

she has worked long and hard on these issues and that it is her work and her dedication that is responsible for the inclusion of the children's provisions in the homeland security bill.

I would further say to my friend from California that while additional reforms may be warranted, the legislation before us today was primarily a structural bill, not a policy bill. That fact prevented the consideration of some of the reforms she has championed from being included in this legislation.

I pledged to work with her in the 108th Congress to help fashion legislation that could address some of the issues that had to be left out of this measure.

Mrs. FEINSTEIN. I thank the Senator from Arizona. You may be interested to know that I first became involved in this issue when I heard about a young 15-year old Chinese girl who stood before a U.S. immigration court facing deportation proceedings. She had found her way to the United States as a stowaway in a container ship captured off of Guam, hoping to escape the repression she had experienced in her home country.

Although she had committed no crime, the INS sent her to a Portland jail, where she languished for seven months. When the INS brought her before an immigration judge, she stood before him confused, not understanding the proceedings against her. Tears streamed down her face, yet she could not wipe them away because her hands were handcuffed and chained to her waist.

While the young girl eventually received asylum in our country, she unnecessarily faced an ordeal no child should bear under our immigration system. This young Chinese girl represents only one of 5,000 foreign-born children who, without parents or legal guardians to protect them, are discovered in the United States each year in need of protection.

So you see, this issue calls for clearer policy direction from Congress. I thank my friend and look forward to working with him in the beginning of the 108th Congress.

Mr. COCHRAN. Mr. President, the reorganization of our homeland security efforts is necessary if we are to achieve a higher level of safety for American citizens.

The bill before us improves our security by combining into a single department the federal agencies and programs that today have a role in providing homeland security. Those organizations comprise some 170,000 people. Bringing them together under a single reorganized department will enable us to improve coordination of the Government's efforts to defend the United States against terrorist attacks.

By creating the cabinet-level position of Secretary of Homeland Security, the bill ensures there will be a leader of this effort, with the appropriate authority and responsibility to carry out that mission.

The creation of a Border and Transportation Security Directorate—bringing together the Immigration and Naturalization Service from the Justice Department, the U.S. Customs Service from the Treasury Department, and the newly created Transportation Security Administration—will make a single entity responsible for securing our border and transportation systems and preventing the entry of terrorists into our country.

The Coast Guard, which also plays an important role in securing our borders, will move from the Department of Transportation to the Department of Homeland Security. By maintaining the Coast Guard as an independent agency reporting directly to the Secretary of Homeland Security, this bill ensures the Coast Guard will have the resources and advocacy it needs to conduct its important security missions as well as its other missions, such as search-and-rescue and boating safety.

This legislation also creates a Directorate of Emergency Preparedness and Response, which will coordinate the federal government's response to terrorist attacks and major disasters. Combining all the Federal Government's emergency response efforts into a single entity will improve the Government's coordination with state and local entities in preparing for and responding to terrorist attacks.

The need for this reorganization is critical to our national security. Its scope is necessarily quite extensive. If this effort is to be effective, the President must have the flexibility to adapt the new department as needed to carry out its mission. This bill provides him the management flexibility he needs while protecting the rights of the Federal workers who will serve in the new department.

This bill represents to most extensive reorganization of the Federal Government in over 50 years. By taking resources from existing departments and agencies and placing them in a new organization, it has required a very difficult balancing of competing interests and views. The success of those efforts is a tribute to those who have worked so hard to bring this legislation about.

The President in particular deserves praise for bringing together a wide variety of interests and addressing a variety of concerns about the new department. Here in the Senate, Senator THOMPSON, the ranking member of the Governmental Affairs Committee and one of the sponsors of the compromise proposal before us now, deserves great credit for his efforts to ensure this legislation was both effective and fair. Senator LIEBERMAN, the chairman of the Governmental Affairs Committee, was one of the first to identify the need for this department and to call for its creation, and he should be commended for his efforts as well.

The bill before us is the beginning, not the end, of our efforts to adapt to the new threats we face. After the Department of Homeland Security is cre-

ated, we may find that other changes will be needed, but this legislation is a very important step to ensuring that our nation, our homeland, and our citizens, are protected to the fullest extent possible from the new and dangerous threats that confront us.

I support this effort and I urge all Senators to vote for it.

Let's get on with it.

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MILLER). Without objection, it is so ordered.

AVIATION SECURITY IMPROVEMENT ACT

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 623, S. 2949.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2949) to provide for enhanced aviation security, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 2949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49.

(a) SHORT TITLE.—This Act may be cited as the "Aviation Security Improvement Act".

(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title; amendment of title 49.
- Sec. 2. Table of contents.

TITLE I—EXPLOSIVE DETECTION SYSTEMS

- Sec. 101. Explosive detection systems.

TITLE II—AIR CARGO SECURITY

- Sec. 201. Inspection of cargo carried aboard passenger aircraft.
- Sec. 202. Air cargo shipping.
- Sec. 203. Cargo carried aboard passenger aircraft.
- Sec. 204. Training program for cargo handlers.
- Sec. 205. Cargo carried aboard all-cargo aircraft.

- TITLE III—PASSENGER IDENTIFICATION
- Sec. 301. Passenger identification.

Sec. 302. Passenger identification verification.

TITLE IV—CIRCUMVENTION OF AIRPORT SECURITY

Sec. 401. Prohibition on unauthorized circumvention of airport security systems and procedures.

TITLE V—WAR RISK INSURANCE

Sec. 501. War risk insurance for certain aircraft.

TITLE VI—BLAST RESISTANT CARGO CONTAINER TECHNOLOGY

Sec. 601. Blast-resistant cargo container technology.

TITLE VII—FLIGHT SCHOOLS

Sec. 701. Modification of requirements regarding training to operate aircraft

TITLE VIII—MISCELLANEOUS

Sec. 801. Applications for nonlethal cockpit weapons

Sec. 802. FAA Notices to Airmen FDC 1/3353 and 2/95823.

TITLE [VII] IX—TECHNICAL CORRECTIONS

Sec. [701.] 901. Technical corrections.

TITLE I—EXPLOSIVE DETECTION SYSTEMS

SEC. 101. EXPLOSIVE DETECTION SYSTEMS.

Section 44901(d) is amended by adding at the end the following:

“(2) [FAILURE TO MEET DEADLINE] DEADLINE.—

“(A) IN GENERAL.—If the Under Secretary of Transportation for Security determines that the Transportation Security Administration is not able to deploy explosive detection systems required to be deployed under paragraph (1) at all airports where explosive detection systems are required by December 31, 2002, then with respect to each airport for which the Under Secretary makes that determination—

“(i) the Under Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed plan (which may be submitted in classified form) for the deployment of the number of explosive detection systems at that airport necessary to meet the requirements of paragraph (1) as soon as practicable at that airport; and

“(ii) the Under Secretary shall take all necessary action to ensure that alternative means of screening all checked baggage is implemented until the requirements of paragraph (1) have been met.

“(B) CRITERIA FOR DETERMINATION.—In making a determination under subparagraph (A), the Under Secretary shall take into account—

“(i) the nature and extent of the required modifications to the airport's terminal buildings, and the technical, engineering, design and construction issues;

“(ii) the need to ensure that such installations and modifications are effective; and

“(iii) the feasibility and cost-effectiveness of deploying explosive detection systems in the baggage sorting area or other non-public area rather than the lobby of an airport terminal building.

“(C) LIMITATION.—The Under Secretary may not make a determination under subparagraph (A) in the case of more than 40 airports.

“(D) AIRPORT EFFORT REQUIRED.—Each airport with respect to which the Under Secretary makes a determination under subparagraph (A) shall—

“(i) cooperate fully with the Transportation Security Administration with respect to screening checked baggage and changes to accommodate explosive detection systems; and

“(ii) make security projects a priority for the obligation or expenditure of funds made

available under chapter 417 or 471 until explosive detection systems required to be deployed under paragraph (1) have been deployed at that airport.

“(3) REPORTS.—

“(A) IN GENERAL.—Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of the Aviation Security Improvement Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport.

“(B) LIMIT ON NUMBER OF REPORTS.—The Under Secretary shall submit reports for each airport until the requirements of paragraph (1) have been met, but may not submit more than [6] 12 reports for any airport.”.

TITLE II—AIR CARGO SECURITY

SEC. 201. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) is amended to read as follows:

“(f) CARGO.—

“(1) IN GENERAL.—The Under Secretary of Transportation for Security shall establish [a system] *systems* to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

“(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

“(B) all-cargo aircraft in air transportation and intrastate air transportation.

“(2) STRATEGIC PLAN.—The Under Secretary shall develop a strategic plan to carry out paragraph (1).”.

SEC. 202. AIR CARGO SHIPPING.

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

“§ 44921. Regular inspections of air cargo shipping facilities

“The Under Secretary of Transportation for Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into [such] arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.”.

(b) ADDITIONAL INSPECTORS.—*The Under Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this title.*

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 is amended by adding at the end the following:

“44921. Regular inspections of air cargo shipping facilities.”.

SEC. 203. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

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

“§ 44922. Air cargo security

“(a) DATABASE.—The Under Secretary of Transportation for Security shall establish an industry-wide *pilot program* database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Under Secretary shall use the [database] results of the pilot program to improve the known shipper program.

“(b) INDIRECT AIR CARRIERS.—

“(1) RANDOM INSPECTIONS.—The Under Secretary shall conduct random audits, inves-

tigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

“(2) ENSURING COMPLIANCE.—*The Under Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.*

“[(2)] (3) NOTICE OF FAILURES.—The Under Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

“[(3)] (4) SUSPENSION OR REVOCATION OF CERTIFICATE.—The Secretary, as appropriate, shall suspend or revoke any certificate or *authority* issued under chapter 411 to an indirect air carrier immediately upon the recommendation of the Under Secretary. Any indirect air carrier whose certificate is suspended or revoked under this subparagraph may appeal the suspension or revocation in accordance with procedures established under this title for the appeal of suspensions and revocations.

“[(4)] (5) INDIRECT AIR CARRIER.—In this subsection, the term ‘indirect air carrier’ has the meaning given that term in part [109 of title 14.] 1548 of title 49, Code of Federal Regulations.”.

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Under Secretary of Transportation for Security shall assess the security aspects of the indirect air carrier program under part [109 of title 14.] 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 45 days after the date of enactment of this Act. The Under Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Under Secretary of Transportation for Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.

(e) CONFORMING AMENDMENT.—The chapter analysis for chapter 449, as amended by section 202, is amended by adding at the end the following:

“44922. Air cargo security.”.

SEC. 204. TRAINING PROGRAM FOR CARGO HANDLERS.

The Under Secretary of Transportation for Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. 205. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Under Secretary of Transportation for Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier's air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section [44901(f)] 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Under Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Under Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Under Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Under Secretary of Transportation shall issue a final program under subsection (a) not later than 45 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

TITLE III—PASSENGER IDENTIFICATION

SEC. 301. PASSENGER IDENTIFICATION.

(a) IN GENERAL.—Subchapter I of chapter 449, as amended by title II of this Act, is further amended by adding at the end the following:

“§ 44923. Passenger identification

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Aviation Security Improvement Act, the Under Secretary of Transportation for Security, in consultation with the Administrator of the Federal Aviation Administration, appropriate law enforcement, security, and terrorism experts, representatives of air carriers and labor organizations representing individuals employed in commercial aviation, shall develop protocols to provide guidance for detection of false or fraudulent passenger identification. The protocols may consider new technology, current identification measures, *training of personnel*, and issues related to the types of identification available to the public.

“(b) AIR CARRIER PROGRAMS.—Within 60 days after the Under Secretary issues the protocols under subsection (a) in final form, the Under Secretary shall provide them to each air carrier. The Under Secretary shall establish a joint government and industry council to develop recommendations on how to implement the protocols. The Under Secretary shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of the Aviation Security Improvement Act on the actions taken under this section.”.

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

“44923. Passenger identification.”.

SEC. 302. PASSENGER IDENTIFICATION VERIFICATION.

(a) REQUIREMENT.—Subchapter I of chapter 449, is further amended by adding at the end the following:

“§ 44924. Passenger identification verification

“(a) PROGRAM REQUIRED.—The Under Secretary of Transportation for Security may establish and carry out a program to require the installation and use at airports in the United States of such identification verification technologies as the Under Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

“(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, [retinal] *retinal*, *iris*, or facial scanners, or any other technologies that the Under Secretary considers appropriate for purposes of the program.

“(c) COMMENCEMENT.—If the Under Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.”.

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

“44924. Passenger identification verification.”.

TITLE IV—CIRCUMVENTION OF AIRPORT SECURITY

SEC. 401. PROHIBITION ON UNAUTHORIZED CIRCUMVENTION OF AIRPORT SECURITY SYSTEMS AND PROCEDURES.

(a) PROHIBITION.—Section 46503 is amended—

(1) by inserting “(a) INTERFERENCE WITH SECURITY SCREENING PERSONNEL.—” before “An individual”; and

(2) by adding at the end the following new subsection:

“(b) UNAUTHORIZED CIRCUMVENTION OF SECURITY SYSTEMS AND PROCEDURES.—An individual in an area within a commercial service airport in the United States who intentionally circumvents, in an unauthorized manner, a security system or procedure in the airport shall be fined under title 18, imprisoned for not more than 10 years, or both.”.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The section heading of that section is amended to read as follows:

“§ 46503. Interference with security screening personnel; unauthorized circumvention of security systems or procedures”.

(2) The item relating to that section in the table of sections at the beginning of chapter 465 is amended to read as follows:

“46503. Interference with security screening personnel; unauthorized circumvention of security systems or procedures.”.

TITLE V—WAR RISK INSURANCE

SEC. 501. WAR RISK INSURANCE FOR CERTAIN AIRCRAFT.

Section 44302 is amended by adding at the end the following:

“(f) WAR RISK INSURANCE.—

“(1) IN GENERAL.—Not later than 30 days after the date of enactment of the Aviation Security Improvement Act, the Secretary shall—

“(A) extend for 270 days from such date of enactment the termination date of any avia-

tion war risk insurance policies the Department issued that were in effect on such date of enactment on terms that are no less favorable than the terms of those policies as the policies were in effect on June 19, 2002; and

“(B) offer to amend each policy the term of which is extended to provide coverage for losses or injuries to hull, passengers, and crew, in addition to coverage for injury to third parties (with respect to both persons and property), on such terms and conditions as the Secretary may prescribe, at an additional premium comparable to the premium charged for the third-party casualty coverage under existing *Federal Aviation Administration* policies.

“(2) REPORT.—Not later than 90 days after the date of enactment of the Aviation Security Improvement Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

“(A) evaluates the availability of war risk insurance for air carriers and other aviation entities for passengers and third parties;

“(B) analyzes the economic effect upon air carriers and other aviation entities of available war risk insurance; and

“(C) describes the manner in which the Department could provide an alternative means of providing aviation war risk reinsurance covering passengers, crew, and third parties through use of a risk-retention group or by other means.”.

TITLE VI—BLAST RESISTANT CARGO CONTAINER TECHNOLOGY

SEC. 601. BLAST-RESISTANT CARGO CONTAINER TECHNOLOGY.

Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security, and the Administrator of the Federal Aviation Administration, shall jointly submit a report to Congress that—

(1) evaluates blast-resistant cargo container technology to protect against explosives in passenger luggage and cargo;

(2) examines the advantages associated with this technology in preventing the damage and loss of aircraft from terrorist action, any operational impacts which may result (particularly added weight and costs) and whether alternatives exist to mitigate such impacts, and options available to pay for this technology; and

(3) provides recommendations on what further action, if any, should be taken with respect to the use of blast-resistant cargo containers on passenger aircraft.

TITLE VII—FLIGHT SCHOOLS

SEC. 701. MODIFICATION OF REQUIREMENTS REGARDING TRAINING TO OPERATE AIRCRAFT.

(a) ALIENS COVERED BY WAITING PERIOD.—Subsection (a) of section 44939 is amended—

(1) by resetting the text of subsection (a) after “(a) WAITING PERIOD.—” as a new paragraph 2 ems from the left margin;

(2) by striking “A person” in that new paragraph and inserting “(1) IN GENERAL.—A person”;

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) by striking “any aircraft having a maximum certificated takeoff weight of 12,500 pounds or more” and inserting “an aircraft”;

(5) by striking “paragraph (1)” in paragraph (1)(B), as redesignated, and inserting “subparagraph (A)”;

(6) by adding at the end the following:

“(2) EXCEPTION.—The requirements of paragraph (1) shall not apply to an alien who—

“(A) has earned a Federal Aviation Administration type rating in an aircraft; or

“(B) holds a current pilot’s license or foreign equivalent commercial pilot’s license that permits the person to fly an aircraft with a maximum certificated takeoff weight of more than 12,500 pounds as defined by the International Civil Aviation Organization in Annex 1 to the Convention on International Civil Aviation.”.

(b) COVERED TRAINING.—Section 44936(c) is amended to read as follows:

“(c) COVERED TRAINING.—

“(1) IN GENERAL.—For purposes of subsection (a), training includes in-flight training, training in a simulator, and any other form or aspect of training.

“(2) EXCEPTION.—For the purposes of subsection (a), training does not include classroom instruction (also known as ground training), which may be provided to an alien during the 45-day period applicable to the alien under that subsection.”.

(c) PROCEDURES.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Attorney General shall promulgate regulations to implement section 113 of the Aviation and Transportation Security Act.

(2) USE OF OVERSEAS FACILITIES.—In order to implement the amendments made to section 44939 of title 49, United States Code, by this section, United States Embassies and Consulates that have fingerprinting capability shall provide fingerprinting services to aliens covered by that section if the Attorney General requires their fingerprinting in the administration of that section, and transmit the fingerprints to the Department of Justice and any other appropriate agency. The Attorney General of the United States shall cooperate with the Secretary of State to carry out this paragraph.

(d) EFFECTIVE DATE.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall promulgate regulations to implement the amendments made by this section. The Attorney General may not interrupt or prevent the training of any person described in section 44939(a)(1) of title 49, United States Code, who commenced training on aircraft with a maximum certificated takeoff weight of 12,500 pounds or less before, or within 120 days after, the date of enactment of this Act unless the Attorney General determines that the person represents a risk to aviation or national security.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation and the Attorney General shall jointly submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, as amended by this section, in reducing risks to aviation and national security.

TITLE VIII—MISCELLANEOUS

SEC. 801. APPLICATIONS FOR NONLETHAL COCKPIT WEAPONS.

The Secretary of Transportation shall act expeditiously on any pending application by an air carrier seeking authority for the use of less-than-lethal-weapons by its flight crews.

SEC. 802. FAA NOTICES TO AIRMEN FDC 1/3353 AND 2/95823.

(a) IN GENERAL.—The Secretary of Transportation—

(1) shall maintain in full force and effect the restrictions imposed under Federal Aviation Administration Notices to Airmen FDC 1/3353 and 2/9583 (including any local Notices to Airmen of similar effect or import) as those restrictions are in effect on the date of enactment of this Act for a period of 180 days after that date;

(2) may not grant any waivers or exemptions from those restrictions, except as authorized by air traffic control for operational or safety purposes; and

(3) shall rescind immediately any waivers or exemptions from those restrictions that are in effect on the date of enactment of this Act.

(b) WAIVERS.—Beginning no earlier than 180 days after the date of enactment of this Act, the Secretary may modify or terminate such restrictions, or issue waivers or exemptions from such restrictions, if the Secretary promulgates, after public notice and an opportunity for comment, a rule under which the Secretary may grant a waiver or exemption only if—

(1) the application for the waiver or exemption was received by the Secretary not less than 5 days (excluding Saturdays, Sundays, and holidays) before the proposed operation for which it is requested;

(2) the application is for a specific stadium or venue, during a specified period of time, for a specific aircraft, and contains the names of the pilot, crew, and passengers who will be aboard the aircraft;

(3) the pilot and each crewmember have passed a fingerprint-based criminal history records check by the Federal Bureau of Investigation;

(4) the names of all individuals aboard the aircraft have been compared with names on appropriate security watch lists;

(5) access to the aircraft will be secured before the proposed operation; and

(6) timely notice has been, or will be, given to the operators of the affected stadium or other venue.

TITLE [VII] IX—TECHNICAL CORRECTIONS

SEC. [701.] 901. TECHNICAL CORRECTIONS.

(a) Section 114(j)(1)(D) is amended by inserting “Under” before “Secretary”.

(b) Section 115(c)(1) is amended—

(1) by striking “and ratify or disapprove”; and

(2) by striking “security” the second place it appears and inserting “Security”.

(c) Section 40109(b) is amended by striking “40103(b)(1) and (2), 40119, 44901, 44903, 44906, and 44935–44937” and inserting “40103(b)(1) and (2) and 40119”.

(d) Section 44901(a) is amended by inserting “or, in the case of United States mail, by an officer or employee of the United States Postal Service under standards and procedures established by the Under Secretary,” after “Code”.

(e) Section 44901(e) is amended by striking “subsection (b)(1)(A)” and inserting “subsection (d)(1)(A)”.

(f) Section 44901(g)(2) is amended by striking “Except at airports required to enter into agreements under subsection (c), the” and inserting “The”.

(g) Section 44903 is amended—

(1) by striking “Administrator” in subsection (c)(3) and inserting “Under Secretary”; and

(2) by redesignating the second subsection (h), subsection (i), and the third subsection (h) as subsections (i), (j), and (k), respectively.

(h) Section 44909 is amended—

(1) by striking “Not later than March 16, 1991, the” in subsection (a)(1) and inserting “The”; and

(2) by inserting “of Transportation for Security” after “Under Secretary” in subsection (c)(2)(F).

(i) Section 44935 is amended—

(1) by striking “States;” in subsection (e)(2)(A)(ii) and inserting “States or a national of the United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));” and

(2) by striking “States;” in subsection (e)(2)(A)(ii) and inserting “States or described in subparagraph (C);”;

(3) by redesignating subparagraph subsection (e)(2)(C) as subparagraph (D);

(4) by inserting after subsection (e)(2)(B) the following:

“(C) OTHER INDIVIDUALS.—An individual is described in this subparagraph if that individual—

“(i) is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)));

“(ii) was born in a territory of the United States;

“(iii) was honorably discharged from service in the Armed Forces of the United States; or

“(iv) is an alien lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act and was employed to perform security screening services at an airport in the United States on the date of enactment of the Aviation and Transportation Security Act (Public Law 107-71).”;

“(2) (4) by redesignating the second subsection (i) as subsection (k).

(j) Section 44936(a)(1)(A) is amended by striking “Transportation Security,” and inserting “Security.”.

(k) Section 44940 is amended—

(1) by striking “Federal law enforcement personnel pursuant to section 44903(h).” in subsection (a)(1)(G) and inserting “law enforcement personnel pursuant to this title.”;

(2) by inserting “FOR” after “RULES” in the caption of subsection (d)(2); and

(3) by striking subsection (d)(4) and inserting the following:

“(4) FEE COLLECTION.—Fees may be collected under this section as provided in advance in appropriations Acts.”.

(l) Section 46301(a) is amended by adding at the end the following:

“(8) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraphs (1) and (2) of this subsection, the maximum civil penalty for violating chapter 449 or another requirement under this title administered by the Under Secretary of Transportation for Security is \$10,000, except that the maximum civil penalty is \$25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman).”.

(m) Section 46301(d)(2) is amended—

(1) by striking “46302, 46303,” in the first sentence;

(2) by striking the second sentence and inserting “The Under Secretary of Transportation for Security may impose a civil penalty for a violation of section 114(l), section 40113, 40119, chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(F), 44908, and 44909), section 46302, 46303, or 46318 of this title, or a regulation prescribed or order issued under any of those provisions.”.

(n) Section 46301(g) is amended by striking “Secretary” and inserting “Secretary, the Under Secretary of Transportation for Security.”.

(o) Chapter 465 is amended—

(1) by striking “screening” in the caption of section 46503; and

(2) by striking “screening” in the item relating to section 46503 in the chapter analysis.

(p) Section 47115(i) is amended by striking “non-federal” each place it appears and inserting “non-Federal”.

(q) Section 48107 is amended by striking “section 44912(a)(4)(A).” and inserting “section 44912(a)(5)(A).”.

(r) Sections 44903(i)(1) (as redesignated), 44942(b), and 44943(c) are each amended by striking “Under Secretary for Transportation Security” each place it appears and inserting “Under Secretary”.

(s) Section 44936 is amended by adding at the end the following:

“(f) PROTECTION OF PRIVACY OF APPLICANTS AND EMPLOYEES.—The Under Secretary shall formulate and implement procedures that are designed to prevent the transmission of information not relevant to an applicant’s or employee’s qualifications for unescorted access to secure areas of an airport when that applicant or employee is undergoing a criminal history records check.”.

(t) Sections 44942(a)(1) and 44943(a) are each amended by striking "Under Secretary for Transportation Security" and inserting "Under Secretary of Transportation for Security".

(u) Subparagraphs (B) and (C) of section 44936(a)(1) are each amended by striking "Under Secretary of Transportation for Transportation Security" and inserting "Under Secretary".

(v) Section 44943(c) is amended by inserting "and Transportation" after "Aviation".

(w) Section 44942(b) is amended—

(1) by striking "(1) PERFORMANCE PLAN AND REPORT.—";

(2) redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(3) redesignating clauses (i) and (ii) of paragraph (1), as redesignated, as subparagraphs (A) and (B), respectively.

(x) The chapter analysis for chapter 449 is amended by inserting after the item relating to section 44941 the following:

"44942. Performance goals and objectives.

"44943. Performance management plans.".

(y) Section 44944(a)(1) is amended by striking "Under Secretary of Transportation for Transportation Security" and inserting "Under Secretary of Transportation for Security".

(z) Section 106(b)(2)(B) of the Aviation and Transportation Security Act is amended by inserting "Under" before "Secretary".

(aa) Section 119(c) of the Aviation and Transportation Security Act is amended by striking "section 47192(3)(J)" and inserting "section 47102(3)(J)".

(bb) Section 132(a) of the Aviation and Transportation Security Act is amended by striking "12,500 pounds or more." and inserting "more than 12,500 pounds.".

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the committee-reported amendments be agreed to; I understand that Senators HOLLINGS and MCCAIN have an amendment at the desk, and I ask that the amendment be considered; that the Hollings-Rockefeller-McCain amendment, which is at the desk, be considered and agreed to; that the substitute amendment, as amended, be agreed to; that the motions to reconsider be laid upon the table, en bloc; that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

AMENDMENT NO. 4969 TO AMENDMENT NO. 4968

(Purpose: To add the text of S. 2950, entitled "A bill To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2003, 2004, and 2005, and for other purposes", as reported by the Committee on Commerce, Science, and Transportation)

The amendment (No. 4969) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

AMENDMENT NO. 4968

(Purpose: To provide for enhanced aviation security, and for other purposes)

The amendment (No. 4968), in the nature of a substitute, as amended, was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 2949), as amended, was read the third time and passed, as follows:

S. 2949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49.

(a) SHORT TITLE.—This Act may be cited as the "Aviation Security Improvement Act".

(b) AMENDMENT OF TITLE 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of title 49.

Sec. 2. Table of contents.

TITLE I—AIR CARGO SECURITY

Sec. 101. Inspection of cargo carried aboard passenger aircraft.

Sec. 102. Air cargo shipping.

Sec. 103. Cargo carried aboard passenger aircraft.

Sec. 104. Training program for cargo handlers.

Sec. 105. Cargo carried aboard all-cargo aircraft.

TITLE II—PASSENGER IDENTIFICATION

Sec. 201. Passenger identification.

Sec. 202. Passenger identification verification.

TITLE III—CIRCUMVENTION OF AIRPORT SECURITY

Sec. 301. Prohibition on unauthorized circumvention of airport security systems and procedures.

TITLE IV—BLAST RESISTANT CARGO CONTAINER TECHNOLOGY

Sec. 401. Blast-resistant cargo container technology.

TITLE V—FLIGHT SCHOOLS

Sec. 501. Modification of requirements regarding training to operate aircraft

TITLE VI—MISCELLANEOUS

Sec. 601. FAA Notice to Airmen FDC 2/0199.

TITLE VII—TECHNICAL CORRECTIONS

Sec. 701. Technical corrections.

TITLE VIII—NTSB AUTHORIZATION

Sec. 801. Short title.

Sec. 802. Authorization of appropriations.

Sec. 803. Assistance to families of passengers involved in aircraft accidents.

Sec. 804. Relief from contracting requirements for investigations services.

TITLE IX—CHILD PASSENGER SAFETY

Sec. 901. Short title.

Sec. 902. Improvement of safety of child restraints in passenger motor vehicles.

Sec. 903. Report on development of crash test dummy simulating a 10-year old child.

Sec. 904. Requirements for installation of lap and shoulder belts.

Sec. 905. Two-year extension of child passenger protection education grants program.

Sec. 906. Grants for improving child passenger safety programs.

Sec. 907. Definitions.

Sec. 908. Authorization of appropriations.

TITLE I—AIR CARGO SECURITY

SEC. 101. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) is amended to read as follows:

"(f) CARGO.—

"(1) IN GENERAL.—The Under Secretary of Transportation for Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

"(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

"(B) all-cargo aircraft in air transportation and intrastate air transportation.

"(2) STRATEGIC PLAN.—The Under Secretary shall develop a strategic plan to carry out paragraph (1)."

SEC. 102. AIR CARGO SHIPPING.

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

"§ 44921. Regular inspections of air cargo shipping facilities

"The Under Secretary of Transportation for Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States."

(b) ADDITIONAL INSPECTORS.—The Under Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 is amended by adding at the end the following:

"44921. Regular inspections of air cargo shipping facilities".

SEC. 103. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

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

"§ 44922. Air cargo security

"(a) DATABASE.—The Under Secretary of Transportation for Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Under Secretary shall use the results of the pilot program to improve the known shipper program.

"(b) INDIRECT AIR CARRIERS.—

"(1) RANDOM INSPECTIONS.—The Under Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

"(2) ENSURING COMPLIANCE.—The Under Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

"(3) NOTICE OF FAILURES.—The Under Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATE.—The Secretary, as appropriate, shall suspend or revoke any certificate or authority issued under chapter 411 to an indirect

air carrier immediately upon the recommendation of the Under Secretary. Any indirect air carrier whose certificate is suspended or revoked under this subparagraph may appeal the suspension or revocation in accordance with procedures established under this title for the appeal of suspensions and revocations.

“(5) INDIRECT AIR CARRIER.—In this subsection, the term ‘indirect air carrier’ has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

“(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Under Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.”.

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Under Secretary of Transportation for Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 45 days after the date of enactment of this Act. The Under Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Under Secretary of Transportation for Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.

(e) CONFORMING AMENDMENT.—The chapter analysis for chapter 449, as amended by section 102, is amended by adding at the end the following:

“44922. Air cargo security”.

SEC. 104. TRAINING PROGRAM FOR CARGO HANDLERS.

The Under Secretary of Transportation for Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

SEC. 105. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.

(a) IN GENERAL.—The Under Secretary of Transportation for Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier’s air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Under Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Under Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Under Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Under Secretary of Transportation shall issue a final program under subsection (a) not later than 45 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

TITLE II—PASSENGER IDENTIFICATION

SEC. 201. PASSENGER IDENTIFICATION.

(a) IN GENERAL.—Subchapter I of chapter 449, as amended by title II of this Act, is further amended by adding at the end the following:

“§ 44923. Passenger identification

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Aviation Security Improvement Act, the Under Secretary of Transportation for Security, in consultation with the Administrator of the Federal Aviation Administration, appropriate law enforcement, security, and terrorism experts, representatives of air carriers and labor organizations representing individuals employed in commercial aviation, shall develop protocols to provide guidance for detection of false or fraudulent passenger identification. The protocols may consider new technology, current identification measures, training of personnel, and issues related to the types of identification available to the public.

“(b) AIR CARRIER PROGRAMS.—Within 60 days after the Under Secretary issues the protocols under subsection (a) in final form, the Under Secretary shall provide them to each air carrier. The Under Secretary shall establish a joint government and industry council to develop recommendations on how to implement the protocols. The Under Secretary shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of the Aviation Security Improvement Act on the actions taken under this section.”.

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

“44923. Passenger identification”.

SEC. 202. PASSENGER IDENTIFICATION VERIFICATION.

(a) REQUIREMENT.—Subchapter I of chapter 449, is further amended by adding at the end the following:

“§ 44924. Passenger identification verification

“(a) PROGRAM REQUIRED.—The Under Secretary of Transportation for Security may

establish and carry out a program to require the installation and use at airports in the United States of such identification verification technologies as the Under Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

“(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Under Secretary considers appropriate for purposes of the program.

“(c) COMMENCEMENT.—If the Under Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.”.

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

“44924. Passenger identification verification”.

TITLE III—CIRCUMVENTION OF AIRPORT SECURITY

SEC. 301. PROHIBITION ON UNAUTHORIZED CIRCUMVENTION OF AIRPORT SECURITY SYSTEMS AND PROCEDURES.

(a) PROHIBITION.—Section 46503 is amended—

(1) by inserting “(a) INTERFERENCE WITH SECURITY SCREENING PERSONNEL.—” before “An individual”; and

(2) by adding at the end the following new subsection:

“(b) UNAUTHORIZED CIRCUMVENTION OF SECURITY SYSTEMS AND PROCEDURES.—An individual in an area within a commercial service airport in the United States who intentionally circumvents, in an unauthorized manner, a security system or procedure in the airport shall be fined under title 18, imprisoned for not more than 10 years, or both.”.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The section heading of that section is amended to read as follows:

“§ 46503. Interference with security screening personnel; unauthorized circumvention of security systems or procedures”.

(2) The chapter analysis for chapter 465 is amended by striking the item relating to section 46503 and inserting the following:

“46503. Interference with security screening personnel; unauthorized circumvention of security systems or procedures”.

TITLE IV—BLAST RESISTANT CARGO CONTAINER TECHNOLOGY

SEC. 401. BLAST-RESISTANT CARGO CONTAINER TECHNOLOGY.

Not later than 6 months after the date of enactment of this Act, the Under Secretary of Transportation for Security, and the Administrator of the Federal Aviation Administration, shall jointly submit a report to Congress that—

(1) evaluates blast-resistant cargo container technology to protect against explosives in passenger luggage and cargo;

(2) examines the advantages associated with this technology in preventing the damage and loss of aircraft from terrorist action, any operational impacts which may result (particularly added weight and costs) and whether alternatives exist to mitigate such impacts, and options available to pay for this technology; and

(3) provides recommendations on what further action, if any, should be taken with respect to the use of blast-resistant cargo containers on passenger aircraft.

TITLE V—FLIGHT SCHOOLS**SEC. 501. MODIFICATION OF REQUIREMENTS REGARDING TRAINING TO OPERATE AIRCRAFT.**

(a) ALIENS COVERED BY WAITING PERIOD.—Subsection (a) of section 44939 is amended—

(1) by resetting the text of subsection (a) after “(a) WAITING PERIOD.—” as a new paragraph 2 ems from the left margin;

(2) by striking “A person” in that new paragraph and inserting “(1) IN GENERAL.—A person”;

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) by striking “any aircraft having a maximum certificated takeoff weight of 12,500 pounds or more” and inserting “an aircraft”;

(5) by striking “paragraph (1)” in paragraph (1)(B), as redesignated, and inserting “subparagraph (A)”;

(6) by adding at the end the following:

“(2) EXCEPTION.—The requirements of paragraph (1) shall not apply to an alien who—

“(A) has earned a Federal Aviation Administration type rating in an aircraft; or

“(B) holds a current pilot’s license or foreign equivalent commercial pilot’s license that permits the person to fly an aircraft with a maximum certificated takeoff weight of more than 12,500 pounds as defined by the International Civil Aviation Organization in Annex 1 to the Convention on International Civil Aviation.”.

(b) COVERED TRAINING.—Section 44936(c) is amended to read as follows:

“(c) COVERED TRAINING.—

“(1) IN GENERAL.—For purposes of subsection (a), training includes in-flight training, training in a simulator, and any other form or aspect of training.

“(2) EXCEPTION.—For the purposes of subsection (a), training does not include classroom instruction (also known as ground training), which may be provided to an alien during the 45-day period applicable to the alien under that subsection.”.

(c) PROCEDURES.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Attorney General shall promulgate regulations to implement section 113 of the Aviation and Transportation Security Act.

(2) USE OF OVERSEAS FACILITIES.—In order to implement the amendments made to section 44939 of title 49, United States Code, by this section, United States Embassies and Consulates that have fingerprinting capability shall provide fingerprinting services to aliens covered by that section if the Attorney General requires their fingerprinting in the administration of that section, and transmit the fingerprints to the Department of Justice and any other appropriate agency. The Attorney General of the United States shall cooperate with the Secretary of State to carry out this paragraph.

(d) EFFECTIVE DATE.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall promulgate regulations to implement the amendments made by this section. The Attorney General may not interrupt or prevent the training of any person described in section 44939(a)(1) of title 49, United States Code, who commenced training on aircraft with a maximum certificated takeoff weight of 12,500 pounds or less before, or within 120 days after, the date of enactment of this Act unless the Attorney General determines that the person represents a risk to aviation or national security.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation and the Attorney General shall jointly submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and In-

frastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, as amended by this section, in reducing risks to aviation and national security.

TITLE VI—MISCELLANEOUS**SEC. 601. FAA NOTICE TO AIRMEN FDC 2/0199.**

(a) IN GENERAL.—The Secretary of Transportation—

(1) shall maintain in full force and effect the restrictions imposed under Federal Aviation Administration Notice to Airmen FDC 2/0199 (including any local Notices to Airmen of similar effect or import), as those restrictions are in effect on the date of enactment of this Act, for a period of 180 days after that date;

(2) shall rescind immediately any waivers or exemptions from those restrictions that are in effect on the date of enactment of this Act; and

(3) may not grant any waivers or exemptions from those restrictions, except—

(A) as authorized by air traffic control for operational or safety purposes;

(B) for operational purposes of an event, stadium, or other venue, including (in the case of a sporting event) equipment or parts, transport of team members, officials of the governing body and immediate family members of team members and officials to and from the event, stadium, or other venue;

(C) for broadcast coverage for any broadcast rights holder;

(D) for safety and security purposes of the event, stadium, or other venue; or

(E) to operate an aircraft in restricted airspace to the extent necessary to arrive at or depart from an airport using standard air traffic procedures.

(b) WAIVERS.—Beginning no earlier than 180 days after the date of enactment of this Act, the Secretary may modify or terminate such restrictions, or issue waivers or exemptions from such restrictions, if the Secretary promulgates, after public notice and an opportunity for comment, a rule setting forth the standards under which the Secretary may grant a waiver or exemption. Such standards shall provide a level of security at least equivalent to that provided by the waiver policy applied by the Secretary as of the date of enactment of this Act.

(c) BROADCAST CONTRACTS NOT AFFECTED.—Nothing in this section shall be construed to affect contractual rights pertaining to any broadcasting agreement.

TITLE VII—TECHNICAL CORRECTIONS**SEC. 701. TECHNICAL CORRECTIONS.**

(a) Section 114(j)(1)(D) is amended by inserting “Under” before “Secretary”.

(b) Section 115(c)(1) is amended—

(1) by striking “and ratify or disapprove”;

(2) by striking “security” the second place it appears and inserting “Security”.

(c) Section 40109(b) is amended by striking “40103(b)(1) and (2), 40119, 44901, 44903, 44906, and 44935–44937” and inserting “40103(b)(1) and (2) and 40119”.

(d) Section 44901(e) is amended by striking “subsection (b)(1)(A)” and inserting “subsection (d)(1)(A)”.

(e) Section 44901(g)(2) is amended by striking “Except at airports required to enter into agreements under subsection (c), the” and inserting “The”.

(f) Section 44903 is amended—

(1) by striking “Administrator” in subsection (c)(3) and inserting “Under Secretary”; and

(2) by redesignating the second subsection (h), subsection (i), and the third subsection (h) as subsections (i), (j), and (k), respectively.

(g) Section 44909 is amended—

(1) by striking “Not later than March 16, 1991, the” in subsection (a)(1) and inserting “The”; and

(2) by inserting “of Transportation for Security” after “Under Secretary” in subsection (c)(2)(F).

(h) Section 44935 is amended—

(1) by striking “States;” in subsection (e)(2)(A)(ii) and inserting “States or described in subparagraph (C);”;

(2) by redesignating subparagraph subsection (e)(2)(C) as subparagraph (D);

(3) by inserting after subsection (e)(2)(B) the following:

“(C) OTHER INDIVIDUALS.—An individual is described in this subparagraph if that individual—

“(i) is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)));

“(ii) was born in a territory of the United States;

“(iii) was honorably discharged from service in the Armed Forces of the United States; or

“(iv) is an alien lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act and was employed to perform security screening services at an airport in the United States on the date of enactment of the Aviation and Transportation Security Act (Public Law 107-71).”;

(4) by inserting “and” after the semicolon in subsection (e)(2)(A) (iii);

(5) by striking “establish; and” in subsection (e)(2)(A)(iv) and inserting “establish.”;

(6) by striking subsection (e)(2)(A)(v);

(7) by adding at the end of subsection (f)(1) the following:

“(E) The individual shall be able to demonstrate daily a fitness for duty without any impairment due to illegal drugs, sleep deprivation, medication, or alcohol.”; and

(8) by redesignating the second subsection (i) as subsection (k).

(i) Section 44936(a)(1)(A) is amended by striking “Transportation Security,” and inserting “Security.”.

(j) Section 44940 is amended—

(1) by striking “Federal law enforcement personnel pursuant to section 44903(h).” in subsection (a)(1)(G) and inserting “law enforcement personnel pursuant to this title.”;

(2) by inserting “FOR” after “RULES” in the caption of subsection (d)(2); and

(3) by striking subsection (d)(4) and inserting the following:

“(4) FEE COLLECTION.—Fees may be collected under this section as provided in advance in appropriations Acts.”.

(k) Section 46301(a) is amended by adding at the end the following:

“(8) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraphs (1) and (2) of this subsection, the maximum civil penalty for violating chapter 449 or another requirement under this title administered by the Under Secretary of Transportation for Security is \$10,000, except that the maximum civil penalty is \$25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman).”.

(l) Section 46301(d)(2) is amended—

(1) by striking “46302, 46303,” in the first sentence;

(2) by striking the second sentence and inserting “The Under Secretary of Transportation for Security may impose a civil penalty for a violation of section 114(l), section 40113, 40119, chapter 449 (except sections 44902, 44903(d), 44907(a)—(d)(1)(A), 44907(d)(1)(C)—(F), 44908, and 44909), section

46302, 46303, or 46318 of this title, or a regulation prescribed or order issued under any of those provisions.”.

(m) Section 46301(g) is amended by striking “Secretary” and inserting “Secretary, the Under Secretary of Transportation for Security”.

(n) Chapter 465 is amended—

(1) by striking “screening” in the caption of section 46503; and

(2) by striking “screening” in the item relating to section 46503 in the chapter analysis.

(o) Section 47115(i) is amended by striking “non-federal” each place it appears and inserting “non-Federal”.

(p) Section 48107 is amended by striking “section 44912(a)(4)(A).” and inserting “section 44912(a)(5)(A).”.

(q) Sections 44903(i)(1) (as redesignated), 44942(b), and 44943(c) are each amended by striking “Under Secretary for Transportation Security” each place it appears and inserting “Under Secretary”.

(r) Section 44936 is amended by adding at the end the following:

“(f) PROTECTION OF PRIVACY OF APPLICANTS AND EMPLOYEES.—The Under Secretary shall formulate and implement procedures that are designed to prevent the transmission of information not relevant to an applicant’s or employee’s qualifications for unescorted access to secure areas of an airport when that applicant or employee is undergoing a criminal history records check.”.

(s) Sections 44942(a)(1) and 44943(a) are each amended by striking “Under Secretary for Transportation Security” and inserting “Under Secretary of Transportation for Security”.

(t) Subparagraphs (B) and (C) of section 44936(a)(1) are each amended by striking “Under Secretary of Transportation for Transportation Security” and inserting “Under Secretary”.

(u) Section 44943(c) is amended by inserting “and Transportation” after “Aviation”.

(v) Section 44942(b) is amended—

(1) by striking “(1) PERFORMANCE PLAN AND REPORT.—”;

(2) redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(3) redesignating clauses (i) and (ii) of paragraph (1), as redesignated, as subparagraphs (A) and (B), respectively.

(w) The chapter analysis for chapter 449 is amended by inserting after the item relating to section 44941 the following:

“44942. Performance goals and objectives
“44943. Performance management plans”.

(x) Section 44944(a)(1) is amended by striking “Under Secretary of Transportation for Transportation Security” and inserting “Under Secretary of Transportation for Security”.

(y) Section 106(b)(2)(B) of the Aviation and Transportation Security Act is amended by inserting “Under” before “Secretary”.

(z) Section 119(c) of the Aviation and Transportation Security Act is amended by striking “section 47192(3)(J)” and inserting “section 47102(3)(J)”.

(aa) Section 132(a) of the Aviation and Transportation Security Act is amended by striking “12,500 pounds or more.” and inserting “more than 12,500 pounds.”.

TITLE VIII—NTSB AUTHORIZATION

SEC. 801. SHORT TITLE.

This title may be cited as the “National Transportation Safety Board Reauthorization Act of 2002”.

SEC. 802. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEARS 2003–2005.—Section 1118(a) of title 49, United States Code, is amended—

(1) by striking “and”; and

(2) by striking “such sums to” and inserting the following: “\$73,325,000 for fiscal year

2003, \$84,999,000 for fiscal year 2004, and \$89,687,000 for fiscal year 2005. Such sums shall”.

(b) EMERGENCY FUND.—Section 1118(b) of such title is amended by striking the second sentence and inserting the following: “In addition, there are authorized to be appropriated such sums as may be necessary to increase the fund to, and maintain the fund at, a level not to exceed \$3,000,000.”.

(c) NTSB ACADEMY.—Section 1118 of such title is amended by adding at the end the following:

“(c) ACADEMY.—

“(1) AUTHORIZATION.—There are authorized to be appropriated to the Board for necessary expenses of the National Transportation Safety Board Academy, not otherwise provided for, \$3,347,000 for fiscal year 2003, \$4,896,000 for fiscal year 2004, and \$4,995,000 for fiscal year 2005. Such sums shall remain available until expended.

“(2) FEES.—The Board may impose and collect such fees as it determines to be appropriate for services provided by or through the Academy.

“(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this paragraph—

“(A) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

“(B) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

“(C) shall remain available until expended.

“(4) REFUNDS.—The Board may refund any fee paid by mistake or any amount paid in excess of that required.”.

(d) REPORT ON ACADEMY OPERATIONS.—The National Transportation Safety Board shall transmit an annual report to the Congress on the activities and operations of the National Transportation Safety Board Academy.

SEC. 803. ASSISTANCE TO FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—Section 1136 of title 49, United States Code, is amended by adding at the end the following:

“(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

“(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to an aircraft accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

“(2) BOARD ASSISTANCE.—If this section does not apply to an aircraft accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.”.

(b) REVISION OF MOU.—Not later than 1 year after the date of enactment of this Act, the National Transportation Safety Board and the Federal Bureau of Investigation shall revise their 1977 agreement on the investigation of accidents to take into account the amendments made by this section and shall submit a copy of the revised agreement to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 804. RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES.

Section 1113(b) of title 49, United States Code, is amended—

(1) by striking “Statutes;” in paragraph (1)(B) and inserting “Statutes, and, for investigations conducted under section 1131, enter into such agreements or contracts without regard to any other provision of law requiring competition if necessary to expedite the investigation;” and

(2) by adding at the end the following:

“(3) The Board, as a component of its annual report under section 1117, shall include an enumeration of each contract for \$25,000 or more executed under this section during the preceding calendar year.”.

TITLE IX—CHILD PASSENGER SAFETY

SEC. 901. SHORT TITLE.

This title may be cited as “Anton’s Law”.

SEC. 902. IMPROVEMENT OF SAFETY OF CHILD RESTRAINTS IN PASSENGER MOTOR VEHICLES.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to establish performance requirements for child restraints, including booster seats, for the restraint of children weighing more than 50 pounds.

(b) ELEMENTS FOR CONSIDERATION.—In the rulemaking proceeding required by subsection (a), the Secretary shall—

(1) consider whether to include injury performance criteria for child restraints, including booster seats and other products for use in passenger motor vehicles for the restraint of children weighing more than 40 pounds, under the requirements established in the rulemaking proceeding;

(2) consider whether to establish performance requirements for seat belt fit when used with booster seats and other belt guidance devices;

(3) consider whether to develop a solution for children weighing more than 40 pounds who only have access to seating positions with lap belts, such as allowing tethered child restraints for such children; and

(4) review the definition of the term “booster seat” in Federal motor vehicle safety standard No. 213 under section 571.213 of title 49, Code of Federal Regulation, to determine if it is sufficiently comprehensive.

(c) COMPLETION.—The Secretary shall complete the rulemaking proceeding required by subsection (a) not later than 30 months after the date of the enactment of this Act.

SEC. 903. REPORT ON DEVELOPMENT OF CRASH TEST DUMMY SIMULATING A 10-YEAR OLD CHILD.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the current schedule and status of activities of the Department of Transportation to develop, evaluate, and certify a commercially available dummy that simulates a 10-year old child for use in testing the effectiveness of child restraints used in passenger motor vehicles.

SEC. 904. REQUIREMENTS FOR INSTALLATION OF LAP AND SHOULDER BELTS.

(a) IN GENERAL.—Not later than 24 months after the date of the enactment of this Act, the Secretary of Transportation shall complete a rulemaking proceeding to amend Federal motor vehicle safety standard No. 208 under section 571.208 of title 49, Code of Federal Regulations, relating to occupant crash protection, in order to—

(1) require a lap and shoulder belt assembly for each rear designated seating position in a

passenger motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, except that if the Secretary determines that installation of a lap and shoulder belt assembly is not practicable for a particular designated seating position in a particular type of passenger motor vehicle, the Secretary may exclude the designated seating position from the requirement; and

(2) apply that requirement to passenger motor vehicles in phases in accordance with subsection (b).

(b) **IMPLEMENTATION SCHEDULE.**—The requirement prescribed under subsection (a)(1) shall be implemented in phases on a production year basis beginning with the production year that begins not later than 12 months after the end of the year in which the regulations are prescribed under subsection (a). The final rule shall apply to all passenger motor vehicles with a gross vehicle weight rating of 10,000 pounds or less that are manufactured in the third production year of the implementation phase in under the schedule.

(c) **REPORT ON DETERMINATION TO EXCLUDE.**—

(1) **REQUIREMENT.**—If the Secretary determines under subsection (a)(1) that installation of a lap and shoulder belt assembly is not practicable for a particular designated seating position in a particular type of motor vehicle, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report specifying the reasons for the determination.

(2) **DEADLINE.**—The report under paragraph (1) shall be submitted, if at all, not later than 30 days after the date on which the Secretary issues a final rule under subsection (a).

SEC. 905. TWO-YEAR EXTENSION OF CHILD PASSENGER PROTECTION EDUCATION GRANTS PROGRAM.

Section 2003(b)(7) of the Transportation Equity Act for the 21st Century (23 U.S.C. 405 note; 112 Stat. 328) is amended by striking “and 2001.” and inserting “through 2004.”

SEC. 906. GRANTS FOR IMPROVING CHILD PASSENGER SAFETY PROGRAMS.

(a) **IN GENERAL.**—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

“§ 412. Grant program for improving child passenger safety programs

“(a) **STANDARDS AND REQUIREMENTS REGARDING CHILD RESTRAINT LAWS.**—Not later than October 1, 2003, the Secretary shall establish appropriate criteria applicable to child restraint laws for purposes of eligibility for grants under this section. The criteria shall be consistent with the provisions of Anton’s Law.

“(b) **REQUIREMENT TO MAKE GRANTS.**—

“(1) **IN GENERAL.**—The Secretary shall make a grant to each State and Indian tribe that, as determined by the Secretary, has a child restraint law in effect on September 30, 2004.

“(2) **LIMITATION ON NUMBER OF GRANTS.**—Not more than one grant may be made to a State or Indian tribe under this section.

“(3) **COMMENCEMENT.**—The requirement in paragraph (1) shall commence on October 1, 2004.

“(c) **GRANT AMOUNT.**—The amount of the grant to a State or Indian tribe under this section shall be the amount equal to five times the amount provided to the State or Indian tribe, as the case may be, under section 2003(b)(7) of the Transportation Equity Act for the 21st Century (23 U.S.C. 405 note) in fiscal year 2003.

“(d) **USE OF GRANT AMOUNTS.**—

“(1) **IN GENERAL.**—A State or Indian tribe shall use any amount received by the State

or Indian tribe, as the case may be, under this section to carry out child passenger protection programs for children under the age of 16 years, including programs for purposes as follows:

“(A) To educate the public concerning the proper use and installation of child restraints, including booster seats.

“(B) To train and retain child passenger safety professionals, police officers, fire and emergency medical personnel, and educators concerning all aspects of the use of child restraints.

“(C) To provide child restraint systems, including booster seats and the hardware needed for their proper installation, to families that cannot otherwise afford such systems.

“(D) To support enforcement of the child restraint law concerned.

“(2) **LIMITATION ON FEDERAL SHARE.**—The Federal share of the cost of a program under paragraph (1) that is carried out using amounts from a grant under this section may not exceed 80 percent of the cost of the program.

“(e) **ADMINISTRATIVE EXPENSES.**—The amount of administrative expenses under this section in any fiscal year may not exceed the amount equal to five percent of the amount available for making grants under this section in the fiscal year.

“(f) **APPLICABILITY OF CHAPTER 1.**—The provisions of section 402(d) of this title shall apply to funds authorized to be appropriated to make grants under this section as if such funds were highway safety funds authorized to be appropriated to carry out section 402 of this title.

“(g) **DEFINITIONS.**—In this section:

“(1) **CHILD RESTRAINT LAW.**—The term ‘child restraint law’ means a law that—

“(A) satisfies standards established by the Secretary under Anton’s Law for the proper restraint of children who are over the age of 3 years or who weigh at least 40 pounds;

“(B) prescribes a penalty for operating a passenger motor vehicle in which any occupant of the vehicle who is under the age of 16 years is not properly restrained in an appropriate restraint system (including seat belts, booster seats used in combination with seat belts, or other child restraints); and

“(C) meets any criteria established by the Secretary under subsection (a) for purposes of this section.

“(2) **PASSENGER MOTOR VEHICLE.**—The term ‘passenger motor vehicle’ has the meaning given that term in section 405(f)(5) of this title.

“(3) **STATE.**—The term ‘State’ has the meaning given in section 101 of this title and includes any Territory or possession of the United States.”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 411 the following new item:

“412. Grant program for improving child passenger safety programs.”

SEC. 907. DEFINITIONS.

In this title:

(1) **CHILD RESTRAINT.**—The term “child restraint” means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

(2) **PRODUCTION YEAR.**—The term “production year” means the 12-month period between September 1 of a year and August 31 of the following year.

(3) **PASSENGER MOTOR VEHICLE.**—The term “passenger motor vehicle” has the meaning given that term in section 405(f)(5) of title 23, United States Code.

SEC. 908. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this title, including the making of grants under section 412 of title 23, United States Code, as added by section 906.

Mrs. HUTCHISON. Mr. President, I appreciate the fact that we have now passed an air cargo security bill that I think will move the ball a long way down the road toward ensuring the safety of the traveling public and our aviation industry.

Since the 9/11 terrorist attacks, we have spent a tremendous amount of time, effort, and resources improving our passenger aviation security system. In fact, tomorrow we have a very important deadline that will be met. All of the airport screeners in our country will be Federal employees who have met a series of stringent requirements, undergone mandatory training, and passed performance and written examinations.

I am proud of the work we have done in this area, but I am also concerned that we have been neglecting other modes of transportation as we continue to focus on passenger aircraft. 1 year ago, Congress created the Transportation Security Administration to implement and oversee security on our highways, in our airports, on trains, and in our ports. However, until now, we only gave to the TSA the tools to do the job with respect to passenger aviation security.

Last week, we finally passed the port security bill. Now we need to take another step toward transportation security. While I am confident that our efforts have dramatically improved aviation security, we have not closed all the loopholes in our air cargo operations. This issue must be addressed.

Twenty-two percent of all air cargo in the United States is carried on passenger flights, but only a tiny percentage of this cargo is inspected. There is no point to carefully screening every piece of luggage if the cargo placed aboard the same flight is not inspected at all. That is why I introduced the Air Cargo Security Act with my friend from California, Senator DIANNE FEINSTEIN. We reasoned it was pointless to require air passengers to wait in long security lines, undergo rigorous searches, which all of us have certainly had the privilege of suffering through, if we then allow packages to travel on the very same flight with no inspections whatsoever. Ignoring this problem could be an invitation to disaster.

My legislation was the subject of a closed-door hearing of the Aviation Subcommittee. Without going into details, it was apparent there are significant vulnerabilities in our existing system of air cargo security. The Transportation Security Administration is doing the best it can with limited resources. But clearly, legislation is required.

I modified the bill in response to those weaknesses and the recommendations made by the Transportation Security Administration, as well as the

Department of Transportation Inspector General.

This bill was unanimously passed by the Commerce Committee in September as part of a larger package of aviation security measures. Some of these provisions made their way into the homeland security compromise draft, but air cargo security is too important to simply wait until next year.

The bill before us will establish a more reliable and accountable known shipper program, with frequent inspections of shipping facilities, tamper-proof identification cards for employees, and an accessible shipper database.

For the first time, the Transportation Security Administration will have the power to revoke the license of a shipper or freight forwarder whose practices are unsound or who has engaged in illegal activity.

The bill also requires the Transportation Security Administration to conduct regular inspections of foreign shipping facilities. Freight forwarders will have to submit to random inspections, and the TSA must also implement a training program for cargo professionals. All cargo facilities must have an improved security plan.

While we tighten these rules and procedures, we must be careful not to cause any economic damage to an airline industry that is already in dire straits. It is critical that the measures we impose allow both passenger and cargo carriers to compete on an equal footing. We drafted this bill in consultation with air cargo carriers and the airlines. I am pleased that we have gained their support, because it is important we have the regulators and the aviation industry working together to make the most seamless security system possible, not only in our country but throughout the world.

I also want to point out that the bill before us would accomplish several other goals. These provisions have all been approved by the Commerce Committee, and I thank Senators HOLLINGS and MCCAIN for their leadership.

The bill reauthorizes the National Transportation Safety Board through fiscal year 2005. I was proud to serve as vice chair of the National Transportation Safety Board before I came to the Senate. This agency investigates civil aviation accidents and significant incidents in other modes of transportation: railroad, highway, marine, and pipeline. The NTSB also issues safety recommendations aimed at preventing future accidents. This reauthorization also strengthens performance requirements for booster seats for children weighing more than 50 pounds. The NTSB's important work is completed on a very reasonable budget. I am pleased to support this reauthorization bill.

The bill before us also makes technical corrections to last year's Aviation and Transportation Security Act. It allows TSA to use biometric identification technologies such as retina scans and fingerprints to assist in avia-

tion security. It defines circumvention of airport security as a Federal crime. It authorizes a study on blast-resistant cargo containers, and it strengthens security at flight schools. These necessary measures fine-tune the comprehensive security legislation we passed last year. I am pleased we have cleared this legislation, and I urge my colleagues in the House to follow suit.

Mr. President, I would make a parliamentary inquiry. Am I correct in concluding that all of the necessary steps and procedures have occurred to assure that this bill has been passed and that Senate action on S. 2949 is now complete?

The PRESIDING OFFICER. The Senator is correct.

Ms. HUTCHISON. I thank the Chair.

I appreciate the cooperation of my colleagues. I thank Senator REID for helping me in this wrap-up. I know he has not yet come to the floor, but I know that he helped us in clearing this bill. This bill has been cleared by unanimous consent. It is a very important step in securing our homeland. We have taken great strides to secure our airports and the passenger screening is quite thorough. Everybody has to smile when you say that, because anyone who has flown in America in the last 6 months has certainly been subjected to a lot of scrutiny. I have certainly been frisked. I have had my shoes taken off, all of those things that drive people crazy. But the bottom line is, we do have a safer system. We got the wake-up call on 9/11 of 2001. We have taken extraordinary steps to secure our country and our aviation system. Anyone who says our system is not safer today than it was on September 10 of 2001 either has not flown or is being disingenuous.

I would like to thank Admiral Loy at the Transportation Security Administration, and certainly Secretary Mineta and President Bush for their strong leadership in homeland and transportation security. We are going to do everything we can to make sure our people are safe.

The port security bill was a huge step in the right direction. I have one of the largest petrochemical complexes in the world in Houston, TX. I want to make sure they had all the authority and resources they need to secure that port. In fact, just this week, I talked to the people from the Port of Houston, and they are taking steps on their own. We need to help them at the Federal level to improve security, but they are not waiting for us to act. They know the importance of this issue because they are on the front lines, hearing of new threats from Osama bin Laden just recently. So they are battening down the hatches.

We are going to do the same thing with air cargo in the bill we just passed. If the House does come back this year, I will urge my colleagues in the House to look at this bill and try to work with us to make sure the belly of the airplane is just as safe as the

passenger cabin is today. All of us want that to happen. I appreciate everybody's cooperation in passing this very important piece of legislation. Mr. President, I look forward to chairing the Aviation Subcommittee next year, working with Senator ROCKEFELLER, my ranking member, with whom I have had a great working relationship. We have passed the aviation security measure that is the law today. We worked together to pass the port security bill.

Senator ROCKEFELLER and I have a great vision for what we can do in aviation to make our system not only secure and safe for the traveling public, but also economically viable. Without an aviation industry, this country would lose in commerce and in the freedom of our people to travel. Our country is vast and we need aviation. I am looking forward to chairing that Subcommittee with Senator ROCKEFELLER and working to try to make sure that we maintain an economically viable aviation industry that is safe and secure for the traveling public, and for the goods that comprise our commerce.

Mr. President, I yield the floor.

Mr. MCCAIN. Mr. President, I rise to speak on S. 2949, the Aviation Security Improvement Act. This bill builds and improves upon work that began last year when Congress passed the Aviation and Transportation Security Act, ATSA, P.L. 107-71. During the 10 months since that law's enactment, there has been a significant change in the way aviation security is handled. However, there is a long way to go until we achieve all our aviation security goals. I believe the bill before us would make many positive steps in the continuing effort to protect the nation's air transportation system. This bill also contains the text of S. 2950, the National Transportation Safety Board Reauthorization.

I want to begin by commending Senators HUTCHISON and SNOWE for their work on the air cargo security issue addressed in this legislation. The cargo provisions flow directly from their bills and would bolster an aspect of aviation security that was not addressed in great detail in last year's law. This is one area in which we can and should be proactive to get ahead of potential problems or vulnerabilities.

There is a particular issue in this bill that I want to discuss briefly. In last year's security bill, we mandated that airport screeners had to be U.S. citizens. While imposing that requirement was an understandable impulse, it had some negative ramifications that were not clear at the time. For example, American Samoans are not now eligible to be screeners because they are considered nationals, not citizens.

S. 2949 includes a provision to allow nationals of the U.S., honorably discharged veterans of the U.S. military, and lawful permanent residents who were employed as airport security screeners at the time of ATSA's enactment, to be eligible to compete for jobs

as federal security screeners. The provision would not require that these individuals be hired, but give TSA the discretion to hire them if they meet all the other statutory requirements concerning the hiring of screeners. This is a fair and reasonable expansion of the existing provision.

A similar provision was added to the Homeland Security bill. However, the provision in the Homeland Security bill only expands the definition to include U.S. nationals. It would still exclude an important segment of the population—legal permanent residents. LPRs as they are known, can join the military and risk giving up their lives fighting for our country. Yet, to date, they cannot be hired as security screeners. This is wrong, and we should correct it now.

In addition, S. 2949 would reauthorize the National Transportation Safety Board. The NTSB is an independent Federal agency charged with investigating every civil aviation accident in the United States. It also investigates significant accidents in the other modes of transportation—railroad, highway, marine, and pipeline—and issuing safety recommendations intended to prevent future accidents. We are all aware of the important role the NTSB plays in the safety of our transportation system, and it is important that we move ahead with this reauthorizing legislation.

A key element of this bill involves authorization for the NTSB's new Training Academy, which will be the centerpiece of its teaching and training of transportation accident investigators worldwide. It also will provide state-of-the-art classrooms and laboratory space for accident investigation. This is especially important with the advent of new technology that is being used to build, fuel, and more all modes of transportation.

The legislation also would streamline the NTSB's procurement process during accident investigations and allow the Board to transfer its family assistance responsibilities to any Federal agency that takes over an investigation, such as the FBI, provided that the other agency is willing and able to handle those duties. Finally the bill would reauthorize the NTSB's funding for its day to day activities.

The importance of the agency is well known to all. I urge the support of this bill.

THE CONFIRMATION OF MICHAEL MCCONNELL TO THE 10TH CIRCUIT

Mr. LEAHY. Mr. President, last Friday, the Senate approved the nomination of Michael McConnell to the United States Court of Appeals for the Tenth Circuit. As a professor, first at the University of Chicago, and then at the University of Utah, Mr. McConnell has been a strong voice for reexamining First Amendment jurisprudence of Free Exercise Clause and the Establishment Clause. He has expressed

strong personal opposition to abortion to *Roe v. Wade*, to the clinic access law. He has testified before the Congress against the Violence Against Women Act on the grounds that it was unconstitutional.

Each of these issues was explored to some degree at his hearing before the Judiciary Committee and in follow up written questions. No one doubts that Professor McConnell is personable and intelligent. No one doubts that he is an outstanding and provocative professor. I see why so many of his law professor colleagues like him and have endorsed his nomination. But the Judiciary Committee also received letters from hundreds of law professors reminding us that the burden of persuasion on lifetime judicial appointments should be on the nominee, as well as a recent letter signed by hundreds of law professors opposing confirmation of Professor McConnell.

The question I was left with after his nomination hearing was whether we had witnessed another confirmation conversion. Stated another way, I remain very concerned that Professor McConnell may turn out to be an activist on the 10th Circuit.

For instance, I still have a hard time reading his writing on the actions of Federal District Court Judge John Sprizzo in acquitting abortion protesters as anything other than praise for the extra-legal behavior of both the defendants and the judge. Even though Professor McConnell has now been confirmed, I continue to be concerned that he appeared to commend a judge and regard him as a hero for not following the law.

I find his responses regarding the Violence Against Women Act convenient.

I see his refusal to take responsibility for his harsh criticism of the Supreme Court's decision in the *Bob Jones* case as an attempt to distance himself from his prior approval of the ability of religious institutions to discriminate on the basis of race, even if they are receiving benefits from the Government.

At his hearing, and in follow-up written questions, Professor McConnell sought to assure us that he understands the difference between his role as a teacher and advocate and his future role as a judge. He assured us that he respects the doctrine of *stare decisis*, and that as a Federal appeals court judge, he will be bound to follow Supreme Court precedent.

Although many of President Clinton's nominees who assured the Senate of these same things when they were nominated were discredited and not considered, this nomination has moved forward and been approved.

I reluctantly supported this nomination to the 10th Circuit based on Professor McConnell's assurances. I trust that he will not seek to undermine women's reproductive rights derived from the Constitution and articulated in *Roe v. Wade*. I trust that as an appeals court judge he will divorce his

personal views on abortion and on racial discrimination in religious institutions from his decisions as a judge, and that he will act to uphold existing law. I trust that he will not seek to circumvent the doctrine of *stare decisis* and that he will not work to change the law through activism on the bench.

There are already admirers who predict that Professor McConnell is destined for a short stop at the 10th Circuit on the way to a Supreme Court nomination. I do not speculate about such things. Professor McConnell has yet to create a record on the 10th Circuit. I mention it only to note that no one should confuse my support of Professor McConnell's nomination to the 10th Circuit as an endorsement or approval for any other position.

IN REMEMBRANCE OF PAUL WELLSTONE

Ms. SNOWE. Mr. President, like all of my colleagues, I was shocked and deeply saddened by the tragic accident that claimed the life of Senator Wellstone, his wife Sheila, their daughter Marcia, two pilots, and three members of Paul's staff. My heart goes out to the families and they will remain in my thoughts and prayers.

It was always a privilege working with Senator Wellstone. In fact, one of the last images I have of him was in the final days of the session, when I encountered him coming up the aisle in the Senate Chamber after a vote with his typical boundless energy, warm smile, and friendly greeting. He was a compassionate, honorable man—and it was obvious to all of us that, together, Paul and Sheila made an extraordinary and loving team.

As a public servant, Senator Wellstone's most enduring legacy will surely be his career of conscience in elective office. With his unwavering passion and integrity, he was highly respected and will be long remembered.

With both of us hailing from northern border States, we shared the same perspective on a number of issues such as the reimportation of prescription drugs, and we worked together over the years to ensure the critical low-income energy program, LIHEAP, would be there for the people of Maine and Minnesota.

I was proud to serve with him on the Small Business Committee where I saw his diligence and tenaciousness firsthand, and to work with him on issues of importance to our veterans such as a bill establishing July 16 as a National Day of Remembrance for Atomic Veterans, as well as a measure providing for increases in veterans spending. I was also pleased to help champion his and Senator DOMENICI's legislation to create mental health parity—a perfect illustration of his compassion and the causes for which he felt duty-bound to fight.

Indeed, all of us and, most importantly, the people of Minnesota could count on Paul to stand up for his deeply held beliefs, speaking always from