To enhance aviation security and protect personal privacy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BENNETT (for himself and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To enhance aviation security and protect personal privacy, 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 “Securing Aircraft
5 From Explosives Responsibly: Advanced Imaging Recogni-
6 tion Act of 2010” or “SAFER AIR Act of 2010”.

7 SEC. 2. FINDINGS; SENSE OF CONGRESS.

8 (a) FINDINGS.—Congress makes the following find-
9 ings:
(1) On December 25, 2009, Umar Farouk Abdulmutallab, a national of Nigeria, allegedly attempted to detonate a concentration of pentaerythritol tetranitrate aboard Northwest Airlines Flight 253 as the aircraft prepared to land in Detroit, Michigan.

(2) Pentaerythritol tetranitrate is an explosive chemical compound that cannot be detected by conventional metal detection devices like those that Mr. Abdulmutallab allegedly passed through at airport checkpoints in Nigeria and the Netherlands.

(3) However, detection devices employing advanced imaging technology (formerly known as whole-body imaging), and other technologies currently available, such as trace detection equipment, can be used to identify or detect on-body plastic explosives and other nonmetallic explosives, including pentaerythritol tetranitrate, as well as other materials that can be used as weapons.

(4) Despite these capabilities, advanced imaging technology has not been fully deployed in the United States or abroad. Through 2009, the Department of Homeland Security used 40 advanced imaging technology units in 19 airports in the United States. Only 6 of those airports used advanced imaging for
primary screening, and only then in a limited role at
the airport.

(5) The Department of Homeland Security has
announced plans to deploy 950 additional advanced
imaging technology units through fiscal year 2011,
for use at approximately 2200 checkpoints at com-
mercial airports.

(6) Other detection technologies complement,
and may be used in combination with, advanced im-
ing technology units as part of a multi-layered ap-
proach at the airport checkpoint, and need to be
tested and deployed more consistently. These tech-
nologies include devices that detect traces of explo-
sives from swabs of passengers or carry-on baggage
and advanced technology machines that conduct
multiple-view examinations of carry-on baggage.

(b) SENSE OF CONGRESS ON PRIVACY CONCERNS

RELATED TO THE USE OF ADVANCED IMAGING TECH-

NOLOGY.—It is the sense of Congress that the Depart-
ment of Homeland Security should—

(1) increase efforts to address privacy concerns
with respect to the screening of passengers at air-
ports using advanced imaging technology; and
(2) conduct additional lab and operational testing of advanced imaging technology and deploy, in a reasonable period of time, technology—

(A) to standardize images produced using advanced imaging technology;

(B) to remove personally identifying characteristics from the images viewed by transportation security officers, while providing such officers with the information necessary to make a clear assessment of the threat posed by individual passengers; and

(C) to upgrade equipment to be able to detect new threats without major capital expenditures.

SEC. 3. POLICY OF THE UNITED STATES WITH RESPECT TO PRIMARY SCREENING TECHNOLOGIES AT AIRPORT CHECKPOINTS.

It is the policy of the United States to aggressively seek, develop, and deploy, in a timely fashion and in sufficient numbers, primary screening technologies capable of detecting and protecting against threats to domestic and international aviation travel that cannot be effectively and efficiently detected by other technologies currently more commonly utilized in airports, such as metal detection.
SEC. 4. USE OF ADVANCED TECHNOLOGY FOR SCREENING AIRCRAFT PASSENGERS.

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

“(l) USE OF ADVANCED TECHNOLOGY FOR SCREENING PASSENGERS.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that advanced imaging technology and other advanced technology with the capability to detect weapons, on-body plastic explosives, and other nonmetallic explosives, are deployed, individually or in combination with each other, in a timely and effective manner for the primary screening of aircraft passengers in accordance with this subsection.

“(2) TECHNOLOGICAL AND OPERATIONAL CERTIFICATION.—

“(A) IN GENERAL.—Not later than 30 days after the date of the enactment of the Securing Aircraft From Explosives Responsibly: Advanced Imaging Recognition Act of 2010, the Secretary of Homeland Security shall certify to Congress that—

“(i) the Department of Homeland Security has the capacity to deploy advanced technology described in subparagraph (B)
at airport checkpoints to detect weapons, on-body plastic explosives, and other nonmetallic explosives; and

“(ii) those technologies will be deployed at each airport checkpoint in the United States by 2013 in sufficient quantities to detect and deter operational threats from weapons, on-body plastic explosives, and other nonmetallic explosives.

“(B) Advanced technology described.—Advanced technology described in this subparagraph is—

“(i) advanced imaging technology; or

“(ii) such other technology as the Secretary of Homeland Security determines, and certifies to Congress—

“(I) provides a capability to detect weapons, on-body plastic explosives, and other nonmetallic explosives that is comparable to, or greater than, the capability to detect such weapons and explosives provided by advanced imaging technology; and
“(II) will be used in a manner suitable to detect such weapons and explosives.

“(3) PRIMARY SCREENING OF PASSENGERS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), all primary screening of passengers shall be conducted using advanced imaging technology or another advanced technology described in paragraph (2)(B)(ii).

“(B) ALTERNATIVE SCREENING METHOD FOR PASSENGERS WITH PRIVACY CONCERNS.—

“(i) IN GENERAL.—The Secretary of Homeland Security shall provide passengers with an option for primary screening other than the use of advanced imaging technology or another advanced technology described in paragraph (2)(B)(ii).

“(ii) OPTIONS.—The alternative option for primary screening provided to passengers under clause (i) shall be either—

“(I) to both pass through a metal detector and undergo a pat-down search; or

“(II) screening using such other method or combination of methods for...
screening passengers as the Secretary determines, and certifies to Congress, is appropriate and effective.

“(C) Provision of Information.—Passengers shall be provided with—

“(i) information regarding the images produced by advanced imaging technology to detect on-body plastic explosives and other nonmetallic explosives;

“(ii) information regarding the privacy protections provided under paragraph (4); and

“(iii) sufficiently detailed notice and an explanation of the alternative option for primary screening provided to passengers under subparagraph (B).

“(4) Privacy protections for passengers.—

“(A) Nonretention of Images.—Except as provided in subparagraph (B)(ii), all advanced imaging technology equipment used by the Department of Homeland Security at an airport checkpoint shall be configured so that images produced using the equipment—
“(i) cannot be stored, transferred, copied, or printed; and
“(ii) are permanently removed from the screen after the passenger is cleared to pass through the airport checkpoint.

“(B) STANDARDIZATION AND BLURRING OF IMAGES.—

“(i) IN GENERAL.—The Secretary of Homeland Security shall ensure that any advanced imaging technology equipment used by the Department of Homeland Security to screen passengers be configured so that—

“(I) all facial features on a passenger’s image are blurred; and
“(II) passenger images are standardized to the greatest extent possible while allowing for detection of individual on-body threats.

“(ii) TRANSFER OF NONSTANDARDIZED IMAGES.—An image produced using advanced imaging technology that shows personal or nonstandardized images shall be transferred using a secure connection to a location that enables an employee of the
Department of Homeland Security to view
the image without risking the exposure of
the image to the public.

“(C) Prohibition on presence of cameras while viewing images.—An employee
of the Department of Homeland Security viewing an image of a passenger produced using advanced imaging technology—

“(i) may not have a camera or cell
phone present; and

“(ii) if viewing the image in a location
described in subparagraph (B)(ii), shall
communicate with other employees of the
Department of Homeland Security using a
wireless headset or another comparable
method of communication that does not
allow for the transmission of the image.

“(5) Reports.—

“(A) Department of Homeland secu-
rity.—Not later than 1 year after the date of
the enactment of the Securing Aircraft From
Explosives Responsibly: Advanced Imaging Rec-
ognition Act of 2010, and every 2 years there-
after, the Secretary of Homeland Security shall
submit to Congress a report on the implementation of this subsection that includes—

“(i) an assessment of existing and emerging threats presented by on-body plastic explosives, other nonmetallic explosives, and other items undetectable by conventional metal detectors deployed at airport checkpoints;

“(ii) an assessment of the capabilities and effectiveness of primary screening using advanced imaging technology and any other advanced technology described in paragraph (2)(B)(ii) used by the Department of Homeland Security in combating any threat described in clause (i);

“(iii) an estimate of the percentage of passengers who choose to be screened—

“(I) by advanced imaging technology or using another advanced technology described in paragraph (2)(B)(ii); and

“(II) using an alternative option for primary screening provided to passengers under paragraph (3)(B); and
“(iv) a description of the measures taken to protect the privacy of passengers screened using advanced imaging technology and an assessment of compliance with those measures.

“(B) GOVERNMENT ACCOUNTABILITY OFFICE.—Not later than 180 days after the date of the enactment of the Securing Aircraft From Explosives Responsibly: Advanced Imaging Recognition Act of 2010, and every 2 years thereafter, the Comptroller General of the United States shall conduct a study and submit to Congress a report on the costs of carrying out this subsection, including the costs relating to procuring the necessary technology, construction at airports, and training and deploying employees of the Department of Homeland Security to use new technologies.

“(6) DEFINITIONS.—In this subsection:

“(A) ADVANCED IMAGING TECHNOLOGY.—

The term ‘advanced imaging technology’—

“(i) means a device that creates a visual image of an individual showing the surface of the skin and revealing other objects on the body as applicable, including nar-
cotics, explosives, and other weapons components; and

“(ii) includes devices using backscatter x-rays or millimeter waves and devices referred to as ‘whole-body imaging technology’ or ‘body scanning’.

“(B) AIRPORT CHECKPOINT.—The term ‘airport checkpoint’ has the meaning given the term ‘screening location’ in section 1540.5 of title 49, Code of Federal Regulations (or any corresponding similar rule or regulation).

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

“(D) PRIMARY SCREENING.—The term ‘primary screening’ means the initial examination of any passenger at an airport checkpoint, including using available screening technologies to detect weapons, explosives, narcotics, or other indications of unlawful action, in order to determine whether to clear the passenger to
board an aircraft or to further examine the passenger.”.

SEC. 5. DEVELOPMENT OF NEW SCREENING TECHNOLOGIES.

Nothing in this Act, or the amendments made by this Act, shall be construed to discourage the Secretary of Homeland Security from developing and deploying advanced technologies for aviation screening to protect the traveling public from emerging threats. The Secretary shall continue to develop and deploy such new advanced technologies.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act and the amendments made by this Act.