

# ***In the House of Representatives, U. S.,***

*November 6, 2001.*

*Resolved*, That the bill from the Senate (S. 1447) entitled “An Act to improve aviation security, and for other purposes”, do pass with the following

## **AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; AMENDMENTS TO TITLE 49,***

2 ***UNITED STATES CODE; TABLE OF CONTENTS.***

3 *(a) SHORT TITLE.—This Act may be cited as the “Air-*  
4 *port Security Federalization Act of 2001”.*

5 *(b) AMENDMENTS TO TITLE 49, UNITED STATES*  
6 *CODE.—Except as otherwise specifically provided, whenever*  
7 *in this Act an amendment or repeal is expressed in terms*  
8 *of an amendment to, or repeal of, a section or other provi-*  
9 *sion of law, the reference shall be considered to be made*  
10 *to a section or other provision of title 49, United States*  
11 *Code.*

12 *(c) TABLE OF CONTENTS.—The table of contents for*  
13 *this Act is as follows:*

*Sec. 1. Short title; amendments to title 49, United States Code; table of contents.*

### ***TITLE I—AVIATION SECURITY***

*Sec. 101. Transportation Security Administration.*

- Sec. 102. Screening of passengers and property.*  
*Sec. 103. Security programs.*  
*Sec. 104. Employment standards and training.*  
*Sec. 105. Deployment of Federal air marshals.*  
*Sec. 106. Enhanced security measures.*  
*Sec. 107. Criminal history record check for screeners and others.*  
*Sec. 108. Passenger and baggage screening fee.*  
*Sec. 109. Authorizations of appropriations.*  
*Sec. 110. Limitation on liability for acts to thwart criminal violence or aircraft piracy.*  
*Sec. 111. Passenger manifests.*  
*Sec. 112. Transportation security oversight board.*  
*Sec. 113. Airport improvement programs.*  
*Sec. 114. Technical corrections.*  
*Sec. 115. Alcohol and controlled substance testing.*  
*Sec. 116. Conforming amendments to subtitle VII.*  
*Sec. 117. Savings provision.*  
*Sec. 118. Budget submissions.*  
*Sec. 119. Aircraft operations in enhanced class B airspace.*  
*Sec. 120. Waivers for certain isolated communities.*  
*Sec. 121. Assessments of threats to airports.*  
*Sec. 122. Requirement to honor passenger tickets of other carriers.*  
*Sec. 123. Sense of Congress on certain aviation matters.*

#### TITLE II—VICTIMS COMPENSATION

- Sec. 201. Limitation on liability for damages arising out of crashes of September 11, 2001.*

## 1      **TITLE I—AVIATION SECURITY**

### 2      **SEC. 101. TRANSPORTATION SECURITY ADMINISTRATION.**

- 3            (a) *IN GENERAL.*—Chapter 1 is amended by adding  
 4      *at the end the following:*

#### 5      **“§ 114. Transportation Security Administration**

- 6            “(a) *IN GENERAL.*—The Transportation Security Ad-  
 7      *ministration shall be an administration of the Department*  
 8      *of Transportation.*

- 9            “(b) *UNDER SECRETARY.*—

- 10            “(1) *APPOINTMENT.*—The head of the Adminis-  
 11      *tration shall be the Under Secretary of Transpor-*  
 12      *tation for Security. The Under Secretary shall be ap-*

1       *pointed by the President, by and with the advice and*  
2       *consent of the Senate.*

3               “(2) *QUALIFICATIONS.—The Under Secretary*  
4       *must—*

5                       “(A) *be a citizen of the United States; and*

6                       “(B) *have experience in a field directly re-*  
7       *lated to transportation or security.*

8               “(3) *TERM.—The term of office of an individual*  
9       *appointed as the Under Secretary shall be 5 years.*

10       “(c) *LIMITATION ON PECUNIARY INTERESTS.—The*  
11       *Under Secretary may not have a pecuniary interest in, or*  
12       *own stock in or bonds of, a transportation or security enter-*  
13       *prise, or an enterprise that makes equipment that could be*  
14       *used for security purposes.*

15       “(d) *FUNCTIONS.—*

16               “(1) *IN GENERAL.—The Under Secretary shall be*  
17       *responsible for security in all modes of transpor-*  
18       *tation, including—*

19                       “(A) *carrying out chapter 449 relating to*  
20       *civil aviation security; and*

21                       “(B) *security responsibilities over nonavia-*  
22       *tion modes of transportation that are exercised*  
23       *by Administrations of the Department of Trans-*  
24       *portation (other than the Federal Aviation Ad-*  
25       *ministration).*

1           “(2) *SCHEDULE FOR ASSUMPTION OF CIVIL AVIA-*  
2           *TION SECURITY FUNCTIONS.*—*Not later than 3 months*  
3           *after the date of enactment of this section, the Under*  
4           *Secretary shall assume civil aviation security func-*  
5           *tions and responsibilities under chapter 449 in ac-*  
6           *cordance with a schedule to be developed by the Sec-*  
7           *retary of Transportation, in consultation with air*  
8           *carriers, foreign air carriers, and the Administrator*  
9           *of the Federal Aviation Administration. The Under*  
10          *Secretary shall publish an appropriate notice of the*  
11          *transfer of such security functions and responsibilities*  
12          *before assuming the functions and responsibilities.*

13           “(3) *ASSIGNMENT OF CONTRACTS.*—*Upon request*  
14          *of the Under Secretary, an air carrier or foreign air*  
15          *carrier carrying out a screening or security function*  
16          *under chapter 449 may enter into an agreement with*  
17          *the Under Secretary to transfer any contract the car-*  
18          *rier has entered into with respect to carrying out such*  
19          *function, before the Under Secretary assumes respon-*  
20          *sibility of such function.*

21           “(e) *ADDITIONAL DUTIES AND POWERS.*—*In addition*  
22          *to carrying out the functions specified in subsection (d), the*  
23          *Under Secretary shall—*

24           “(1) *receive, assess, and distribute intelligence*  
25          *information related to transportation security;*

1           “(2) assess threats to transportation;

2           “(3) develop policies, strategies, and plans for  
3       *dealing with threats to transportation security;*

4           “(4) make other plans related to transportation  
5       *security, including coordinating countermeasures*  
6       *with appropriate departments, agencies, and instru-*  
7       *mentalities of the United States Government;*

8           “(5) serve as the primary liaison for transpor-  
9       *tation security to the intelligence and law enforce-*  
10       *ment communities;*

11          “(6) supervise all airport security and screening  
12       *services using Federal uniformed personnel;*

13          “(7) on a day-to-day basis, manage and provide  
14       *operational guidance to the field security resources of*  
15       *the Administration, including Federal Security Man-*  
16       *agers as provided by section 44933;*

17          “(8) enforce security-related regulations and re-  
18       *quirements;*

19          “(9) identify and undertake research and devel-  
20       *opment activities necessary to enhance transportation*  
21       *security;*

22          “(10) inspect, maintain, and test security facili-  
23       *ties, equipment, and systems;*

24          “(11) ensure the adequacy of security measures  
25       *for the transportation of cargo;*

1           “(12) oversee the implementation, and ensure the  
2           adequacy, of security measures at airports and other  
3           transportation facilities;

4           “(13) perform background checks for airport se-  
5           curity screening personnel, individuals with  
6           unescorted access to secure areas of airports, and  
7           other transportation security personnel;

8           “(14) develop standards for the hiring and reten-  
9           tion of security screening personnel;

10          “(15) train and test security screening personnel;  
11          and

12          “(16) carry out such other duties, and exercise  
13          such other powers, relating to transportation security  
14          as the Under Secretary considers appropriate, to the  
15          extent authorized by law.

16          “(f) ACQUISITIONS.—

17                 “(1) IN GENERAL.—The Under Secretary is  
18                 authorized—

19                         “(A) to acquire (by purchase, lease, con-  
20                         demnation, or otherwise) such real property, or  
21                         any interest therein, within and outside the con-  
22                         tinental United States, as the Under Secretary  
23                         considers necessary;

24                         “(B) to acquire (by purchase, lease, con-  
25                         demnation, or otherwise) and to construct, re-

1        *pair, operate, and maintain such personal prop-*  
2        *erty (including office space and patents), or any*  
3        *interest therein, within and outside the conti-*  
4        *mental United States, as the Under Secretary*  
5        *considers necessary;*

6                *“(C) to lease to others such real and per-*  
7        *sonal property and to provide by contract or oth-*  
8        *erwise for necessary facilities for the welfare of*  
9        *its employees and to acquire maintain and oper-*  
10       *ate equipment for these facilities;*

11               *“(D) to acquire (by purchase, lease, con-*  
12       *demnation, or otherwise) and to construct, re-*  
13       *pair, operate, and maintain research and testing*  
14       *sites and facilities; and*

15               *“(E) in cooperation with the Administrator*  
16       *of the Federal Aviation Administration, to uti-*  
17       *lize the research and development facilities of the*  
18       *Federal Aviation Administration located in At-*  
19       *lantic City, New Jersey.*

20               *“(2) TITLE.—Title to any property or interest*  
21       *therein acquired pursuant to this subsection shall be*  
22       *held by the Government of the United States.*

23               *“(g) TRANSFERS OF FUNDS.—The Under Secretary is*  
24       *authorized to accept transfers of unobligated balances and*  
25       *unexpended balances of funds appropriated to other Federal*

1 agencies (as such term is defined in section 551(1) of title  
 2 5) to carry out functions transferred, on or after the date  
 3 of enactment of this section, by law to the Under Secretary.

4 “(h) REGULATIONS.—

5 “(1) IN GENERAL.—The Under Secretary is au-  
 6 thorized to issue, rescind, and revise such regulations  
 7 as are necessary to carry out the functions of the Ad-  
 8 ministration.

9 “(2) EMERGENCY PROCEDURES.—

10 “(A) IN GENERAL.—Notwithstanding any  
 11 other provision of law or executive order (includ-  
 12 ing an executive order requiring a cost-benefit  
 13 analysis) if the Under Secretary determines that  
 14 a regulation or security directive must be issued  
 15 immediately in order to protect transportation  
 16 security, the Under Secretary shall issue the reg-  
 17 ulation or security directive without providing  
 18 notice or an opportunity for comment and with-  
 19 out prior approval of the Secretary.

20 “(B) REVIEW BY TRANSPORTATION SECU-  
 21 RITY OVERSIGHT BOARD.—Any regulation or se-  
 22 curity directive issued under this paragraph  
 23 shall be subject to disapproval by the Transpor-  
 24 tation Security Oversight Board established  
 25 under section 44951. Any regulation or security



1           *directive issued under this paragraph shall re-*  
 2           *main effective until disapproved by the Board or*  
 3           *rescinded by the Under Secretary.*

4           “(i) *PERSONNEL AND SERVICES; COOPERATION BY*  
 5   *UNDER SECRETARY.—*

6           “(1) *AUTHORITY OF UNDER SECRETARY.—In*  
 7           *carrying out the functions of the Administration, the*  
 8           *Under Secretary shall have the same authority as is*  
 9           *provided to the Administrator of the Federal Aviation*  
 10          *Administration under subsections (l) and (m) of sec-*  
 11          *tion 106.*

12          “(2) *AUTHORITY OF AGENCY HEADS.—The head*  
 13          *of a Federal agency shall have the same authority to*  
 14          *provide services, supplies, equipment, personnel, and*  
 15          *facilities to the Under Secretary as the head has to*  
 16          *provide services, supplies, equipment, personnel, and*  
 17          *facilities to the Administrator of the Federal Aviation*  
 18          *Administration under section 106(m).*

19          “(j) *PERSONNEL MANAGEMENT SYSTEM.—The per-*  
 20          *sonnel management system established by the Adminis-*  
 21          *trator of the Federal Aviation Administration under section*  
 22          *40122 shall apply to employees of the Transportation Secu-*  
 23          *rity Administration, except that subject to the requirements*  
 24          *of such section, the Under Secretary may make such modi-*  
 25          *fications to the personnel management system with respect*

1 *to such employees as the Under Secretary considers appro-*  
 2 *priate.*

3       “(k) *ACQUISITION MANAGEMENT SYSTEM.*—*The acqui-*  
 4 *sition management system established by the Administrator*  
 5 *of the Federal Aviation Administration under section 40110*  
 6 *shall apply to acquisitions of equipment and materials by*  
 7 *the Transportation Security Administration, except that*  
 8 *subject to the requirements of such section, the Under Sec-*  
 9 *retary may make such modifications to the acquisition*  
 10 *management system with respect to such acquisitions of*  
 11 *equipment and materials as the Under Secretary considers*  
 12 *appropriate.*

13       “(l) *AUTHORITY OF INSPECTOR GENERAL.*—*The*  
 14 *Transportation Security Administration shall be subject to*  
 15 *the Inspector General Act of 1978 (5 U.S.C. App.) and other*  
 16 *laws relating to the authority of the Inspector General of*  
 17 *the Department of Transportation.”.*

18       “(b) *CONFORMING AMENDMENT.*—*The analysis for*  
 19 *chapter 1 is amended by adding at the end the following:*  
       *“114. Transportation Security Administration.”.*

20       “(c) *POSITION OF UNDER SECRETARY IN EXECUTIVE*  
 21 *SCHEDULE.*—*Section 5313 of title 5, United States Code,*  
 22 *is amended by adding at the end the following:*

23               *“The Under Secretary of Transportation for Se-*  
 24       *curity”.*

1       (d) *PERSONNEL OF OTHER AGENCIES.*—*The last sen-*  
 2       *tence of section 106(m) is amended by inserting “personnel*  
 3       *and” before “supplies and equipment”.*

4       (e) *SECURITY AND RESEARCH AND DEVELOPMENT AC-*  
 5       *TIVITIES.*—*Section 40119 is amended—*

6               (1) *in subsection (a) by striking “Administrator*  
 7       *of the Federal Aviation Administration” and insert-*  
 8       *ing “Under Secretary of Transportation for Secu-*  
 9       *rity”; and*

10              (2) *in subsections (b) and (c) by striking “Ad-*  
 11       *ministrator” each place it appears and inserting*  
 12       *“Under Secretary”.*

13       (f) *REFERENCES TO FAA IN CHAPTER 449.*—*Chapter*  
 14       *449 is amended—*

15              (1) *in section 44904(b)(5) by striking “the Ad-*  
 16       *ministration” and inserting “the Transportation Se-*  
 17       *curity Administration”;*

18              (2) *in the second sentence of section 44913(a)(1)*  
 19       *by striking “of the Administration” and inserting “of*  
 20       *the Transportation Security Administration”;*

21              (3) *in section 44916(a)—*

22                      (A) *in the first sentence by striking “Ad-*  
 23       *ministrator” and inserting “Under Secretary of*  
 24       *Transportation for Security”; and*

1           (B) in the second sentence by striking “Ad-  
 2           ministration” and inserting “Transportation Se-  
 3           curity Administration”;

4           (4) in each of sections 44933(a) and 44934(b) by  
 5           striking “Assistant Administrator for Civil Aviation  
 6           Security” and inserting “Under Secretary”;

7           (5) in section 44934(b)(1) by striking “Assistant  
 8           Administrator” and inserting “Under Secretary”;

9           (6) by striking sections 44931 and 44932 and the  
 10          items relating to such sections in the analysis for such  
 11          chapter;

12          (7) by striking “Administrator” each place it  
 13          appears in such chapter (except in subsections (f) and  
 14          (h) of section 44936) and inserting “Under Sec-  
 15          retary”;

16          (8) by striking “Administrator’s” each place it  
 17          appears in such chapter and inserting “Under Sec-  
 18          retary’s”; and

19          (9) by striking “of the Federal Aviation Admin-  
 20          istration” each place it appears in such chapter (ex-  
 21          cept in section 44936(f)) and inserting “of Transpor-  
 22          tation for Security”.

23 **SEC. 102. SCREENING OF PASSENGERS AND PROPERTY.**

24          Section 44901 of such title is amended—

25           (1) in subsection (a)—

1                   (A) by striking “a cabin of”; and

2                   (B) by striking “a weapon-detecting” and  
 3                   all that follows through the period at the end of  
 4                   the second sentence and inserting “persons and  
 5                   procedures acceptable to the Under Secretary (or  
 6                   the Administrator before responsibilities under  
 7                   this subsection are assumed by the Under Sec-  
 8                   retary).”; and

9                   (2) by adding at the end the following:

10           “(d) ASSUMPTION OF SCREENING FUNCTION BY  
 11   UNDER SECRETARY.—

12                   “(1) IN GENERAL.—The responsibility for the  
 13                   screening of passengers and property on passenger  
 14                   aircraft in air transportation that originates in the  
 15                   United States or intrastate air transportation that,  
 16                   on the date of enactment of this subsection, was per-  
 17                   formed by an employee or agent of an air carrier,  
 18                   intrastate air carrier, or foreign air carrier shall be  
 19                   assumed by the Under Secretary.

20                   “(2) ADDITIONAL SCREENING AUTHORITY.—The  
 21                   Under Secretary may perform any such additional  
 22                   screening of passengers and property on passenger  
 23                   aircraft in air transportation that originates in the  
 24                   United States or intrastate air transportation that

1        *the Under Secretary deems necessary to enhance avia-*  
 2        *tion security.*

3        “(e) *SUPERVISION OF SCREENING.—All screening of*  
 4        *passengers and property at airports under this section shall*  
 5        *be supervised by uniformed Federal personnel of the Trans-*  
 6        *portation Security Administration who shall have the*  
 7        *power to order the dismissal of any individual performing*  
 8        *such screening.*

9        “(f) *LIMITATION ON RIGHT TO STRIKE.—An indi-*  
 10        *vidual that screens passengers or property, or both, at an*  
 11        *airport under this section may not participate in a strike,*  
 12        *or assert the right to strike, against the person (including*  
 13        *a governmental entity) employing such individual to per-*  
 14        *form such screening.*

15        “(g) *DEPUTIZATION OF AIRPORT SCREENING PER-*  
 16        *SONNEL.—The Under Secretary shall deputize, for enforce-*  
 17        *ment of such Federal laws as the Under Secretary deter-*  
 18        *mines appropriate, all airport screening personnel as Fed-*  
 19        *eral transportation security agents and shall ensure that*  
 20        *such agents operate under common standards and common*  
 21        *uniform, insignia, and badges. The authority to arrest an*  
 22        *individual may be exercised only by supervisory personnel*  
 23        *who are sworn, full-time law enforcement officers.”.*

24        **SEC. 103. SECURITY PROGRAMS.**

25        *Section 44903(c) is amended—*

1           (1) *in the first sentence of paragraph (1)—*

2                   (A) *by striking “a law enforcement pres-*  
3                   *ence” and inserting “a law enforcement or mili-*  
4                   *tary presence”; and*

5                   (B) *by inserting after “at each of those air-*  
6                   *ports” the following: “and at each location at*  
7                   *those airports where passengers are screened”;*  
8                   *and*

9           (2) *in paragraph (2)(C)(i) by striking “shall*  
10           *issue an amendment to air carrier security programs*  
11           *to require” and inserting “shall require”.*

12   **SEC. 104. EMPLOYMENT STANDARDS AND TRAINING.**

13           (a) *EMPLOYMENT STANDARDS.—Section 44935(a) is*  
14           *amended—*

15                   (1) *in the first sentence by inserting “, personnel*  
16                   *who screen passengers and property,” after “air car-*  
17                   *rier personnel”;*

18                   (2) *by striking “and” at the end of paragraph*  
19                   (4);

20                   (3) *by striking the period at the end of para-*  
21                   *graph (5) and inserting a semicolon; and*

22                   (4) *by adding at the end the following:*

23                   “(6) *a requirement that all personnel who screen*  
24                   *passengers and property be citizens of the United*  
25                   *States;*

1           “(7) a requirement that any private security  
 2       firm retained to provide airport security services be  
 3       owned and controlled by a citizen of the United  
 4       States, to the extent that the President determines  
 5       that there are firms owned and controlled by such  
 6       citizens;

7           “(8) minimum compensation levels, when appro-  
 8       priate;

9           “(9) a preference for the hiring of any indi-  
 10      vidual who is a member or former member of the  
 11      armed forces and who is entitled, under statute, to re-  
 12      tired, retirement, or retainer pay on account of serv-  
 13      ice as a member of the armed forces; and

14          “(10) a preference for the hiring of any indi-  
 15      vidual who is a former employee of an air carrier  
 16      and whose employment with the air carrier was ter-  
 17      minated as a result of a reduction in the workforce  
 18      of the air carrier.”.

19       (b) *FINAL RULES ESTABLISHING TRAINING STAND-*  
 20       *ARDS FOR SCREENERS.*—Section 44935(e)(1) is amended  
 21       by striking “May 31, 2001” and inserting “6 months after  
 22       the date of enactment of the Airport Security Federalization  
 23       Act of 2001”.



1       (c) *EMPLOYMENT STANDARDS FOR SCREENERS; UNI-*  
 2 *FORMS.*—Section 44935 is amended by adding at the end  
 3 *the following:*

4       “(g) *TRAINING FOR ALL SCREENERS, SUPERVISORS,*  
 5 *AND INSTRUCTORS.*—

6               “(1) *IN GENERAL.*—The Under Secretary shall  
 7       *require any individual who screens passengers and*  
 8       *property pursuant to section 44901, and the super-*  
 9       *visors and instructors of such individuals, to have*  
 10       *satisfactorily completed all initial, recurrent, and ap-*  
 11       *propriate specialized training necessary to ensure*  
 12       *compliance with the requirements of this section.*

13              “(2) *ON-THE-JOB PORTION OF SCREENER’S*  
 14       *TRAINING.*—Notwithstanding paragraph (1), the  
 15       Under Secretary may permit an individual, during  
 16       the on-the-job portion of training, to perform security  
 17       functions if the individual is closely supervised and  
 18       does not make independent judgments as to whether  
 19       persons or property may enter secure areas or air-  
 20       craft or whether cargo may be loaded aboard aircraft  
 21       without further inspection.

22              “(3) *EFFECT OF SCREENER’S FAILURE OF OPER-*  
 23       *ATION TEST.*—The Under Secretary may not allow an  
 24       individual to perform a screening function after the  
 25       individual has failed an operational test related to

1        *that function until the individual has successfully*  
 2        *completed remedial training.*

3        “(h) *UNIFORMS.*—*The Under Secretary shall require*  
 4        *any individual who screens passengers and property pursu-*  
 5        *ant section 44901 to be attired in a uniform, approved by*  
 6        *the Under Secretary, while on duty.*”.

7        (d) *INTERIM EMPLOYMENT STANDARDS FOR SCREEN-*  
 8        *ING PERSONNEL.*—*In the period beginning 30 days after*  
 9        *the date of the enactment of this Act and ending on the*  
 10        *first date that a final rule issued by the Under Secretary*  
 11        *of Transportation for Security under section 44935(e)(1) of*  
 12        *title 49, United States Code, takes effect, the following re-*  
 13        *quirements shall apply to an individual who screens pas-*  
 14        *sengers and property pursuant to section 44901 of such title*  
 15        *(in this subsection referred to as a “screener”):*

16            (1) *EDUCATION.*—*A screener shall have a high*  
 17            *school diploma, a general equivalency diploma, or a*  
 18            *combination of education and experience that the*  
 19            *Under Secretary has determined to have equipped the*  
 20            *individual to perform the duties of the screening posi-*  
 21            *tion.*

22            (2) *BASIC APTITUDES AND PHYSICAL ABILI-*  
 23            *TIES.*—*A screener shall have basic aptitudes and*  
 24            *physical abilities (including color perception, visual*

1       *and aural acuity, physical coordination, and motor*  
2       *skills) and shall have—*

3               *(A) the ability to identify the components*  
4               *that may constitute an explosive or an incen-*  
5               *diary device;*

6               *(B) the ability to identify objects that ap-*  
7               *pear to match those items described in all cur-*  
8               *rent regulations, security directives, and emer-*  
9               *gency amendments;*

10              *(C) for screeners operating X-ray and explo-*  
11              *sives detection system equipment, the ability to*  
12              *distinguish on the equipment monitors the ap-*  
13              *propriate images;*

14              *(D) for screeners operating any screening*  
15              *equipment, the ability to distinguish each color*  
16              *displayed on every type of screening equipment*  
17              *and explain what each color signifies;*

18              *(E) the ability to hear and respond to the*  
19              *spoken voice and to audible alarms generated by*  
20              *screening equipment in an active checkpoint or*  
21              *other screening environment;*

22              *(F) for screeners performing manual*  
23              *searches or other related operations, the ability*  
24              *to efficiently and thoroughly manipulate and*

1        *handle such baggage, containers, cargo, and other*  
 2        *objects subject to security processing;*

3            *(G) for screeners performing manual*  
 4        *searches of cargo, the ability to use tools that*  
 5        *allow for opening and closing boxes, crates, or*  
 6        *other common cargo packaging;*

7            *(H) for screeners performing screening of*  
 8        *cargo, the ability to stop the transfer of suspect*  
 9        *cargo to passenger air carriers;*

10          *(I) for screeners performing pat-down or*  
 11        *hand-held metal detector searches of persons, suf-*  
 12        *ficient dexterity and capability to thoroughly*  
 13        *conduct those procedures over a person's entire*  
 14        *body; and*

15          *(J) the ability to demonstrate daily a fit-*  
 16        *ness for duty without any impairment due to il-*  
 17        *legal drugs, sleep deprivation, medication, or al-*  
 18        *cohol.*

19          *(3) COMMAND OF ENGLISH LANGUAGE.—A*  
 20         *screener shall be able to read, speak, write, and un-*  
 21        *derstand the English language well enough to—*

22            *(A) carry out written and oral instructions*  
 23        *regarding the proper performance of screening*  
 24        *duties;*

1           (B) read English language identification  
 2           media, credentials, airline tickets, documents, air  
 3           waybills, invoices, and labels on items normally  
 4           encountered in the screening process;

5           (C) provide direction to and understand  
 6           and answer questions from English-speaking per-  
 7           sons undergoing screening or submitting cargo  
 8           for screening; and

9           (D) write incident reports and statements  
 10          and log entries into security records in the  
 11          English language.

12 **SEC. 105. DEPLOYMENT OF FEDERAL AIR MARSHALS.**

13          (a) *IN GENERAL.*—Subchapter I of chapter 449 is  
 14          amended by adding at the end the following:

15 **“§ 44917. Deployment of Federal air marshals**

16          “(a) *IN GENERAL.*—The Under Secretary of Transpor-  
 17          tation for Security under the authority provided by section  
 18          44903(d) shall—

19               “(1) provide for deployment of Federal air mar-  
 20               shals on selected passenger flights of air carriers in  
 21               air transportation or intrastate air transportation;

22               “(2) provide for appropriate background and fit-  
 23               ness checks for candidates for appointment as Federal  
 24               air marshals;

1           “(3) provide for appropriate training, super-  
2 vision, and equipment of Federal air marshals at the  
3 facility of the Federal Aviation Administration in  
4 New Jersey;

5           “(4) require air carriers providing flights de-  
6 scribed in paragraph (1) to provide seating for a Fed-  
7 eral air marshal on any such flight without regard to  
8 the availability of seats on the flight and at no cost  
9 to the United States Government or the marshal;

10          “(5) require air carriers to provide, on a space-  
11 available basis, to an off-duty Federal air marshal a  
12 seat on a flight to the airport nearest the marshal’s  
13 home at no cost to the marshal or the United States  
14 Government if the marshal is traveling to that air-  
15 port after completing his or her security duties; and

16          “(6) provide, in choosing among applicants for  
17 a position as a Federal air marshal, a preference for  
18 the hiring of a pilot of an air carrier whose employ-  
19 ment with the air carrier was terminated as a result  
20 of a reduction in the workforce of the air carrier if  
21 the pilot is otherwise qualified for the position.

22          “(b) *FLIGHTS IN FOREIGN AIR TRANSPORTATION.*—  
23 The Under Secretary shall work with appropriate aero-  
24 nautic authorities of foreign governments under section

1 44907 to address security concerns on passenger flights in  
2 foreign air transportation.

3 “(c) *INTERIM MEASURES.*—Until the Under Secretary  
4 completes implementation of subsection (a), the Under Sec-  
5 retary may use, after consultation with and concurrence of  
6 the heads of other Federal agencies and departments, per-  
7 sonnel from those agencies and departments, on a non-  
8 reimbursable basis, to provide air marshal service.”.

9 (b) *CONFORMING AMENDMENT.*—The analysis for  
10 chapter 449 is amended by adding after the item relating  
11 to section 44916 the following:

“44917. Deployment of Federal air marshals.”.

12 (c) *BASIC PAY DEFINED.*—Section 8331(3)(E) of title  
13 5, United States Code, is amended to read as follows:

14 “(E) availability pay—

15 “(i) received by a criminal investigator  
16 under section 5545a of this title; or

17 “(ii) received after September 11, 2001,  
18 by a Federal air marshal of the Department  
19 of Transportation;”.

20 **SEC. 106. ENHANCED SECURITY MEASURES.**

21 (a) *IN GENERAL.*—Subchapter I of chapter 449 is fur-  
22 ther amended by adding at the end the following:

1 **“§ 44918. Enhanced security measures**

2 “(a) *IN GENERAL.*—*To the extent the Under Secretary*  
 3 *of Transportation for Security determines appropriate, the*  
 4 *Under Secretary shall take the following actions:*

5 “(1) *After consultation with the Administrator of*  
 6 *the Federal Aviation Administration, develop proce-*  
 7 *dures and authorize equipment for pilots and other*  
 8 *members of the flight crew to use to defend an aircraft*  
 9 *against acts of criminal violence or aircraft piracy.*

10 “(2) *After consultation with the Administrator,*  
 11 *develop and implement methods to—*

12 “(A) *restrict the opening of a cockpit door*  
 13 *during a flight;*

14 “(B) *fortify cockpit doors to deny access*  
 15 *from the cabin to the cockpit;*

16 “(C) *use video monitors or other devices to*  
 17 *alert pilots in the cockpit to activity in the*  
 18 *cabin; and*

19 “(D) *ensure continuous operation of an air-*  
 20 *craft transponder in the event of an emergency.*

21 “(3) *Impose standards for the screening or in-*  
 22 *spection of persons and vehicles having access to se-*  
 23 *cure areas of an airport.*

24 “(4) *Require effective 911 emergency call capa-*  
 25 *bility for telephones serving passenger aircraft and*  
 26 *passenger trains.*



1           “(5) *Provide for the use of voice stress analysis*  
2           *or other technologies to prevent a person who might*  
3           *pose a danger to air safety or security from boarding*  
4           *the aircraft of an air carrier or foreign air carrier in*  
5           *air transportation or intrastate air transportation.*

6           “(6) *Develop standards and procedures for the*  
7           *issuance, renewal, and revocation of a certificate of*  
8           *qualification for individuals who screen passengers*  
9           *and property at an airport.*

10          “(7) *Establish performance goals for individuals*  
11          *described in paragraph (6), provide for the use of*  
12          *threat image projection or similar devices to test such*  
13          *individuals, and establish procedures to revoke the*  
14          *certification of such individuals if the individuals fail*  
15          *to maintain a required level of proficiency.*

16          “(8) *In consultation with air carriers and other*  
17          *government agencies, establish policies and procedures*  
18          *requiring air carriers to use information from govern-*  
19          *ment agencies to identify individuals on passenger*  
20          *lists who may be a threat to civil aviation and, if*  
21          *such an individual is identified, to notify appropriate*  
22          *law enforcement agencies and prohibit the individual*  
23          *from boarding an aircraft.*

24          “(9) *Provide for the enhanced use of computer*  
25          *profiling to more effectively screen passengers and*

1       *property that will be carried in the cabin of an air-*  
2       *craft.*

3               “(10) *Provide for the use of electronic technology*  
4       *that positively verifies the identity of each employee*  
5       *and law enforcement officer who enters a secure area*  
6       *of an airport.*

7               “(11) *After consultation with the Administrator,*  
8       *provide for the installation of switches in an aircraft*  
9       *cabin to enable flight crews to discreetly notify the pi-*  
10       *lots in the case of a security breach occurring in the*  
11       *cabin.*

12               “(12) *Update training procedures used by the*  
13       *Federal Aviation Administration, law enforcement*  
14       *agencies, air carriers, and flight crews during hijack-*  
15       *ings to include measures relating to suicidal hijackers*  
16       *and other extremely dangerous events not currently*  
17       *described in the training procedures.*

18               “(13) *Provide for background checks of individ-*  
19       *uals seeking instruction (including training through*  
20       *the use of flight simulators) in flying aircraft that has*  
21       *a minimum certificated takeoff weight of more than*  
22       *12,500 pounds.*

23               “(14) *Enter into agreements with Federal, State,*  
24       *and local agencies under which appropriately-trained*  
25       *law enforcement personnel from such agencies, when*

1       *traveling on a flight of an air carrier, will carry a*  
2       *firearm and be prepared to assist Federal air mar-*  
3       *shals.*

4               “(15) *Require more thorough background checks*  
5       *of persons described in subparagraphs (A), (B)(i),*  
6       *and (B)(ii) of section 44936(a) and paragraph (13)*  
7       *of this subsection, including a review of immigration*  
8       *records, law enforcement databases, and records of*  
9       *other government and international agencies to help*  
10       *determine whether the person may be a threat to civil*  
11       *aviation.*

12               “(16) *Establish a uniform system of identifica-*  
13       *tion for all State and local law enforcement personnel*  
14       *for use in obtaining permission to carry weapons in*  
15       *aircraft cabins and in obtaining access to a secured*  
16       *area of an airport.*

17               “(17) *Establish requirements under which air*  
18       *carriers, under the supervision of the Under Sec-*  
19       *retary, could implement trusted passenger programs*  
20       *and use available technologies to expedite the security*  
21       *screening of passengers who participate in such pro-*  
22       *grams, thereby allowing security screening personnel*  
23       *to focus on those passengers who should be subject to*  
24       *more extensive screening.*

1           “(18) *In consultation with the Commissioner of*  
2           *Food and Drugs, develop security procedures under*  
3           *which a medical product to be transported on a flight*  
4           *of an air carrier would not be subject to manual or*  
5           *x-ray inspection if conducting such an inspection*  
6           *would irreversibly damage the product.*

7           “(19) *Develop security procedures to allow pas-*  
8           *sengers transporting a musical instrument on a flight*  
9           *of an air carrier to transport the instrument in the*  
10          *passenger cabin of the aircraft, notwithstanding any*  
11          *size or other restriction on carry-on baggage but sub-*  
12          *ject to such other reasonable terms and conditions as*  
13          *may be established by the Under Secretary or the air*  
14          *carrier, including imposing additional charges by the*  
15          *air carrier.*

16          “(20) *Provide for the use of wireless and wire*  
17          *line data technologies enabling the private and secure*  
18          *communication of threats to aid in the screening of*  
19          *passengers and other individuals on airport property*  
20          *who are identified on any State or Federal security-*  
21          *related data base for the purpose of having an inte-*  
22          *grated response coordination of various authorized*  
23          *airport security forces.*

24          “(b) *AIRWORTHINESS OBJECTIONS BY FAA.—*

1           “(1) *IN GENERAL.*—*The Under Secretary shall*  
 2           *not take an action under subsection (a) if the Admin-*  
 3           *istrator notifies the Under Secretary that the action*  
 4           *could adversely affect the airworthiness of an aircraft.*

5           “(2) *REVIEW BY SECRETARY.*—*Notwithstanding*  
 6           *paragraph (1), the Under Secretary may take an ac-*  
 7           *tion under subsection (a), after receiving a notifica-*  
 8           *tion concerning the action from the Administrator*  
 9           *under paragraph (1), if the Secretary of Transpor-*  
 10          *tation subsequently approves the action.*

11          “(c) *VIEW OF NTSB.*—*In taking any action under*  
 12          *subsection (a) that could affect safety, the Under Secretary*  
 13          *shall solicit and give great weight to the views of the Na-*  
 14          *tional Transportation Safety Board.*

15          “(d) *PROPERTY SECURITY PROGRAM.*—

16               “(1) *CHECKED BAGGAGE.*—

17                   “(A) *FINAL DEADLINE FOR SCREENING.*—*A*  
 18                   *system must be in operation to screen all checked*  
 19                   *baggage at all airports in the United States no*  
 20                   *later than December 31, 2003.*

21                   “(B) *USE OF EXPLOSIVE DETECTION EQUIP-*  
 22                   *MENT.*—*The Under Secretary shall ensure that*  
 23                   *explosive detection equipment installed at air-*  
 24                   *ports to screen checked baggage is used to the*  
 25                   *maximum extent possible.*

1           “(C) *INSTALLATION OF ADDITIONAL EXPLO-*  
 2           *SIVE DETECTION EQUIPMENT.—The Under Sec-*  
 3           *retary shall install additional explosive detection*  
 4           *equipment at airports as soon as possible to en-*  
 5           *sure that all checked baggage is screened before*  
 6           *being placed in an aircraft.*

7           “(D) *INTERIM BAG-MATCH PROGRAMS.—*  
 8           *Until the Under Secretary has installed enough*  
 9           *explosive detection equipment at airports to en-*  
 10          *sure that all checked baggage is screened, the*  
 11          *Under Secretary shall require air carriers to im-*  
 12          *plement bag-match programs that ensure that no*  
 13          *checked baggage is placed in an aircraft unless*  
 14          *the passenger who checks the baggage is aboard*  
 15          *the aircraft.*

16          “(2) *CARGO DEADLINE.—A system must be in*  
 17          *operation to screen all cargo that is to be transported*  
 18          *in passenger aircraft in air transportation and intra-*  
 19          *state air transportation as soon as practicable after*  
 20          *the date of enactment of this paragraph.*

21          “(e) *LIMITATION ON CERTAIN ACTIONS.—The Sec-*  
 22          *retary of Transportation shall not take any action to pre-*  
 23          *vent a pilot of an air carrier from taking a firearm into*  
 24          *the cockpit of the aircraft if the policy of the air carrier*  
 25          *permits its pilots to be armed and the pilot has successfully*

1 completed a training program for the carriage of firearms  
2 aboard aircraft that is acceptable to the Under Secretary.

3 “(f) *REPORT*.—Not later than 6 months after the date  
4 of enactment of this section, and annually thereafter until  
5 the Under Secretary determines whether or not to take each  
6 of the actions specified in subsection (a), the Under Sec-  
7 retary shall transmit to Congress a report on the progress  
8 of the Under Secretary in evaluating and taking such ac-  
9 tions, including any legislative recommendations that the  
10 Under Secretary may have for enhancing transportation se-  
11 curity, and on the progress the Under Secretary is making  
12 in carrying out subsection (d).”.

13 (b) *CONFORMING AMENDMENT*.—The analysis for  
14 chapter 449 is amended by inserting after the item relating  
15 to section 44917 the following:

“44918. *Enhanced security measures.*”.

16 (c) *REPEAL OF EXISTING REPORTING REQUIRE-*  
17 *MENT*.—

18 (1) *IN GENERAL*.—Section 44938 is amended—

19 (A) in the section heading by striking “**RE-**  
20 **PORTS**” and inserting “**REPORT**”; and

21 (B) by striking “(a) *TRANSPORTATION SE-*  
22 *CURITY*.—” and all that follows through “(b)  
23 *SCREENING AND FOREIGN AIR CARRIER AND*  
24 *AIRPORT SECURITY*.—The Administrator” and

1           inserting “The Under Secretary of Transpor-  
2           tation for Security”.

3           (2) *CHAPTER ANALYSIS.*—The analysis for chap-  
4           ter 449 is amended by striking the item relating sec-  
5           tion 44938 and inserting the following:

“44938. Report.”.

6   **SEC. 107. CRIMINAL HISTORY RECORD CHECK FOR SCREEN-**  
7           **ERS AND OTHERS.**

8           Section 44936(a) is amended—

9           (1) in paragraph (1)(E)(iv)(II) by striking the  
10          period at the end and inserting “; except that at such  
11          an airport, the airport operator, air carriers, and cer-  
12          tified screening companies may elect to implement the  
13          requirements of this subparagraph in advance of the  
14          effective date if the Under Secretary (or the Adminis-  
15          trator of the Federal Aviation Administration before  
16          the transfer of civil aviation security responsibilities  
17          to the Under Secretary) approves of such early imple-  
18          mentation and if the airport operator, air carriers,  
19          and certified screening companies amend their secu-  
20          rity programs to conform those programs to the re-  
21          quirements of this subparagraph.”;

22          (2) by adding at the end of paragraph (1) the  
23          following:

24                 “(G) *BACKGROUND CHECKS OF CURRENT*  
25                 *EMPLOYEES.*—A background check (including a



1 *criminal history record check and a review of*  
 2 *available law enforcement data bases and records*  
 3 *of other governmental and international agen-*  
 4 *cies) shall be required for any individual who*  
 5 *currently has unescorted access to an aircraft of*  
 6 *an air carrier or foreign air carrier, unescorted*  
 7 *access to a secured area of an airport in the*  
 8 *United States that serves an air carrier or for-*  
 9 *foreign air carrier, or is responsible for screening*  
 10 *passengers or property, or both, unless that indi-*  
 11 *vidual was subject to such a background check*  
 12 *before the individual began his or her current*  
 13 *employment or is exempted from such a check*  
 14 *under section 107.31(m) of title 14, Code of Fed-*  
 15 *eral Regulations.”; and*

16 *(3) in paragraph (2)—*

17 *(A) by striking “or airport operator” and*  
 18 *inserting “airport operator, or certificated*  
 19 *screening company”; and*

20 *(B) by adding at the end the following: “In*  
 21 *this paragraph, the term ‘certificated screening*  
 22 *company’ means a screening company to which*  
 23 *the Under Secretary has issued a screening com-*  
 24 *pany certificate authorizing the screening com-*  
 25 *pany to provide security screening.”.*

1 **SEC. 108. PASSENGER AND BAGGAGE SCREENING FEE.**

2 (a) *IN GENERAL.*—Subchapter II of chapter 449 is  
3 amended by adding at the end the following:

4 **“§ 44939. Passenger and baggage screening fee**

5 “(a) *GENERAL AUTHORITY.*—

6 “(1) *PASSENGER FEES.*—The Under Secretary of  
7 Transportation for Security shall impose a fee, on  
8 passengers of air carriers and foreign air carriers in  
9 air transportation and intrastate air transportation  
10 originating at airports in the United States, to pay  
11 for the costs of the screening of passengers and prop-  
12 erty pursuant to section 44901(d). Such costs shall be  
13 limited to the salaries and benefits of screening per-  
14 sonnel and their direct supervisors, training of screen-  
15 ing personnel, and acquisition, operation, and main-  
16 tenance of equipment used by screening personnel and  
17 shall be determined by the Under Secretary.

18 “(2) *AIR CARRIER FEES.*—

19 “(A) *AUTHORITY.*—In addition to the fee  
20 imposed pursuant to paragraph (1), and only to  
21 the extent that such fee is insufficient to pay for  
22 the costs of the screening of passengers and prop-  
23 erty pursuant to section 44901(d), the Under  
24 Secretary may impose a fee on air carriers to  
25 pay for the difference between any such costs and  
26 the amount collected from such fee.

1                   “(B) *LIMITATION.*—*The amounts of fees col-*  
 2                   *lected under this paragraph may not exceed, in*  
 3                   *the aggregate, the amounts paid in calendar year*  
 4                   *2000 by air carriers for screening activities de-*  
 5                   *scribed in paragraph (1) as determined by the*  
 6                   *Under Secretary.*

7                   “(b) *SCHEDULE OF FEES.*—*In imposing fees under*  
 8                   *subsection (a), the Under Secretary shall ensure that the*  
 9                   *fees are reasonably related to the Transportation Security*  
 10                  *Administration’s costs of providing services rendered.*

11                  “(c) *LIMITATION ON FEE.*—*Fees imposed under sub-*  
 12                  *section (a)(1) may not exceed \$2.50 on a 1-way trip in air*  
 13                  *transportation or intrastate air transportation that origi-*  
 14                  *nates at an airport in the United States.*

15                  “(d) *IMPOSITION OF FEE.*—

16                       “(1) *IN GENERAL.*—*Notwithstanding section*  
 17                       *9701 of title 31 and the procedural requirements of*  
 18                       *section 553 of title 5, the Under Secretary shall im-*  
 19                       *pose the fee under subsection (a)(1), and may impose*  
 20                       *a fee under subsection (a)(2), through the publication*  
 21                       *of notice of such fee in the Federal Register and begin*  
 22                       *collection of the fee within 60 days of the date of en-*  
 23                       *actment of this Act, or as soon as possible thereafter.*

24                       “(2) *SUBSEQUENT MODIFICATION OF FEE.*—*After*  
 25                       *imposing a fee in accordance with paragraph (1), the*

1     *Under Secretary may modify, from time to time*  
 2     *through publication of notice in the Federal Register,*  
 3     *the imposition or collection of such fee, or both.*

4             “(3) *LIMITATION ON COLLECTION.*—*No fee may*  
 5     *be collected under this section, except to the extent*  
 6     *that expenditure of such fee to pay the costs of activi-*  
 7     *ties and services for which the fee is imposed is pro-*  
 8     *vided for in advance in an appropriations Act.*

9             “(e) *ADMINISTRATION OF FEES.*—

10            “(1) *FEES PAYABLE TO UNDER SECRETARY.*—*All*  
 11     *fees imposed and amounts collected under this section*  
 12     *are payable to the Under Secretary.*

13            “(2) *FEES COLLECTED BY AIR CARRIER.*—*A fee*  
 14     *imposed under subsection (a)(1) shall be collected by*  
 15     *the air carrier or foreign air carrier providing the*  
 16     *transportation described in subsection (a)(1).*

17            “(3) *DUE DATE FOR REMITTANCE.*—*A fee col-*  
 18     *lected under this section shall be remitted on the last*  
 19     *day of each calendar month by the carrier collecting*  
 20     *the fee. The amount to be remitted shall be for the cal-*  
 21     *endar month preceding the calendar month in which*  
 22     *the remittance is made.*

23            “(4) *INFORMATION.*—*The Under Secretary may*  
 24     *require the provision of such information as the*  
 25     *Under Secretary decides is necessary to verify that*

1        *fees have been collected and remitted at the proper*  
 2        *times and in the proper amounts.*

3        “(f) *RECEIPTS CREDITED AS OFFSETTING COLLEC-*  
 4        *TIONS.—Notwithstanding section 3302 of title 31, any fee*  
 5        *collected under this section—*

6                “(1) *shall be credited as offsetting collections to*  
 7        *the account that finances the activities and services*  
 8        *for which the fee is imposed;*

9                “(2) *shall be available for expenditure only to*  
 10        *pay the costs of activities and services for which the*  
 11        *fee is imposed; and*

12                “(3) *shall remain available until expended.*

13        “(g) *REFUNDS.—The Under Secretary may refund*  
 14        *any fee paid by mistake or any amount paid in excess of*  
 15        *that required.”.*

16        (b) *CONFORMING AMENDMENT.—The analysis for*  
 17        *chapter 449 is amended by adding after the item relating*  
 18        *to section 44938 the following:*

      “44939. *Passenger and baggage screening fee.*”.

19        (c) *EXEMPTIONS.—Section 44915 is amended by strik-*  
 20        *ing “and 44936” and inserting “44936, and 44939”.*

21        **SEC. 109. AUTHORIZATIONS OF APPROPRIATIONS.**

22        (a) *IN GENERAL.—Subchapter II of chapter 449 is fur-*  
 23        *ther amended by adding at the end the following:*

1 **“§ 44940. Authorizations of appropriations**

2       “(a) *OPERATIONS OF TRANSPORTATION SECURITY AD-*  
 3 *MINISTRATION.—There are authorized to be appropriated*  
 4 *such sums as may be necessary for the operations of the*  
 5 *Transportation Security Administration, including the*  
 6 *functions of the Administration under section 44901(d) if*  
 7 *the fees imposed under section 44939 are insufficient to*  
 8 *cover the costs of such functions.*

9       “(b) *GRANTS FOR AIRCRAFT SECURITY.—There is au-*  
 10 *thorized to be appropriated \$500,000,000 for the Secretary*  
 11 *of Transportation to make grants to air carriers to—*

12               “(1) *fortify cockpit doors to deny access from the*  
 13 *cabin to the pilots in the cockpit;*

14               “(2) *provide for the use of video monitors or*  
 15 *other devices to alert the cockpit crew to activity in*  
 16 *the passenger cabin;*

17               “(3) *ensure continuous operation of the aircraft*  
 18 *transponder in the event the crew faces an emergency;*  
 19 *and*

20               “(4) *provide for the use of other innovative tech-*  
 21 *nologies to enhance aircraft security.*

22       “(c) *AIRPORT SECURITY.—*

23               “(1) *IN GENERAL.—There is authorized to be ap-*  
 24 *propriated to the Secretary for fiscal years 2002 and*  
 25 *2003 a total of \$1,500,000,000 to reimburse airport*  
 26 *operators for direct costs incurred by such operators*

1       to comply with new, additional, or revised security  
 2       requirements imposed on such operators by the Fed-  
 3       eral Aviation Administration or Transportation Se-  
 4       curity Administration on or after September 11,  
 5       2001. Such sums shall remain available until ex-  
 6       pended.

7               “(2) *CONDITIONS.*—Before providing financial  
 8       assistance to an airport operator with funds appro-  
 9       priated pursuant to paragraph (1), the Secretary  
 10      shall require the operator to provide assurances that  
 11      the operator will—

12               “(A) meet with the tenants of the airport  
 13      (other than air carriers and foreign air carriers)  
 14      to discuss adjustments of the rent of the tenants  
 15      to account for losses in revenue incurred by the  
 16      tenants on and after September 11, 2001; and

17               “(B) provide to the Secretary an itemized  
 18      list of costs incurred by the operator to comply  
 19      with the security requirements described in para-  
 20      graph (1), including costs relating to landing  
 21      fees, automobile parking revenues, rental cars,  
 22      restaurants, and gift shops.”.

23      (b) *CONFORMING AMENDMENT.*—The analysis for  
 24      chapter 449 is amended by adding after the item relating  
 25      to section 44939 the following:

“44940. Authorizations of appropriations.”.

1 **SEC. 110. LIMITATION ON LIABILITY FOR ACTS TO THWART**  
 2 **CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.**

3 *Section 44903 is amended by adding at the end the*  
 4 *following:*

5 *“(h) LIMITATION ON LIABILITY FOR ACTS TO THWART*  
 6 *CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.—An indi-*  
 7 *vidual shall not be liable for damages in any action brought*  
 8 *in a Federal or State court arising out of the acts of the*  
 9 *individual in attempting to thwart an act of criminal vio-*  
 10 *lence or piracy on an aircraft if that individual in good*  
 11 *faith believed that such an act of criminal violence or pi-*  
 12 *racy was occurring or was about to occur.”.*

13 **SEC. 111. PASSENGER MANIFESTS.**

14 *Section 44909 is amended by adding at the end the*  
 15 *following:*

16 *“(c) FLIGHTS IN FOREIGN AIR TRANSPORTATION TO*  
 17 *THE UNITED STATES.—*

18 *“(1) IN GENERAL.—Not later than 60 days after*  
 19 *the date of enactment of this subsection, the Under*  
 20 *Secretary of Transportation for Security shall require*  
 21 *each air carrier and foreign air carrier operating a*  
 22 *passenger flight in foreign air transportation to the*  
 23 *United States to provide to the Under Secretary by*  
 24 *electronic transmission a passenger and crew mani-*  
 25 *fest containing the information specified in para-*  
 26 *graph (2).*



1           “(2) *INFORMATION.*—A passenger and crew  
2           *manifest for a flight required under paragraph (1)*  
3           *shall contain the following information:*

4                   “(A) *The full name of each passenger and*  
5                   *crew member.*

6                   “(B) *The date of birth and citizenship of*  
7                   *each passenger and crew member.*

8                   “(C) *The sex of each passenger and crew*  
9                   *member.*

10                  “(D) *The passport number and country of*  
11                  *issuance of each passenger and crew member if*  
12                  *required for travel.*

13                  “(E) *The United States visa number or*  
14                  *resident alien card number of each passenger*  
15                  *and crew member, as applicable.*

16                  “(F) *The passenger name record of each*  
17                  *passenger.*

18                  “(G) *Such other information as the Under*  
19                  *Secretary, by regulation, determines is reason-*  
20                  *ably necessary to ensure aviation safety.*

21           “(3) *TRANSMISSION OF MANIFEST.*—Subject to  
22           *paragraph (4), a passenger and crew manifest re-*  
23           *quired for a flight under paragraph (1) shall be*  
24           *transmitted to the Under Secretary in advance of the*

1        *aircraft landing in the United States in such manner,*  
 2        *time, and form as the Under Secretary prescribes.*

3                “(4) *TRANSMISSION OF MANIFESTS TO OTHER*  
 4        *FEDERAL AGENCIES.—The Under Secretary may re-*  
 5        *quire by regulation that a passenger and crew mani-*  
 6        *fest required for a flight under paragraph (1) be*  
 7        *transmitted directly to the head of another Federal*  
 8        *agency.”.*

9        **SEC. 112. TRANSPORTATION SECURITY OVERSIGHT BOARD.**

10        (a) *IN GENERAL.—Chapter 449 is amended by adding*  
 11        *at the end the following:*

12        “**SUBCHAPTER III—TRANSPORTATION SECURITY**  
 13                                **OVERSIGHT BOARD**

14        “**§ 44951. Transportation Security Oversight Board**

15        “(a) *IN GENERAL.—There is established a board to be*  
 16        *known as a ‘Transportation Security Oversight Board’.*

17        “(b) *MEMBERSHIP.—*

18                “(1) *NUMBER AND APPOINTMENT.—The Board*  
 19        *shall be composed of 5 members as follows:*

20                        “(A) *The Secretary of Transportation (or*  
 21                        *the Secretary’s designee).*

22                        “(B) *The Attorney General (or the Attorney*  
 23                        *General’s designee).*

24                        “(C) *The Secretary of the Treasury (or the*  
 25                        *Secretary’s designee).*

1           “(D) *The Secretary of Defense (or the Sec-*  
2           *retary’s designee).*

3           “(E) *One member appointed by the Presi-*  
4           *dent to represent the National Security Council*  
5           *or the Office of Homeland Security.*

6           “(2) *CHAIRPERSON.—The Chairperson of the*  
7           *Board shall be the Secretary of Transportation.*

8           “(c) *DUTIES.—The Board shall—*

9           “(1) *review and ratify or disapprove any regula-*  
10          *tion or security directive issued by the Under Sec-*  
11          *retary of Transportation for security under section*  
12          *114(h)(2) within 30 days after the date of issuance of*  
13          *such regulation or directive;*

14          “(2) *share intelligence information with the*  
15          *Under Secretary;*

16          “(3) *review—*

17                  “(A) *plans for transportation security;*

18                  “(B) *standards established for performance*  
19          *of airport security screening personnel;*

20                  “(C) *compensation being paid to airport se-*  
21          *curity screening personnel;*

22                  “(D) *procurement of security equipment;*

23                  “(E) *selection, performance, and compensa-*  
24          *tion of senior executives in the Transportation*  
25          *Security Administration;*

1           “(F) waivers granted by the Under Sec-  
 2           retary under section 120 of the Airport Security  
 3           Federalization Act of 2001 and may ratify or  
 4           disapprove such waivers; and

5           “(G) budget requests of the Under Secretary;  
 6           and

7           “(4) make recommendations to the Under Sec-  
 8           retary regarding matters reviewed under paragraph  
 9           (3).

10          “(d) *QUARTERLY MEETINGS.*—The Board shall meet  
 11          at least quarterly.

12          “(e) *CONSIDERATION OF SECURITY INFORMATION.*—A  
 13          majority of the Board may vote to close a meeting of the  
 14          Board to the public when classified, sensitive security infor-  
 15          mation, or information protected in accordance with section  
 16          40119(b), will be discussed.

17          **“§ 44952. Advisory council**

18          “(a) *ESTABLISHMENT.*—The Under Secretary of  
 19          Transportation for Security shall establish an advisory  
 20          council to be known as the ‘Transportation Security Advi-  
 21          sory Council’.

22          “(b) *MEMBERSHIP.*—The Council shall be composed of  
 23          members appointed by the Under Secretary to represent all  
 24          modes of transportation, transportation labor, screening  
 25          companies, organizations representing families of victims

1 *of transportation disasters, and other entities affected or in-*  
 2 *volved in the transportation security process.*

3       “(c) *DUTIES.—The Council shall provide advice and*  
 4 *counsel to the Under Secretary on issues which affect or*  
 5 *are affected by the operations of the Transportation Secu-*  
 6 *rity Administration. The Council shall function as a re-*  
 7 *source for management, policy, spending, and regulatory*  
 8 *matters under the jurisdiction of the Transportation Secu-*  
 9 *rity Administration.*

10       “(d) *ADMINISTRATIVE MATTERS.—*

11               “(1) *MEETINGS.—The Council shall meet on a*  
 12 *regular and periodic basis or at the call of the Chair-*  
 13 *person or the Under Secretary.*

14               “(2) *ACCESS TO DOCUMENTS AND STAFF.—The*  
 15 *Under Secretary may give the Council appropriate*  
 16 *access to relevant documents and personnel of the Ad-*  
 17 *ministration, and the Under Secretary shall make*  
 18 *available, consistent with the authority to withhold*  
 19 *commercial and other proprietary information under*  
 20 *section 552 of title 5 (commonly known as the ‘Free-*  
 21 *dom of Information Act’), cost data associated with*  
 22 *the acquisition and operation of security screening*  
 23 *equipment. Any member of the Council who receives*  
 24 *commercial or other proprietary data from the Under*  
 25 *Secretary shall be subject to the provisions of section*

1       1905 of title 18, pertaining to unauthorized disclosure  
2       of such information.

3               “(3) *CHAIRPERSON AND VICE CHAIRPERSON.*—  
4       *The Council shall elect a Chairperson and a Vice*  
5       *Chairperson from among the members, each of whom*  
6       *shall serve for a term of 2 years. The Vice Chair-*  
7       *person shall perform the duties of the Chairperson in*  
8       *the absence of the Chairperson.*

9               “(4) *TRAVEL AND PER DIEM.*—*Each member of*  
10       *the Council shall be paid actual travel expenses, and*  
11       *per diem in lieu of subsistence expenses when away*  
12       *from his or her usual place of residence, in accord-*  
13       *ance with section 5703 of title 5.*

14               “(5) *DETAIL OF PERSONNEL FROM THE ADMINIS-*  
15       *TRATION.*—*The Under Secretary shall make available*  
16       *to the Council such staff, information, and adminis-*  
17       *trative services and assistance as may reasonably be*  
18       *required to enable the Council to carry out its respon-*  
19       *sibilities under this section.*

20               “(e) *FEDERAL ADVISORY COMMITTEE ACT NOT TO*  
21       *APPLY.*—*The Federal Advisory Committee Act (5 U.S.C.*  
22       *App.) does not apply to the Council.”.*

23               “(b) *CONFORMING AMENDMENT.*—*The analysis for*  
24       *chapter 449 is amended by adding at the end the following:*

“44952. *Advisory council.*”.

4           (a)   *COMPETITION PLAN.*—Section   47106(f)   is  
5   amended—

8 (2) by inserting after paragraph (2) the fol-  
9 lowing:

15           (b) *AIRPORT DEVELOPMENT DEFINED.*—Section  
16 47102(3) is amended by adding at the end the following:

“(K) in fiscal year 2002, any activity, including operational activities, of an airport that is not a primary airport if that airport is located within the confines of enhanced class B

1           *airspace, as defined by Notice to Airmen FDC 1/*  
 2           *0618 issued by the Federal Aviation Administra-*  
 3           *tion.*

4           “(L) in fiscal year 2002, payments for debt  
 5           service on indebtedness incurred to carry out a  
 6           project at an airport owned or controlled by the  
 7           sponsor or at a privately owned or operated air-  
 8           port passenger terminal financed by indebtedness  
 9           incurred by the sponsor if the Secretary deter-  
 10          mines that such payments are necessary to pre-  
 11          vent a default on the indebtedness.”.

12          (c) *REIMBURSEMENT FOR PAST EXPENSES.*—Section  
 13   47110(b)(2) is amended—

14           (1) by striking “or” at the end of subparagraph  
 15   (B);

16           (2) by inserting after the semicolon at the end of  
 17   the subparagraph (C)(iii) “or”; and

18           (3) by inserting at the end the following:

19           “(D) if the cost is incurred after September 11,  
 20   2001, for a project described in subparagraphs (J),  
 21   (K), or (L) of section 47102(3) without regard to the  
 22   date of execution of a grant agreement under this sub-  
 23   chapter.”.

24          (d) *FEDERAL SHARE.*—Section 47109(a) is  
 25   amended—



1           (1) *by striking “and” at the end of paragraph*  
 2           (3);

3           (2) *by striking the period at the end of para-*  
 4           *graph (4) and inserting “; and”; and*

5           (3) *by adding at the end the following:*

6           “(5) 100 percent for a project described in sub-

7           paragraphs (J), (K), or (L) of section 47102(3).”.

8           (e) *CONFORMING AMENDMENT TO AIRPORT AND AIR-*  
 9           *WAY TRUST FUND.*—Section 9502(d)(1)(A) of the Internal  
 10          Revenue Code of 1986 (relating to airport and airway pro-  
 11          gram) is amended by inserting “or the Airport Security  
 12          Federalization Act of 2001” after “21st Century”.

13       **SEC. 114. TECHNICAL CORRECTIONS.**

14          (a) *REPORT DEADLINE.*—Section 106(a) of the Air  
 15          Transportation Safety and System Stabilization Act (Pub-  
 16          lic Law 107–42) is amended by striking “February 1,  
 17          2001” and inserting “February 1, 2002”.

18          (b) *INSURANCE AND REINSURANCE OF AIRCRAFT.*—  
 19          Section 44306(c) (as redesignated by section 201(d) of such  
 20          Act) is amended by inserting “in the interest of air com-  
 21          merce or national security” before “to carry out foreign pol-  
 22          icy”.

23          (c) *FEDERAL CREDIT INSTRUMENTS.*—Section  
 24          102(c)(2)(A) of such Act is amended by striking “represent-  
 25          atives” and inserting “representations”.

1       (d) *MAXIMUM AMOUNT OF COMPENSATION PAYABLE*  
 2 *PER AIR CARRIER.*—Section 103 of such Act is amended  
 3 *by adding at the end the following:*

4       “(d) *COMPENSATION FOR AIR CARRIERS PROVIDING*  
 5 *AIR AMBULANCE SERVICES.*—

6               “(1) *SET-ASIDE.*—The President may set aside a  
 7       portion of the amount of compensation payable to air  
 8       carriers under section 101(a)(2) to provide compensa-  
 9       tion to air carriers providing air ambulance services.  
 10       The President shall reduce the \$4,500,000,000 speci-  
 11       fied in subsection (b)(2)(A)(i) by the amount set aside  
 12       under this subsection.

13              “(2) *DISTRIBUTION OF AMOUNTS.*—The Presi-  
 14       dent shall distribute the amount set aside under this  
 15       subsection proportionally among air carriers pro-  
 16       viding air ambulance services based on an appro-  
 17       priate auditable measure, as determined by the Presi-  
 18       dent.”.

19 **SEC. 115. ALCOHOL AND CONTROLLED SUBSTANCE TEST-**  
 20 **ING.**

21       Chapter 451 is amended—

22              (1) by striking “contract personnel” each place it  
 23       appears and inserting “personnel”;

24              (2) by striking “contract employee” each place it  
 25       appears and inserting “employee”;

1           (3) in section 45106(c) by striking “contract em-  
2       ployees” and inserting “employees”;

3           (4) by inserting after section 45106 the fol-  
4       lowing:

5       **“§45107. Transportation Security Administration**

6           “(a) *TRANSFER OF FUNCTIONS RELATING TO TESTING*  
7       *PROGRAMS WITH RESPECT TO AIRPORT SECURITY*  
8       *SCREENING PERSONNEL.*—*The authority of the Adminis-*  
9       *trator of the Federal Aviation Administration under this*  
10       *chapter with respect to programs relating to testing of air-*  
11       *port security screening personnel are transferred to the*  
12       *Under Secretary of Transportation for Security. Notwith-*  
13       *standing section 45102(a), the regulations prescribed under*  
14       *section 45102(a) shall require testing of such personnel by*  
15       *their employers instead of by air carriers and foreign air*  
16       *carriers.*

17          “(b) *APPLICABILITY OF CHAPTER WITH RESPECT TO*  
18       *EMPLOYEES OF ADMINISTRATION.*—*The provisions of this*  
19       *chapter that apply with respect to employees of the Federal*  
20       *Aviation Administration whose duties include responsi-*  
21       *bility for safety-sensitive functions shall apply with respect*  
22       *to employees of the Transportation Security Administra-*  
23       *tion whose duties include responsibility for security-sen-*  
24       *sitive functions. The Under Secretary of Transportation for*  
25       *Security, the Transportation Security Administration, and*

1 *employees of the Transportation Security Administration*  
 2 *whose duties include responsibility for security-sensitive*  
 3 *functions shall be subject to and comply with such provi-*  
 4 *sions in the same manner and to the same extent as the*  
 5 *Administrator of the Federal Aviation Administration, the*  
 6 *Federal Aviation Administration, and employees of the*  
 7 *Federal Aviation Administration whose duties include re-*  
 8 *sponsibility for safety-sensitive functions, respectively.”;*  
 9 *and*

10 *(5) in the analysis for such chapter by inserting*  
 11 *after the item relating to section 45106 the following:*  
*“45107. Transportation Security Administration.”.*

12 **SEC. 116. CONFORMING AMENDMENTS TO SUBTITLE VII.**

13 *(a) RECORDS OF EMPLOYMENT OF PILOT APPLI-*  
 14 *CANTS.—Part A of subtitle VII is amended—*

15 *(1) by moving subsections (f), (g), and (h) of sec-*  
 16 *tion 44936 from section 44936, inserting them at the*  
 17 *end of section 44703, and redesignating them as sub-*  
 18 *sections (h), (i), and (j), respectively; and*

19 *(2) in subsections (i) and (j) of section 44703 (as*  
 20 *moved to the end of section 44703 by paragraph (1)*  
 21 *of this subsection), by striking “subsection (f)” each*  
 22 *place it appears and inserting “subsection (h)”.*

23 *(b) INVESTIGATIONS AND PROCEDURES.—Chapter 461*  
 24 *is amended—*

1           (1) in each of sections 46101(a)(1), 46102(a),  
 2           46103(a), 46104(a), 46105(a), 46106, 46107(b), and  
 3           46110(a) by inserting after “(or)” the following: “the  
 4           Under Secretary of Transportation for Security with  
 5           respect to security duties and powers designated to be  
 6           carried out by the Under Secretary or”;

7           (2) by striking “or Administrator” each place it  
 8           appears and inserting “, Under Secretary, or Admin-  
 9           istrator”;

10          (3) in section 46101(a)(2) by striking “of Trans-  
 11          portation or the” and inserting “, Under Secretary,  
 12          or”;

13          (4) in section 46102(b) by striking “and the Ad-  
 14          ministrator” and inserting “, the Under Secretary,  
 15          and the Administrator”;

16          (5) in section 46102(c) by striking “and Admin-  
 17          istrator” each place it appears and inserting “,  
 18          Under Secretary, and Administrator”;

19          (6) in each of sections 46102(d) and 46104(b) by  
 20          inserting “the Under Secretary,” after “Secretary,”;

21          (7) in the heading to section 46106 by striking  
 22          “**Secretary of Transportation and Admin-**  
 23          **istrator of the Federal Aviation Adminis-**  
 24          **tration**” and inserting “**Department of Trans-**  
 25          **portation**”; and

(8) *in the item relating to section 46106 of the analysis for such chapter by striking “Secretary of Transportation and Administrator of the Federal Aviation Administration” and inserting “Department of Transportation”.*

(c) *ADMINISTRATIVE.—Section 40113 is amended—*

*(1) in subsection (a)—*

*(A) by inserting after “(or” the following: “the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or”; and*

*(B) by striking “or Administrator” and inserting “, Under Secretary, or Administrator”; and*

*(2) in subsection (d)—*

*(A) by inserting after “The” the following: “Under Secretary of Transportation for Security or the”; and*

*(B) by striking “Administration” the second place it appears and inserting “Transportation Security Administration or Federal Aviation Administration, as the case may be,”; and*

1                   (C) by striking “the Administrator decides”  
 2                   and inserting “the Under Secretary or Adminis-  
 3                   trator, as the case may be, decides”.

4           (d) *PENALTIES*.—Chapter 463 is amended—

5                   (1) in section 46301(d)(2)—

6                           (A) by striking “, chapter 449 (except sec-  
 7                           tions 44902, 44903(d), 44907(a)–(d)(1)(A) and  
 8                           (d)(1)(C)–(f), 44908, and 44909),”;

9                           (B) by inserting after the first sentence the  
 10                           following: “The Under Secretary of Transpor-  
 11                           tation for Security may impose a civil penalty  
 12                           for a violation of chapter 449 (except sections  
 13                           44902,           44903(d),           44907(a)–(d)(1)(A),  
 14                           44907(d)(1)(C)–(f), 44908, and 44909) or a reg-  
 15                           ulation prescribed or order issued under such  
 16                           chapter 449.”; and

17                           (C) by inserting “Under Secretary or” be-  
 18                           fore “Administrator shall”;

19                   (2) in each of paragraphs (3) and (4) of section  
 20                   46301(d) by striking “Administrator” each place it  
 21                   appears and inserting “Under Secretary or Adminis-  
 22                   trator”;

23                   (3) in section 46301(d)(8) by striking “Adminis-  
 24                   trator” and inserting “Under Secretary, Adminis-  
 25                   trator,”;

1           (4) in section 46301(h)(2) by inserting after  
 2           “(or” the following: “the Under Secretary of Trans-  
 3           portation for Security with respect to security duties  
 4           and powers designated to be carried out by the Under  
 5           Secretary or”;

6           (5) in section 46303(c)(2) by inserting “or the  
 7           Under Secretary of Transportation for Security”  
 8           after “Federal Aviation Administration”;

9           (6) in section 46311—

10           (A) by inserting after “Transportation,” the  
 11           following: “the Under Secretary of Transpor-  
 12           tation for Security with respect to security du-  
 13           ties and powers designated to be carried out by  
 14           the Under Secretary,”;

15           (B) by inserting after “Secretary,” each  
 16           place it appears the following: “Under Sec-  
 17           retary,”; and

18           (C) by striking “or Administrator” each  
 19           place it appears and inserting “, Under Sec-  
 20           retary, or Administrator”;

21           (7) in each of sections 46313 and 46316 by in-  
 22           serting after “(or” the following: “the Under Sec-  
 23           retary of Transportation for Security with respect to  
 24           security duties and powers designated to be carried  
 25           out by the Under Secretary or”; and



1           (8) in section 46505(d)(2) by inserting “or the  
 2           Under Secretary of Transportation for Security”  
 3           after “Federal Aviation Administration”.

4 **SEC. 117. SAVINGS PROVISION.**

5           (a) *TRANSFER OF ASSETS AND PERSONNEL.*—*Except*  
 6 *as otherwise provided in this Act, those personnel, property,*  
 7 *and records employed, used, held, available, or to be made*  
 8 *available in connection with a function transferred to the*  
 9 *Transportation Security Administration by this Act shall*  
 10 *be transferred to the Transportation Security Administra-*  
 11 *tion for use in connection with the functions transferred.*  
 12 *Unexpended balances of appropriations, allocations, and*  
 13 *other funds made available to the Federal Aviation Admin-*  
 14 *istration to carry out such functions shall also be trans-*  
 15 *ferred to the Transportation Security Administration for*  
 16 *use in connection with the functions transferred.*

17           (b) *LEGAL DOCUMENTS.*—*All orders, determinations,*  
 18 *rules, regulations, permits, grants, loans, contracts, settle-*  
 19 *ments, agreements, certificates, licenses, and privileges—*

20                 (1) *that have been issued, made, granted, or al-*  
 21 *lowed to become effective by the Federal Aviation Ad-*  
 22 *ministration, any officer or employee thereof, or any*  
 23 *other Government official, or by a court of competent*  
 24 *jurisdiction, in the performance of any function that*  
 25 *is transferred by this Act; and*

1           (2) *that are in effect on the effective date of such*  
2           *transfer (or become effective after such date pursuant*  
3           *to their terms as in effect on such effective date), shall*  
4           *continue in effect according to their terms until modi-*  
5           *fied, terminated, superseded, set aside, or revoked in*  
6           *accordance with law by the Under Secretary of*  
7           *Transportation for Security, any other authorized of-*  
8           *ficial, a court of competent jurisdiction, or operation*  
9           *of law.*

10       (c) *PROCEEDINGS.—*

11           (1) *IN GENERAL.—The provisions of this Act*  
12           *shall not affect any proceedings or any application*  
13           *for any license pending before the Federal Aviation*  
14           *Administration at the time this Act takes effect, inso-*  
15           *far as those functions are transferred by this Act; but*  
16           *such proceedings and applications, to the extent that*  
17           *they relate to functions so transferred, shall be contin-*  
18           *ued. Orders shall be issued in such proceedings, ap-*  
19           *peals shall be taken therefrom, and payments shall be*  
20           *made pursuant to such orders, as if this Act had not*  
21           *been enacted; and orders issued in any such pro-*  
22           *ceedings shall continue in effect until modified, termi-*  
23           *nated, superseded, or revoked by a duly authorized of-*  
24           *ficial, by a court of competent jurisdiction, or by op-*  
25           *eration of law.*

1           (2) *STATUTORY CONSTRUCTION.*—*Nothing in this*  
2           *subsection shall be deemed to prohibit the discontinu-*  
3           *ance or modification of any proceeding described in*  
4           *paragraph (1) under the same terms and conditions*  
5           *and to the same extent that such proceeding could*  
6           *have been discontinued or modified if this Act had not*  
7           *been enacted.*

8           (3) *ORDERLY TRANSFER.*—*The Secretary of*  
9           *Transportation is authorized to provide for the or-*  
10          *derly transfer of pending proceedings from the Fed-*  
11          *eral Aviation Administration.*

12          (d) *SUITS.*—

13           (1) *IN GENERAL.*—*This Act shall not affect suits*  
14          *commenced before the date of the enactment of this*  
15          *Act, except as provided in paragraphs (2) and (3). In*  
16          *all such suits, proceeding shall be had, appeals taken,*  
17          *and judgments rendered in the same manner and*  
18          *with the same effect as if this Act had not been en-*  
19          *acted.*

20           (2) *SUITS BY OR AGAINST FAA.*—*Any suit by or*  
21          *against the Federal Aviation Administration begun*  
22          *before the date of the enactment of this Act shall be*  
23          *continued, insofar as it involves a function retained*  
24          *and transferred under this Act, with the Transpor-*  
25          *tation Security Administration (to the extent the suit*

1        *involves functions transferred to the Transportation*  
2        *Security Administration under this Act) substituted*  
3        *for the Federal Aviation Administration.*

4            (3) *REMANDED CASES.—If the court in a suit*  
5        *described in paragraph (1) remands a case to the*  
6        *Transportation Security Administration, subsequent*  
7        *proceedings related to such case shall proceed in ac-*  
8        *cordance with applicable law and regulations as in*  
9        *effect at the time of such subsequent proceedings.*

10          (e) *CONTINUANCE OF ACTIONS AGAINST OFFICERS.—*  
11        *No suit, action, or other proceeding commenced by or*  
12        *against any officer in his official capacity as an officer of*  
13        *the Federal Aviation Administration shall abate by reason*  
14        *of the enactment of this Act. No cause of action by or*  
15        *against the Federal Aviation Administration, or by or*  
16        *against any officer thereof in his official capacity, shall*  
17        *abate by reason of the enactment of this Act.*

18          (f) *EXERCISE OF AUTHORITIES.—Except as otherwise*  
19        *provided by law, an officer or employee of the Transpor-*  
20        *tation Security Administration may, for purposes of per-*  
21        *forming a function transferred by this Act or the amend-*  
22        *ments made by this Act, exercise all authorities under any*  
23        *other provision of law that were available with respect to*  
24        *the performance of that function to the official responsible*

1 *for the performance of the function immediately before the*  
 2 *effective date of the transfer of the function under this Act.*

3 (g) *ACT DEFINED.*—*In this section, the term “Act” in-*  
 4 *cludes the amendments made by this Act.*

5 **SEC. 118. BUDGET SUBMISSIONS.**

6 *The President’s budget submission for fiscal year 2003*  
 7 *and each fiscal year thereafter shall reflect the establishment*  
 8 *of the Transportation Security Administration.*

9 **SEC. 119. AIRCRAFT OPERATIONS IN ENHANCED CLASS B**

10 **AIRSPACE.**

11 *Notice to Airmen FDC 1/0618 issued by the Federal*  
 12 *Aviation Administration, and any other regulation, order,*  
 13 *or directive that restricts the ability of United States reg-*  
 14 *istered aircraft to conduct operations under part 91 of title*  
 15 *14, Code of Federal Regulations, in enhanced class B air-*  
 16 *space (as defined by such Notice), shall cease to be in effect*  
 17 *beginning on the 10th day following the date of the enact-*  
 18 *ment of this Act, unless the Secretary of Transportation*  
 19 *publishes a notice in the Federal Register before such 10th*  
 20 *day reimposing the restriction and explaining the reasons*  
 21 *for the restriction.*

22 **SEC. 120. WAIVERS FOR CERTAIN ISOLATED COMMUNITIES.**

23 (a) *IN GENERAL.*—*In any case in which a restriction*  
 24 *is imposed on an air carrier (as defined in section 40102*  
 25 *of title 49, United States Code) for reasons of national secu-*

1 rity by any government agency, the Under Secretary of  
 2 Transportation for Security may grant a waiver from such  
 3 restrictions for the carriage of cargo, mail, patients, and  
 4 emergency medical supplies (and associated personnel) on  
 5 flights to or from a community that is not accessible by  
 6 road, or that is more than 200 miles, from a hub airport  
 7 (as defined in section 41731 of such title).

8 (b) *REVIEW AND DISAPPROVAL.*—Any grant of a waiv-  
 9 er by the Under Secretary under this section shall be subject  
 10 to review and disapproval by the Transportation Security  
 11 Oversight Board.

12 (c) *LIMITATIONS.*—The Board may impose reasonable  
 13 limitations on any waiver granted under this section.

14 **SEC. 121. ASSESSMENTS OF THREATS TO AIRPORTS.**

15 Section 44904 is amended by adding at the end the  
 16 following:

17 “(d) *PASSENGER VEHICLES.*—

18 “(1) *THREAT ASSESSMENT.*—An operator of an  
 19 airport with scheduled passenger service, in consulta-  
 20 tion with appropriate State or local law enforcement  
 21 authorities, may conduct a threat assessment of the  
 22 airport to determine whether passenger vehicles should  
 23 be permitted to park within 300 feet of the airport  
 24 terminal building.

1           “(2) *REMOVAL OF CERTAIN RESTRICTIONS.*—If  
 2           the airport operator, after consultation with the ap-  
 3           propriate State or local law enforcement authorities,  
 4           determines that safeguards are in place to sufficiently  
 5           protect public safety and so certifies, in writing, to  
 6           the Secretary of Transportation, any rule, order, or  
 7           other directive of the Secretary prohibiting the park-  
 8           ing of passenger vehicles within 300 feet of an airport  
 9           terminal building shall not apply to the terminal  
 10          building at such airport.”.

11 **SEC. 122. REQUIREMENT TO HONOR PASSENGER TICKETS**  
 12 **OF OTHER CARRIERS.**

13          (a) *IN GENERAL.*—Subchapter I of chapter 417 is  
 14 amended by adding at the end the following:

15 **“§41722. Requirement to honor passenger tickets of**  
 16 **other carriers**

17          “Each air carrier that provides scheduled air trans-  
 18 portation on a route shall provide, to the extent practicable,  
 19 air transportation to passengers ticketed for air transpor-  
 20 tation on that route by any other air carrier that suspends,  
 21 interrupts, or discontinues air passenger service on the  
 22 route by reason of an act of war or terrorism or insolvency  
 23 or bankruptcy of the carrier.”.

24          (b) *CONFORMING AMENDMENT.*—The analysis for such  
 25 subchapter is amended by adding at the end the following:

“41722. Requirement to honor passenger tickets of other carriers.”.

1 **SEC. 123. SENSE OF CONGRESS ON CERTAIN AVIATION MAT-**  
2 **TERS.**

3 (a) *FLIGHT SERVICE STATION EMPLOYEES.*—It is the  
4 sense of Congress that the Administrator of the Federal  
5 Aviation Administration should continue negotiating in  
6 good faith with flight service station employees of the Ad-  
7 ministration with a goal of reaching agreement on a con-  
8 tract as soon as possible.

9 (b) *WAR RISK INSURANCE.*—It is the sense of Congress  
10 that the Secretary of Transportation should implement sec-  
11 tion 202 of the Air Transportation Safety and System Sta-  
12 bilization Act (Public Law 107-42) so as to make war risk  
13 insurance available to vendors, agents, and subcontractors  
14 of general aviation aircraft.

15 (c) *TRANSPORT OF ANIMALS.*—It is the sense of Con-  
16 gress that an air carrier that transports mail under a con-  
17 tract with the United States Postal Service should transport  
18 any animal that the Postal Service allows to be shipped  
19 through the mail.

20 (d) *SCREENING.*—It is the sense of Congress that the  
21 Under Secretary of Transportation for Security should re-  
22 quire, as soon as practicable, that all property carried in  
23 a passenger aircraft in air transportation or intrastate air  
24 transportation (including checked baggage) be screened by  
25 any currently available means, including X-ray machine,



1 *hand-held metal detector, explosive detection system equip-*  
 2 *ment, or manual search.*

3 *(e) CONTRACTS FOR AIRPORT SECURITY SERVICES.—*

4 *It is the sense of Congress that, in awarding a contract for*  
 5 *airport security services, the Under Secretary of Transpor-*  
 6 *tation for Security should, to the maximum extent prac-*  
 7 *ticable, award the contract to a firm that is owned and*  
 8 *controlled by a citizen of the United States.*

9 ***TITLE II—VICTIMS***  
 10 ***COMPENSATION***

11 ***SEC. 201. LIMITATION ON LIABILITY FOR DAMAGES ARISING***  
 12 ***OUT OF CRASHES OF SEPTEMBER 11, 2001.***

13 *Section 408 of the Air Transportation Safety and Sys-*  
 14 *tem Stabilization Act (Public Law 107–42; 115 Stat. 240;*  
 15 *49 U.S.C. 40101 note) is amended—*

16 *(1) by amending the section heading to read as*  
 17 *follows:*

18 ***“SEC. 408. LIMITATION ON LIABILITY FOR DAMAGES ARIS-***  
 19 ***ING OUT OF CRASHES OF SEPTEMBER 11,***  
 20 ***2001.”;***

21 *(2) by amending subsection (a) to read as fol-*  
 22 *lows:*

23 ***“(a) GENERAL LIMITATION OF LIABILITY.—Except as***  
 24 ***provided in this section, no Federal court or agency or State***  
 25 ***court or agency shall enforce any Federal or State law hold-***

1 *ing any person, or any State or political subdivision there-*  
 2 *of, liable for any damages arising out of the hijacking and*  
 3 *subsequent crashes of American Airlines flights 11 or 77,*  
 4 *or United Airlines flights 93 or 175, on September 11,*  
 5 *2001.”;*

6 (3) *in subsection (b), by adding at the end the*  
 7 *following new paragraphs:*

8 “(4) *DAMAGES.—If any party to any action*  
 9 *brought under this subsection is determined to be*  
 10 *liable—*

11 “(A) *no damages in the aggregate ordered*  
 12 *by the court to be paid by such party shall ex-*  
 13 *ceed the amount of insurance, minus any pay-*  
 14 *ments made pursuant to a court approved settle-*  
 15 *ment, which such party is determined to have ob-*  
 16 *tained prior to September 11, 2001, and which*  
 17 *is determined to cover such party’s liability for*  
 18 *any damages arising out of the hijacking and*  
 19 *subsequent crashes of American Airlines flights*  
 20 *11 or 77, or United Airlines flights 93 or 175,*  
 21 *on September 11, 2001;*

22 “(B) *such party shall not be liable for inter-*  
 23 *est prior to the judgment or for punitive dam-*  
 24 *ages intended to punish or deter; and*

1           “(C) the court shall reduce the amount of  
2           damages awarded to a plaintiff by the amount  
3           of collateral source compensation that the plain-  
4           tiff has received or is entitled to receive as a re-  
5           sult of the terrorist-related aircraft crashes of  
6           September 11, 2001.

7           “(5) ATTORNEYS’ FEES.—Reasonable attorneys’  
8           fees for work performed in any action brought under  
9           this subsection shall be subject to the discretion of the  
10          court, but in no event shall any attorney charge, de-  
11          mand, receive, or collect for services rendered, fees in  
12          excess of 20 percent of the damages ordered by the  
13          court to be paid pursuant to this subsection, or in ex-  
14          cess of 20 percent of any court approved settlement  
15          made of any claim cognizable under this subsection.  
16          Any attorney who charges, demands, receives, or col-  
17          lects for services rendered in connection with such  
18          claim any amount in excess of that allowed under  
19          this subsection, if recovery be had, shall be fined not  
20          more than \$2,000 or imprisoned not more than one  
21          year, or both.”;

22          (4) by amending subsection (c) to read as fol-  
23          lows:

24          “(c) EXCLUSION.—Nothing in this section shall in any  
25          way limit any liability of any person who—

1           “(1) *hijacks any aircraft or commits any ter-*  
2       *rorist act; or*

3           “(2) *knowingly participates in a conspiracy to*  
4       *hijack any aircraft or commit any terrorist act.*”; and

5           (5) *by adding at the end the following new sub-*  
6       *sections:*

7           “(d) *DISCLAIMER.—Nothing herein implies that any*  
8       *person is liable for damages arising out of the hijacking*  
9       *and subsequent crashes of American Airlines flights 11 or*  
10       *77, or United Airlines flights 93 or 175, on September 11,*  
11       *2001.*

12          “(e) *STATE DEFINED.—In this section, the term ‘State’*  
13       *means any State of the United States, the District of Co-*  
14       *lumbia, the Commonwealth of Puerto Rico, the Northern*  
15       *Mariana Islands, the United States Virgin Islands, Guam,*  
16       *American Samoa, and any other territory of possession of*  
17       *the United States or any political subdivision of any of the*  
18       *foregoing.*”.

Attest:

*Clerk.*

107TH CONGRESS  
1ST SESSION

**S. 1447**

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**AMENDMENT**