Certificate indi-  
25 cating that the pilot has met the mental

1 standards prescribed in part 67 of title 14,  
2 Code of Federal Regulations, that applied  
3 on December 31, 2003.

4 “(B) REQUIREMENT FOR TRAINING.—A  
5 pilot who is eligible to be deputized prior to  
6 completing the Federal flight deck officer train-  
7 ing pursuant to this paragraph shall begin such  
8 training not later than 180 days after the date  
9 the pilot is deputized as a Federal flight deck  
10 officer.

11 “(3) DEPUTIZATION BY OTHER FEDERAL AGEN-  
12 CIES.—The Secretary may request another Federal  
13 agency to deputize, as Federal flight deck officers  
14 under this section, those pilots that the Secretary  
15 determines are qualified to be such officers.

16 “(4) TIMING.—The Secretary shall immediately  
17 deputize a pilot who is eligible under this subsection  
18 as a Federal flight deck officer.

19 “(5) OTHER REQUIREMENTS.—The Secretary  
20 may not impose any eligibility requirements for a  
21 pilot to be deputized or remain deputized as a Fed-  
22 eral flight deck officer other than the requirements  
23 described in this subsection.”.

1 (c) CONFORMING AMENDMENT.—Section 44921 is  
 2 amended by striking subsection (k) and inserting the fol-  
 3 lowing:

4 “(k) APPLICABILITY.—This section shall not apply to  
 5 air carriers operating under part 135 of title 14, Code of  
 6 Federal Regulations, and to pilots employed by such car-  
 7 riers to the extent that such carriers and pilots are covered  
 8 by section 135.119 of such title or any successor to such  
 9 section.”.

10 (d) CONFORMING AMENDMENT.—Section  
 11 44921(b)(4) is repealed.

12 **SEC. 4. FEDERAL FLIGHT DECK OFFICER TRAINING AND**  
 13 **REQUALIFICATION TRAINING.**

14 (a) IN GENERAL.—Paragraph (1) of section  
 15 44921(c) is amended to read as follows:

16 “(1) IN GENERAL.—The Secretary shall provide  
 17 the training, supervision, and equipment necessary  
 18 for a pilot to be a Federal flight deck officer under  
 19 this section.”.

20 (b) TRAINING AND REQUALIFICATION REQUIRE-  
 21 MENTS.—Section 44921(c) is amended by adding at the  
 22 end the following new paragraphs:

23 “(3) INITIATION OF TRAINING.—The Secretary  
 24 shall—

1           “(A) not later than 30 days after the date  
2           that the Secretary receives an application sub-  
3           mitted by a pilot, determine if the pilot is eligi-  
4           ble to receive Federal flight deck officer train-  
5           ing under this title; and

6           “(B) if the pilot is eligible, not later than  
7           90 days after the date that the Secretary re-  
8           ceives an application submitted by the pilot,  
9           begin training the pilot as a Federal flight deck  
10          officer.

11          “(4) TRAINING BY OTHER ENTITIES.—The  
12          training of a Federal flight deck officer may be con-  
13          ducted by—

14                 “(A) the Secretary;

15                 “(B) the Director of the Federal Bureau of  
16          Investigation; or

17                 “(C) a private training facility approved by  
18          the Secretary.

19          “(5) LOCATION OF TRAINING.—The Secretary  
20          shall ensure that—

21                 “(A) Federal flight deck officer training is  
22          conducted at facilities located throughout the  
23          United States; and

24                 “(B) that a pilot who is eligible to receive  
25          Federal flight deck officer training is offered a

1 choice of training locations and dates and is  
2 provided at least 30 days advance notice of  
3 such locations and dates.

4 “(6) REQUALIFICATION TRAINING.—

5 “(A) REQUIREMENT FOR REQUALIFICA-  
6 TION.—The Secretary shall require a Federal  
7 flight deck officer to successfully complete re-  
8 qualification training. Such requalification  
9 training shall occur at such intervals as may be  
10 required by the Secretary.

11 “(B) REQUALIFICATION TRAINING BY  
12 OTHER ENTITIES.—The requalification training  
13 of a Federal flight deck officer may be con-  
14 ducted by—

15 “(i) the Secretary;

16 “(ii) the Director of the Federal Bu-  
17 reau of Investigation; or

18 “(iii) a private training facility ap-  
19 proved by the Secretary under subpara-  
20 graph (C).

21 “(C) PRIVATE TRAINING FACILITIES.—The  
22 Secretary shall approve the application of a pri-  
23 vate training facility to provide requalification  
24 training to Federal flight deck officers if such  
25 facility—

1           “(i) is approved by a Federal agency  
2           or department to provide firearms training;

3           “(ii) provides a training course that  
4           includes practical training in the firing of  
5           a handgun with live ammunition, training  
6           in the lawful and justifiable use of deadly  
7           force, and—

8                       “(I) qualifies Federal, State, or  
9                       local law enforcement officers, secu-  
10                      rity guards, or private investigators;  
11                      or

12                     “(II) provides a certificate of  
13                     training or competence prior to the  
14                     issuance of a license or permit to  
15                     carry a handgun; or

16                     “(iii) meets any other qualifications  
17                     determined in the Secretary’s discretion.

18                     “(D) PUBLICATION OF REQUALIFICATION  
19                     TRAINING FACILITIES.—The Secretary shall  
20                     make readily available to pilots the list of facili-  
21                     ties approved to provide requalification training  
22                     under this paragraph. Such list shall also be  
23                     available through the Internet.

24                     “(7) COSTS OF TRAINING.—

1           “(A) IN GENERAL.—The Secretary shall  
2 provide Federal flight deck officer training or  
3 requalification training to eligible pilots at no  
4 cost to the pilots or the air carriers that employ  
5 such pilots.

6           “(B) TRANSPORTATION AND EXPENSES.—  
7 Except as provided in subparagraph (C), the  
8 Secretary shall provide pilots receiving Federal  
9 flight deck officer training or requalification  
10 training, including training under subsection  
11 (d)(2)(A)(ii)(II)(bb), travel expenses, including  
12 per diem in lieu of subsistence, at rates author-  
13 ized for employees of agencies under subchapter  
14 I of chapter 57 of title 5, United States Code,  
15 while away from their homes or regular places  
16 of business for the purpose of receiving such  
17 training.

18           “(C) UNPAID LEAVE.—An air carrier that  
19 employs a pilot receiving Federal flight deck of-  
20 ficer training or requalification training shall  
21 permit the pilot to take unpaid leave to partici-  
22 pate in such training.

23           “(8) PROHIBITION ON OTHER TRAINING RE-  
24 QUIREMENTS.—The requirements for Federal flight  
25 deck officer training or requalification training may

1 not exceed the requirements, including the length of  
2 time of the training period, for successful completion  
3 of such training that applied on December 31,  
4 2003.”.

5 (c) TECHNICAL AND CONFORMING AMENDMENTS.—  
6 Section 44921(c)(2) is amended—

7 (1) in subparagraph (A), by striking “mar-  
8 shals;” and inserting “marshals;”; and

9 (2) by striking subparagraph (C) and inserting  
10 the following:

11 “(C) TRAINING IN USE OF FIREARMS.—In  
12 order to complete training as a Federal flight  
13 deck officer, a pilot must achieve the level of  
14 proficiency with a firearm that is required by  
15 the Secretary. Such level shall be comparable to  
16 the level of proficiency required of other Fed-  
17 eral law enforcement officers.”.

18 (d) REQUIREMENT TO PROMOTE REQUALIFICATION  
19 FACILITIES.—

20 (1) IN GENERAL.—Not later than 30 days after  
21 the date of enactment of this Act, the Secretary of  
22 Homeland Security shall publish in the Federal Reg-  
23 ister and use other appropriate methods to promote  
24 and publicize the opportunity for private facilities to  
25 provide requalification training to Federal flight

1 deck officers under section 44921(c)(6), as added by  
2 subsection (b).

3 (2) PURPOSE OF PROMOTION.—The purposes of  
4 the publication and promotion described in para-  
5 graph (1) are—

6 (A) to inform private facilities about the  
7 Federal flight deck officer program; and

8 (B) to encourage such facilities to apply to  
9 provide requalification training to Federal flight  
10 deck officers.

11 **SEC. 5. AUTHORITY TO CARRY FIREARMS.**

12 (a) AMENDMENTS TO AUTHORITY.—Section  
13 44921(f) is amended to read as follows:

14 “(f) AUTHORITY TO CARRY FIREARMS.—

15 “(1) IN GENERAL.—The Secretary shall author-  
16 ize a Federal flight deck officer to carry a firearm  
17 on the officer’s person. Notwithstanding subsection  
18 (c)(1), the officer may purchase a firearm and carry  
19 that firearm in accordance with this section if the  
20 firearm is of a type that may be used under the pro-  
21 gram.

22 “(2) PREEMPTION.—Notwithstanding any other  
23 provision of Federal, State, or local law, a Federal  
24 flight deck officer may carry a firearm in any State  
25 and from one State to another State.

1           “(3) CARRYING FIREARMS OUTSIDE UNITED  
2 STATES.—

3           “(A) IN GENERAL.—When operating to,  
4 from, or within the jurisdiction of a foreign gov-  
5 ernment where an agreement allowing a Fed-  
6 eral flight deck officer to carry or possess a  
7 firearm is not in effect, a Federal flight deck  
8 officer shall be designated as a Federal air mar-  
9 shal for the purposes of complying with inter-  
10 national weapons carriage regulations and exist-  
11 ing agreements with foreign governments.  
12 Nothing in this paragraph shall be construed to  
13 allow Federal flight deck officers to receive any  
14 other benefit of being so designated.

15           “(B) REQUIREMENT TO NEGOTIATE  
16 AGREEMENTS.—The Secretary of State shall  
17 negotiate agreements with foreign governments  
18 as necessary to allow Federal flight deck offi-  
19 cers to carry and possess firearms within the  
20 jurisdictions of such foreign governments for  
21 protection of international flights against hi-  
22 jackings or other terrorist acts. Any such agree-  
23 ments shall provide Federal flight deck officers  
24 the same rights and privileges accorded Federal  
25 air marshals by such foreign governments.

1           “(4) DESCRIPTION OF AUTHORITY AND PROCE-  
2           DURES.—The authority of a Federal flight deck offi-  
3           cer to carry a firearm shall be identical to such au-  
4           thority granted to any other Federal law enforce-  
5           ment officer under Federal law. The operating pro-  
6           cedures applicable to a Federal flight deck officer re-  
7           lating to carrying such firearm shall be—

8                   “(A) identical to such procedures applica-  
9                   ble to any other Federal law enforcement officer  
10                  under Federal law; and

11                  “(B) no more restrictive than the restric-  
12                  tions for carrying a firearm that are generally  
13                  imposed on any other Federal law enforcement  
14                  officer who has statutory authority to carry a  
15                  firearm.

16           “(5) LOCKED DEVICES.—

17                   “(A) NO REQUIREMENT TO USE.—A Fed-  
18                   eral flight deck officer may not be required to  
19                   carry or transport a firearm in a locked bag,  
20                   box, or container.

21                   “(B) REQUIREMENT TO PROVIDE.—Upon  
22                   request of a Federal flight deck officer, the Sec-  
23                   retary shall provide a secure locking device or  
24                   other appropriate container for storage of a  
25                   firearm by the Federal flight deck officer.

1           “(6) AUTHORITY TO USE FORCE.—A Federal  
2 flight deck officer shall have authority to use reason-  
3 able and necessary force, including lethal force,  
4 against an individual or individuals to defend an air-  
5 craft, prevent terrorism, or otherwise defend life.

6           “(7) INFORMATION TO OTHER ENTITIES.—The  
7 Secretary shall periodically provide information to  
8 relevant airport officials and personnel, and Federal,  
9 State, and local law enforcement authorities, regard-  
10 ing the authority of a Federal flight deck officer to  
11 possess and carry a firearm on the officer’s per-  
12 son.”.

13           (b) INITIAL REQUIREMENT TO PROVIDE INFORMA-  
14 TION.—Not later than 60 days after the date of enactment  
15 of this Act, the Secretary of Homeland Security shall  
16 make the initial periodic provision of information de-  
17 scribed in section 44921(f)(6), as added by subsection (a).

18 **SEC. 6. LIMITATION ON AUTHORITY OF AIR CARRIERS AND**  
19 **OTHER ENTITIES.**

20           Section 44921(j) is amended to read as follows:

21           “(j) LIMITATION ON AUTHORITY OF AIR CARRIERS  
22 AND OTHER ENTITIES.—No air carrier or other entity or  
23 individual shall prohibit or threaten any retaliatory action  
24 against a pilot employed by the air carrier from becoming

1 or serving as a Federal flight deck officer under this sec-  
2 tion. No air carrier or other entity or individual shall—

3 “(1) prohibit a Federal flight deck officer from  
4 piloting an aircraft operated by the air carrier;

5 “(2) terminate the employment of a Federal  
6 flight deck officer on the basis of his or her volun-  
7 teering for or participating in the program under  
8 this section; or

9 “(3) take other disciplinary action against or  
10 otherwise interfere with such pilot on the basis of  
11 such pilot’s volunteering for or participating in the  
12 program under this section.”.

13 **SEC. 7. AUTHORITY TO SUE.**

14 Section 44921, as amended by sections 3 through 6  
15 of this Act, is further amended by adding at the end the  
16 following new subsection:

17 “(1) **AUTHORITY TO SUE.**—

18 “(1) **IN GENERAL.**—A Federal flight deck offi-  
19 cer or a pilot who is adversely affected by a failure  
20 by the Secretary to comply with any of the require-  
21 ments of this section may file a petition for judicial  
22 review with the United States district court for the  
23 district in which the Federal flight deck officer or  
24 pilot resides or has a principal place of business or  
25 in the District of Columbia.

1           “(2) REMEDY.—If a United States court deter-  
 2           mines that the Secretary failed to comply with a re-  
 3           quirement of this section, the court shall order the  
 4           Secretary to take such action as may be necessary  
 5           to comply with such requirement.

6           “(3) ATTORNEY’S FEES.—In any action or pro-  
 7           ceeding brought under this subsection, the United  
 8           States court shall award a prevailing plaintiff rea-  
 9           sonable attorney’s fees incurred in bringing such ac-  
 10          tion or proceeding.”.

11 **SEC. 8. PRIVACY OF FEDERAL FLIGHT DECK OFFICERS.**

12          Section 44921, as amended by sections 3 through 7  
 13 of this Act, is further amended by adding at the end the  
 14 following new subsection:

15          “(m) PRIVACY OF FEDERAL FLIGHT DECK OFFI-  
 16          CERS.—

17               “(1) IN GENERAL.—Except as provided in para-  
 18               graph (2), the Secretary may not disclose informa-  
 19               tion related to a pilot’s participation in the Federal  
 20               flight deck officer program or the pilot’s application  
 21               to participate in such program.

22               “(2) EXCEPTIONS.—The Secretary may disclose  
 23               information described in paragraph (1)—

24                       “(A) if the disclosure is required for the  
 25                       administration of this section;

1           “(B) in response to a pilot’s request that  
2 such information be disclosed to the air carrier  
3 that employs the pilot, if—

4                   “(i) the information is limited to the  
5 information specifically requested by the  
6 pilot; and

7                   “(ii) such air carrier does not disclose  
8 such information to third parties; or

9           “(C) in response to a request for a law en-  
10 forcement agency to confirm if a pilot is depu-  
11 tized as a Federal flight deck officer.

12           “(3) DISCLOSURE OF INFORMATION BY PI-  
13 LOTS.—A pilot may disclose information as deter-  
14 mined to be necessary by the pilot, including—

15                   “(A) in connection with the pilot’s duties  
16 as a Federal flight deck officer;

17                   “(B) to any law enforcement officer, air  
18 crew member, or legal advocate; and

19                   “(C) in order to receive supplemental  
20 training or equipment for use or to demonstrate  
21 or maintain proficiency as a Federal flight deck  
22 officer.”.

1 **SEC. 9. ADJUDICATION PROCEDURES.**

2 Section 44921, as amended by sections 3 through 8  
3 of this Act, is further amended by adding at the end the  
4 following new subsection:

5 “(n) ADJUDICATION PROCEDURES.—

6 “(1) DETERMINATION OF INELIGIBILITY AND  
7 APPEAL.—

8 “(A) IN GENERAL.—If the Secretary deter-  
9 mines that a pilot is ineligible to be a Federal  
10 flight deck officer, or has become ineligible to  
11 remain a Federal flight deck officer, the Sec-  
12 retary shall provide in writing the specific rea-  
13 sons to such pilot within 5 days of such deter-  
14 mination. Such pilot may submit to the Sec-  
15 retary information to correct, clarify, or supple-  
16 ment any pertinent records relied on for the ad-  
17 verse determination. After receipt of such infor-  
18 mation, the Secretary shall immediately con-  
19 sider the information, investigate the matter  
20 further, correct all erroneous records relating to  
21 such person, give notice of the error to any  
22 Federal department or agency or any State that  
23 was the source of such erroneous records, and  
24 reconsider the adverse determination. Upon re-  
25 quest by the aggrieved party, the Secretary  
26 shall promptly hold a hearing at a location and

1 on a date convenient to the aggrieved party to  
2 review the adverse determination.

3 “(B) PETITION.—If the Secretary fails to  
4 reverse the adverse determination within 30  
5 days after receipt of such information or within  
6 30 days after any such hearing, whichever date  
7 is later, the aggrieved party may at any time  
8 within 60 days after the date such period ex-  
9 pires file a petition with the United States dis-  
10 trict court for the district in which the ag-  
11 grievied party resides or has a principal place of  
12 business or in the District of Columbia for a de  
13 novo judicial review of such adverse determina-  
14 tion. In a proceeding conducted under this sub-  
15 section, the court may consider any evidence  
16 submitted by the parties to the proceeding  
17 whether or not such evidence was considered  
18 previously. If the court decides that the Sec-  
19 retary was not authorized to determine or in-  
20 correctly determined that the aggrieved party is  
21 ineligible to be a Federal flight deck officer, the  
22 court shall order the Secretary to take such ac-  
23 tion as may be necessary to comply with the  
24 judgment of the court.

25 “(2) OTHER ADVERSE ACTION.—

1           “(A) REMEDIATION TRAINING AND SUS-  
2           PENSION.—If a Federal flight deck officer  
3           knowingly commits a serious or dangerous vio-  
4           lation of standard operating procedures applica-  
5           ble to Federal flight deck officers, the Secretary  
6           may order remedial training or may suspend  
7           such officer from the program for a period of  
8           no more than 1 year. If a Federal flight deck  
9           officer acts in a manner that is willfully and  
10          grossly negligent in relation to acting as a Fed-  
11          eral flight deck officer, the Secretary may order  
12          remedial training or may suspend such officer  
13          from the program indefinitely, except that the  
14          suspended officer may seek reinstatement after  
15          1 year. No other penalty may be imposed by the  
16          Secretary.

17          “(B) PROCEDURES.—If the Secretary be-  
18          lieves that remedial training or suspension of a  
19          Federal flight deck officer is warranted under  
20          this paragraph, the Secretary shall serve a writ-  
21          ten statement of the pertinent allegations to the  
22          Federal flight deck officer in question. If the  
23          Federal flight deck officer contests the allega-  
24          tions, the remedial training, or the suspension,  
25          the matter shall be submitted for decision to a

1 review board. The officer who is the subject of  
2 the hearing may be represented by counsel, a  
3 union representative, or such other person of  
4 the officer's choice. The review board shall con-  
5 sist of—

6 “(i) a Federal flight deck officer who  
7 shall be randomly selected and who is will-  
8 ing to serve;

9 “(ii) a designee of the Secretary; and

10 “(iii) a representative of a neutral  
11 third-party acceptable to both the officer  
12 and the Secretary.

13 “(C) ADDITIONAL PROCEDURES.—The  
14 hearing conducted by the review board may  
15 take place no less than 14 days from the date  
16 the written statement was served on the Fed-  
17 eral flight deck officer. The hearing shall be  
18 held at the officer's domicile or other location  
19 reasonably convenient to the officer. The hear-  
20 ing shall be held on a date which will not inter-  
21 fere with the officer's work schedule. The Sec-  
22 retary shall provide the officer with complete  
23 discovery, including all pertinent documents and  
24 all pertinent allegations not previously supplied  
25 in the written statement. The Secretary shall

1 cause a recording to be made of the hearing and  
2 shall promptly supply a copy of the recording to  
3 the officer. The members of the review board  
4 shall be reimbursed by the Secretary for trans-  
5 portation and per diem as necessary. The Sec-  
6 retary shall pay any reasonable rent or charge  
7 necessary to use the premises where the hearing  
8 is conducted.

9 “(D) FINDINGS OF REVIEW BOARD.—The  
10 review board shall render findings of fact re-  
11 garding the allegations and shall decide whether  
12 any remedial training or period of suspension is  
13 warranted. The Federal flight deck officer shall  
14 not be required to take remedial training or be  
15 suspended from duties as a Federal flight deck  
16 officer unless and until the review board so de-  
17 termines. The review board shall determine the  
18 length, if any, of a suspension. No records or  
19 information contained therein regarding any  
20 matter arising under this subsection shall be  
21 disclosed to the officer’s employer, the Federal  
22 Aviation Administration, or any other person or  
23 entity. If the review board determines that the  
24 officer has substantially prevailed in the pro-  
25 ceeding, the review board shall award the offi-

1 cer a reasonable attorney's fee, and the Sec-  
2 retary shall be liable therefore.

3 “(E) APPEAL OR REVIEW BOARD DECI-  
4 SION.—A Federal flight deck officer may appeal  
5 an adverse decision of the review board within  
6 60 days after the decision by filing a petition  
7 with the United States district court for the  
8 district in which the officer resides or has a  
9 principal place of business or in the District of  
10 Columbia for a de novo judicial review of such  
11 adverse determination. In a proceeding con-  
12 ducted under this subsection, the court may  
13 consider any evidence submitted by the parties  
14 to the proceeding whether or not such evidence  
15 was considered previously. If the court decides  
16 that the review board's findings of fact regard-  
17 ing the allegations or decision imposing reme-  
18 dial training or a period of suspension were un-  
19 warranted, the court shall order the Secretary  
20 to take such action as may be necessary to com-  
21 ply with the judgment of the court.”.

22 **SEC. 10. OTHER AUTHORITIES.**

23 Section 44921, as amended by sections 3 through 9  
24 of this Act, is further amended by adding at the end the  
25 following new subsections:

1       “(o) CREDENTIALS.—The Secretary shall issue to  
2 each Federal flight deck officer standard Federal law en-  
3 forcement credentials, including a distinctive metal badge,  
4 that are similar to the credentials issued to other Federal  
5 law enforcement officers.

6       “(p) ACTING AGAINST TERRORISM.—Nothing in this  
7 title or any other provision of law shall prohibit a Federal  
8 flight deck officer from acting reasonably to prevent an  
9 act of terrorism or otherwise to defend life when outside  
10 the flight deck of an aircraft.

11       “(q) SECURITY INSPECTIONS.—A Federal flight deck  
12 officer may not be subject to greater routine security in-  
13 spection or screening protocols at or in the vicinity of an  
14 airport than the protocols that apply to other Federal law  
15 enforcement officers.

16       “(r) FEDERAL FLIGHT DECK OFFICERS NOT ON  
17 DUTY.—Nothing in this title or any other provision of law  
18 shall be construed to prohibit a Federal flight deck officer  
19 who is not on duty from carrying a firearm.

20       “(s) SENSITIVE SECURITY INFORMATION.—

21               “(1) ACCESS PROCEDURES.—Not later than  
22 180 days after the date of enactment of the Cockpit  
23 Security Technical Corrections and Improvements  
24 Act of 2004, the Secretary shall, by regulation, es-  
25 tablish procedures to govern access by Federal flight

1 deck officers to sensitive security information that  
2 shall be binding upon all such flight deck officers.  
3 Federal flight deck officers shall be given reasonable  
4 and specific notice of the information deemed sen-  
5 sitive security information by the Secretary.

6 “(2) UNIFORM MINIMUM STANDARDS.—The  
7 Secretary shall establish uniform minimum stand-  
8 ards to ensure that Federal flight deck officers  
9 whose access to sensitive security information is  
10 being denied or terminated are appropriately advised  
11 of the reasons for such denial or termination and are  
12 provided an adequate opportunity to respond to all  
13 adverse information which forms the basis for such  
14 denial or termination before final action by the de-  
15 partment or agency concerned.

16 “(t) ACCESS TO SECURITY AND THREAT INFORMA-  
17 TION.—The Secretary shall establish procedures to ensure  
18 that Federal flight deck officers and in-flight security co-  
19 ordinators have access to security directives, information  
20 circulars, and other relevant threat and security informa-  
21 tion. Such procedures may require the air carrier employ-  
22 ing the Federal flight deck officer or in-flight security co-  
23 ordinator to provide this information to such officers and  
24 coordinators.

1       “(u) DISCLOSURES TO CONGRESS.—Nothing in this  
 2 title or any other provision of law shall prevent a Federal  
 3 flight deck officer from disclosing facts, data, procedures,  
 4 or any other information about the Federal flight deck of-  
 5 ficer program to a Member or committee of Congress.”.

6       **SEC. 11. REPORTS TO CONGRESS REGARDING THE FED-**  
 7                                   **ERAL FLIGHT DECK OFFICER PROGRAM.**

8       (a) IN GENERAL.—Section 44921, as amended by  
 9 sections 3 through 10 of this Act, is further amended by  
 10 adding at the end the following new subsection:

11       “(v) REPORTS TO CONGRESS.—

12               “(1) REQUIREMENT.—Not less often than once  
 13 every 3 months, the Secretary, in consultation with  
 14 the Secretary of State, shall report to Congress on  
 15 the Federal flight deck officer program carried out  
 16 under this section.

17               “(2) CONTENT.—A report submitted under  
 18 paragraph (1) shall include—

19                       “(A) the number of pilots who have applied  
 20 to the Federal flight deck officer program  
 21 under this section;

22                       “(B) the number of pilots deputized under  
 23 the program;

24                       “(C) any delays in training or deputizing  
 25 Federal flight deck officers;



1 (b) PURPOSE OF PROMOTION.—The purposes of the  
2 publication and promotion described in subsection (a)  
3 are—

4 (1) to inform aircraft pilots about the Federal  
5 flight deck officer program; and

6 (2) to encourage qualified pilots to apply to  
7 enter the Federal flight deck officer training pro-  
8 gram.

9 **SEC. 13. ADDITIONAL REPORTS TO CONGRESS.**

10 (a) DEPARTMENT OF JUSTICE FEASIBILITY RE-  
11 PORT.—Not later than 90 days after the date of enact-  
12 ment of this Act, the Attorney General shall submit to  
13 Congress a report on the feasibility of the Department of  
14 Justice to assume responsibility for administration of the  
15 Federal flight deck officer program. Such report shall  
16 identify the agency or bureau within the Department of  
17 Justice which would be best suited to administer the Fed-  
18 eral flight deck officer program.

19 (b) LAW ENFORCEMENT OFFICER VERIFICATION  
20 SYSTEM.—Not later than 90 days after the date of enact-  
21 ment of this Act, the Attorney General shall submit to  
22 Congress a report on the status and feasibility of imple-  
23 menting a program to verify the identity of personnel au-  
24 thorized to carry firearms aboard commercial aircraft, in-  
25 cluding the ability to implement such a system imme-

1 diately utilizing commercially available components and  
2 existing technologies. Such report shall also include the  
3 feasibility of using biometric identification to verify the  
4 identity of authorized personnel.

5 **SEC. 14. CONFORMING AMENDMENTS.**

6 Section 44921, as amended by sections 3 through 11,  
7 is further amended—

8 (1) by striking “Under Secretary of Transpor-  
9 tation for Security” each place it appears and insert-  
10 ing “Secretary”;

11 (2) by striking “Under Secretary” and inserting  
12 “Secretary”; and

13 (3) by striking subsection (b).

○