

S. CON. RES. 138

At the request of Mr. REID, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. Con. Res. 138, a concurrent resolution expressing the sense of Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

#### AMENDMENTS SUBMITTED & PROPOSED

SA 4965. Mr. REID (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 754, to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing anti-trust laws regarding brand name drugs and generic drugs.

SA 4966. Mr. REID (for Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Mr. MCCAIN, and Mrs. HUTCHISON)) proposed an amendment to the bill S. 2951, to authorize appropriations for the Federal Aviation Administration, and for other purposes.

SA 4967. Mr. REID (for Mr. BAUCUS (for himself and Mr. GRASSLEY)) proposed an amendment to the bill H.R. 4070, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

SA 4968. Mrs. HUTCHISON (for Mr. HOLLINGS (for herself and Mr. MCCAIN)) proposed an amendment to the bill S. 2949, to provide for enhanced aviation security, and for other purposes.

SA 4969. Mrs. HUTCHISON (for Mr. HOLLINGS (for herself, Mr. ROCKEFELLER, and Mr. MCCAIN)) proposed an amendment to amendment SA 4968 proposed by Mrs. HUTCHISON (for Mr. HOLLINGS (for himself and Mr. MCCAIN)) to the bill S. 2949, *supra*.

#### TEXT OF AMENDMENTS

**SA 4965.** Mr. REID (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 754, to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs; as follows:

On page 11, line 17, strike "or".

On page 11, line 18, strike the period and insert "; or".

On page 11, after line 18, insert the following:

(D) packaging and labeling contracts.

On page 13, line 17, strike all beginning with "Equitable" through line 23.

**SA 4966.** Mr. REID (for Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Mr. MCCAIN, and Mrs. HUTCHISON)) proposed an amendment to the bill S. 2951, to authorize appropriations for the Federal Aviation Administration, and for other purposes; as follows:

On page 3, beginning in line 21, strike "Transportation and" and insert "Transportation,".

On page 3, line 23, strike "Infrastructure." and insert "Infrastructure, and the House of Representatives Committee on Science.".

On page 4, strike lines 18 through 23, and insert the following:

The Federal Aviation Administration Administrator shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of concrete and asphalt airfield pavements to aid in the development of safer, more cost-effective, and more durable airfield pavements.

On page 5, beginning in line 22, strike "Transportation and" and insert "Transportation,".

On page 5, line 24, strike "Infrastructure." and insert "Infrastructure, and the House of Representatives Committee on Science.".

On page 8, strike lines 9 through 13, and insert the following:

(b) **REPORT.**—A report containing the results of the assessment shall be provided to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Science not later than 1 year after the date of enactment of this Act.

**SA 4967.** Mr. REID (for Mr. BAUCUS (for himself and Mr. GRASSLEY)) proposed an amendment to the bill H.R. 4070, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Social Security Program Protection Act of 2002".

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

Sec. 1. Short title and table of contents.

#### TITLE I—PROTECTION OF BENEFICIARIES

##### Subtitle A—Representative Payees

Sec. 101. Authority to reissue benefits misused by organizational representative payees.

Sec. 102. Oversight of representative payees.

Sec. 103. Disqualification from service as representative payee of persons convicted of offenses resulting in imprisonment for more than 1 year, of persons fleeing prosecution, custody, or confinement, and of persons violating probation or parole.

Sec. 104. Fee forfeiture in case of benefit misuse by representative payees.

Sec. 105. Liability of representative payees for misused benefits.

Sec. 106. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

##### Subtitle B—Enforcement

Sec. 111. Civil monetary penalty authority with respect to wrongful conversions by representative payees.

#### TITLE II—PROGRAM PROTECTIONS

Sec. 201. Issuance by Commissioner of Social Security of receipts to acknowledge submission of reports of changes in work or earnings status of disabled beneficiaries.

Sec. 202. Denial of title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole.

Sec. 203. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.

Sec. 204. Refusal to recognize certain individuals as claimant representatives.

Sec. 205. Penalty for corrupt or forcible interference with administration of Social Security Act.

Sec. 206. Use of symbols, emblems, or names in reference to social security or medicare.

Sec. 207. Disqualification from payment during trial work period upon conviction of fraudulent concealment of work activity.

#### TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

Sec. 301. Cap on attorney assessments.

#### TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

Sec. 401. Application of demonstration authority sunset date to new projects.

Sec. 402. Expansion of waiver authority available in connection with demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 403. Funding of demonstration projects provided for reductions in disability insurance benefits based on earnings.

Sec. 404. Availability of Federal and State work incentive services to additional individuals.

Sec. 405. Technical amendment clarifying treatment for certain purposes of individual work plans under the Ticket to Work and Self-Sufficiency Program.

##### Subtitle B—Miscellaneous Amendments

Sec. 411. Elimination of transcript requirement in remand cases fully favorable to the claimant.

Sec. 412. Nonpayment of benefits upon removal from the United States.

Sec. 413. Reinstatement of certain reporting requirements.

Sec. 414. Clarification of definitions regarding certain survivor benefits.

Sec. 415. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.

Sec. 416. Coverage under divided retirement system for public employees in Kentucky.

Sec. 417. Compensation for the Social Security Advisory Board.

Sec. 418. 60-month period of employment requirement for application of government pension offset exemption.

##### Subtitle C—Technical Amendments

Sec. 421. Technical correction relating to responsible agency head.

- Sec. 422. Technical correction relating to retirement benefits of ministers.
- Sec. 423. Technical corrections relating to domestic employment.
- Sec. 424. Technical corrections of outdated references.
- Sec. 425. Technical correction respecting self-employment income in community property States.
- Sec. 426. Technical amendments relating to the Railroad Retirement and Survivors Improvement Act of 2001.

## TITLE I—PROTECTION OF BENEFICIARIES

### Subtitle A—Representative Payees

#### SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

##### (a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentences: “In any case in which a representative payee that—

“(A) is not an individual (regardless of whether it is a ‘qualified organization’ within the meaning of paragraph (4)(B)); or

“(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).”

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

“(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this paragraph.”

##### (b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended by inserting after the first sentence the following new sentences: “In any case in which a representative payee that—

“(1) is not an individual; or

“(2) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (1)(2).”

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

“(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another qualified individual under this title and con-

verts such payment, or any part thereof, to a use other than for the use and benefit of such other qualified individual. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this subsection.”

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking “for his or her benefit” and inserting “for his or her use and benefit”.

##### (c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: “In any case in which a representative payee that—

“(i) is not an individual (regardless of whether it is a ‘qualified organization’ within the meaning of subparagraph (D)(ii)); or

“(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual’s benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).”

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking “and” at the end;

(B) in paragraph (13), by striking the period and inserting “; and”; and

(C) by inserting after paragraph (13) the following new paragraph:

“(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual’s (or spouse’s) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.”

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause:

“(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this clause.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

#### SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency (as defined in paragraph (9))”; and

(B) in paragraph (3)(F), by striking “community-based nonprofit social service agencies” and inserting “certified community-based nonprofit social service agencies (as defined in paragraph (9))”;

(C) in paragraph (4)(B), by striking “any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee” and inserting “any certified community-based nonprofit social service agency (as defined in paragraph (9))”; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

“(9) For purposes of this subsection, the term ‘certified community-based nonprofit social service agency’ means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification.”

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency (as defined in subparagraph (I))”; and

(B) in subparagraph (D)(ii)—

(i) by striking “or any community-based” and all that follows through “in accordance” in subclause (II) and inserting “or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance”;

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

(iii) by striking “subclause (II)(bb)” and inserting “subclause (II)”; and

(C) by adding at the end the following new subparagraph:

“(I) For purposes of this paragraph, the term ‘certified community-based nonprofit social service agency’ means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of enactment of this Act.

##### (b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

“(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives

the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

“(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

“(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

“(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

“(i) the number of such reviews;

“(ii) the results of such reviews;

“(iii) the number of cases in which the representative payee was changed and why;

“(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(v) the number of cases discovered in which there was a misuse of funds;

“(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

“(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(viii) such other information as the Commissioner deems appropriate.”

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following new subsection:

“(k) PERIODIC ONSITE REVIEW.—(1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

“(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

“(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

“(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned

to be taken to correct such problems, and shall include—

“(A) the number of such reviews;

“(B) the results of such reviews;

“(C) the number of cases in which the representative payee was changed and why;

“(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(E) the number of cases discovered in which there was a misuse of funds;

“(F) how any such cases of misuse of funds were dealt with by the Commissioner;

“(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(H) such other information as the Commissioner deems appropriate.”

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

“(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

“(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

“(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

“(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

“(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

“(I) the number of the reviews;

“(II) the results of such reviews;

“(III) the number of cases in which the representative payee was changed and why;

“(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

“(V) the number of cases discovered in which there was a misuse of funds;

“(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

“(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

“(VIII) such other information as the Commissioner deems appropriate.”

# SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR, OF PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND OF PERSONS VIOLATING PROBATION OR PAROLE.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

“(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(V) obtain information concerning whether such person is a person described in clause (iv) or (v) of section 202(x)(1)(A), and”.

(2) in subparagraph (C)(i)(II), by striking “subparagraph (B)(i)(IV),” and inserting “subparagraph (B)(i)(VI)” and striking “section 1631(a)(2)(B)(ii)(IV)” and inserting “section 1631(a)(2)(B)(ii)(VI)”;

(3) in subparagraph (C)(i)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following new subclauses:

“(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

“(V) such person is person described in clause (iv) or (v) of section 202(x)(1)(A).”

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking “and” at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following new subparagraphs:

“(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(E) obtain information concerning whether such person is a person described in paragraph (2) or (3) of section 804(a); and”;

(2) in subsection (d)(1)—

(A) by striking “or” at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

“(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

“(E) such person is a person described in paragraph (2) or (3) of section 804(a).”

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (i)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following new subclauses:

“(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

“(V) obtain information concerning whether such person is a person described in section 1611(e)(4); and”;

(2) in clause (iii)(II)—

(A) by striking “clause (ii)(IV)” and inserting “clause (ii)(VI)”;

(B) by striking “section 205(j)(2)(B)(i)(IV)” and inserting “section 205(j)(2)(B)(i)(VI)”;

and

(3) in clause (iii)—

(A) by striking “or” at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following new subclauses:

“(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

“(V) such person is a person described in section 1611(e)(4).”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of enactment of this Act.

(e) **REPORT TO CONGRESS.**—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

#### **SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.**

(a) **TITLE II AMENDMENTS.**—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”;

(2) in the second sentence, by striking “The Secretary” and inserting the following:

“A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of paragraphs (5) and (6). The Commissioner”.

(b) **TITLE XVI AMENDMENTS.**—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”;

(2) in the second sentence, by striking “The Commissioner” and inserting the following: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the indi-

vidual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of subparagraphs (E) and (F). The Commissioner”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after December 31, 2002.

#### **SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.**

(a) **TITLE II AMENDMENTS.**—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking “paragraph (9)” and inserting “paragraph (10)”;

(3) in paragraph (6)(A)(ii), by striking “paragraph (9)” and inserting “paragraph (10)”;

(4) by inserting after paragraph (6) the following new paragraph:

“(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual’s alternative representative payee.

“(B) The total of the amount certified for payment to such individual or such individual’s alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(b) **TITLE VIII AMENDMENT.**—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following new subsection:

“(1) **LIABILITY FOR MISUSED AMOUNTS.**—

“(1) **IN GENERAL.**—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual’s benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual’s alternative representative payee.

“(2) **LIMITATION.**—The total of the amount paid to such individual or such individual’s alternative representative payee under paragraph (1) and the amount paid under sub-

section (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(c) **TITLE XVI AMENDMENTS.**—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking “section 205(j)(9)” and inserting “section 205(j)(10)”;

(2) by striking subparagraph (H) and inserting the following:

“(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual’s alternative representative payee.

“(ii) The total of the amount paid to such individual or such individual’s alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after December 31, 2002.

#### **SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.**

(a) **TITLE II AMENDMENTS.**—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

“(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.”

(b) **TITLE VIII AMENDMENTS.**—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) **AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.**—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and

the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.”.

(c) **TITLE XVI AMENDMENT.**—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

“(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.”.

(d) **EFFECTIVE DATE.**—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

#### Subtitle B—Enforcement

#### SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) **IN GENERAL.**—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8) is amended by adding at the end the following new paragraph:

“(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to violations committed after the date of enactment of this Act.

#### TITLE II—PROGRAM PROTECTIONS

#### SEC. 201. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

#### SEC. 202. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

(a) **IN GENERAL.**—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by striking “Prisoners” and all that follows and inserting the following: “Prisoners, Certain Other Inmates of

Publicly Funded Institutions, and Fugitives”;

(2) in paragraph (1)(A)(ii)(IV), by striking “or” at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

“(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

“(v) is violating a condition of probation or parole imposed under Federal or State law. In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv), the Commissioner may, for good cause shown, pay such withheld benefits to the individual.”; and

(5) in paragraph (3), by adding at the end the following new subparagraph:

“(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

“(i) the beneficiary—

“(I) is described in clause (iv) or (v) of paragraph (1)(A); and

“(II) has information that is necessary for the officer to conduct the officer's official duties; and

“(ii) the location or apprehension of the beneficiary is within the officer's official duties.”.

(b) **REGULATIONS.**—Not later than the first day of the first month that begins on or after the date that is 9 months after the date of enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of enactment of this Act.

#### SEC. 203. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) **IN GENERAL.**—Section 1140 of the Social Security Act (42 U.S.C. 1320b-10) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

“(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

“(i) explains that the product or service is available free of charge from the Social Security Administration, and

“(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

“(B) Subparagraph (A) shall not apply to any offer—

“(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

“(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI.”; and

(2) in the heading, by striking “PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE” and inserting “PROHIBITIONS RELATING TO REFERENCES”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of enactment of this Act.

#### SEC. 204. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: “Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a nonattorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.”.

#### SEC. 205. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following new section:

##### “ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

“SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or

both. In this subsection, the term ‘threats of force’ means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.”.

**SEC. 206. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICAID.**

(a) IN GENERAL.—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b-10(a)(1)) is amended—

(1) in subparagraph (A), by inserting “‘Centers for Medicare & Medicaid Services,’” after “‘Health Care Financing Administration,’”; by striking “or ‘Medicaid,’” and inserting “‘Medicaid’, ‘Death Benefits Update’, ‘Federal Benefit Information’, ‘Funeral Expenses’, or ‘Final Supplemental Plan,’”; and by inserting “‘CMS,’” after “‘HCFA,’”;

(2) in subparagraph (B), by inserting “Centers for Medicare & Medicaid Services,” after “Health Care Financing Administration,” each place it appears; and

(3) in the matter following subparagraph (B), by striking “the Health Care Financing Administration,” each place it appears and inserting “the Centers for Medicare & Medicaid Services.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days after the date of enactment of this Act.

**SEC. 207. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.**

(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following new paragraph:

“(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

“(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

“(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

“(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

**TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS**

**SEC. 301. CAP ON ATTORNEY ASSESSMENTS.**

(a) IN GENERAL.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting “, except that the maximum amount of the assessment may not ex-

ceed the greater of \$75 or the adjusted amount as provided pursuant to the following two sentences” after “subparagraph (B)”;

(2) by adding at the end the following new sentence: “In the case of any calendar year beginning after 2003, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$10 shall be rounded to the next lowest multiple of \$10, but in no case less than \$75.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of enactment of this Act.

**TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS**

**Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999**

**SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.**

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking “conducted under subsection (a)” and inserting “initiated under subsection (a) on or before December 17, 2004”; and

(2) in subsection (d)(2), by amending the first sentence to read as follows: “The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.”.

**SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.**

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking “(42 U.S.C. 401 et seq.),” and inserting “(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b-19) as they relate to the program established under title II of such Act.”.

**SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDED FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.**

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

“(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.”.

**SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.**

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b-20(c)(2)) is amended to read as follows:

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b-21(g)(2)) is amended to read as follows:

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ means an individual—

“(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

“(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66);

“(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

“(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.”.

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b-21(b)(2)) is amended by striking “secure or regain” and inserting “secure, maintain, or regain”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of enactment of this Act.

**SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.**

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b-19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

“An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1921).



**Subtitle B—Miscellaneous Amendments****SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.**

(a) IN GENERAL.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking “and a transcript” and inserting “and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of enactment of this Act.

**SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.**

(a) IN GENERAL.—Paragraphs (1) and (2) of section 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2)) are each amended by striking “or (1)(E)”.

(b) EFFECTIVE DATE.—The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice from the Attorney General after the date of enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of enactment of this Act.

**SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.**

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

**SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.**

(a) WIDOWS.—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “she was married”;

(4) by inserting “(1)” after “(c)”; and

(5) by adding at the end the following new paragraph:

“(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving wife,

“(B) the prior wife was institutionalized during the individual’s marriage to the prior wife due to mental incompetence or similar incapacity,

“(C) during the period of the prior wife’s institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior wife continued to remain institutionalized up to the time of her death, and

“(E) the individual married the surviving wife within 60 days after the prior wife’s death.”.

(b) WIDOWERS.—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting “except as provided in paragraph (2),” before “he was married”;

(4) by inserting “(1)” after “(g)”; and

(5) by adding at the end the following new paragraph:

“(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

“(A) the individual had been married prior to the individual’s marriage to the surviving husband,

“(B) the prior husband was institutionalized during the individual’s marriage to the prior husband due to mental incompetence or similar incapacity,

“(C) during the period of the prior husband’s institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband’s institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

“(D) the prior husband continued to remain institutionalized up to the time of his death, and

“(E) the individual married the surviving husband within 60 days after the prior husband’s death.”.

(c) CONFORMING AMENDMENT.—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking “clause (5) of subsection (c) or clause (5) of subsection (g)” and inserting “clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of enactment of this Act.

**SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.**

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking “to taxes or contributions for similar purposes under” and inserting “exclusively to the laws applicable to”.

**SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.**

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting “Kentucky,” after “Illinois.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

**SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.**

(a) IN GENERAL.—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

“Compensation, Expenses, and Per Diem

“(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or con-

ferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which the member is engaged in performing a function of the Board. While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as of January 1, 2002.

**SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.**

(a) WIFE’S INSURANCE BENEFITS.—Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended by striking “if, on” and inserting “if, during any portion of the last 60 months of such service prior to”.

(b) HUSBAND’S INSURANCE BENEFITS.—Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended by striking “if, on” and inserting “if, during any portion of the last 60 months of such service prior to”.

(c) WIDOW’S INSURANCE BENEFITS.—Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended by striking “if, on” and inserting “if, during any portion of the last 60 months of such service prior to”.

(d) WIDOWER’S INSURANCE BENEFITS.—Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended by striking “if, on” and inserting “if, during any portion of the last 60 months of such service prior to”.

(e) MOTHER’S AND FATHER’S INSURANCE BENEFITS.—Section 202(g)(4)(A) of the such Act (42 U.S.C. 402(g)(4)(A)) is amended by striking “if, on” and inserting “if, during any portion of the last 60 months of such service prior to”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of enactment of this Act, except that such amendments shall not apply to individuals whose last day of employment while in the service of any State (or political subdivision thereof, as defined in section 218(b)(2) of the Social Security Act (42 U.S.C. 418(b)(2))) constitutes covered employment (as defined in section 210 of such Act (42 U.S.C. 410)) and occurs on or before June 30, 2003, provided that such period of covered employment for such governmental entity began on or before December 31, 2002.

**Subtitle C—Technical Amendments****SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.**

Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended—

(1) by striking “Secretary” the first place it appears and inserting “Commissioner of Social Security”; and

(2) by striking “Secretary” each subsequent place it appears and inserting “Commissioner”.

**SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.**

(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting “, but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a

church plan (as defined in section 414(e) of such Code) after the individual retires" before the semicolon.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

#### **SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.**

(a) **AMENDMENT TO INTERNAL REVENUE CODE.**—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit".

(b) **AMENDMENT TO SOCIAL SECURITY ACT.**—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking "described in section 210(f)(5)" and inserting "on a farm operated for profit".

(c) **CONFORMING AMENDMENT.**—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking "or is domestic service in a private home of the employer".

#### **SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.**

(a) **CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.**—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further—

(1) by striking "deportation" each place it appears and inserting "removal";

(2) by striking "deported" each place it appears and inserting "removed";

(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking "under section 241(a) (other than under paragraph (1)(C) thereof)" and inserting "under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)";

(4) in paragraph (2), by striking "under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)" and inserting "under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act";

(5) in paragraph (3)—

(A) by striking "paragraph (19) of section 241(a)" and inserting "subparagraph (D) of section 237(a)(4)"; and

(B) by striking "paragraph (19)" and inserting "subparagraph (D)"; and

(6) in the heading, by striking "Deportation" and inserting "Removal".

(b) **CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.**—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking "section 162(m)" and inserting "section 162(l)".

(c) **ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.**—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking "and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis".

#### **SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.**

(a) **SOCIAL SECURITY ACT AMENDMENT.**—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions";.

(b) **INTERNAL REVENUE CODE OF 1986 AMENDMENT.**—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and".

#### **SEC. 426. TECHNICAL AMENDMENTS RELATING TO THE RAILROAD RETIREMENT AND SURVIVORS IMPROVEMENT ACT OF 2001.**

(a) **QUORUM RULES.**—Section 15(j)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended by striking "entire Board of Trustees" and inserting "Trustees then holding office".

(b) **TRANSFERS.**—

(1) Section 15(k) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(k)) is amended by adding at the end the following: "At the direction of the Railroad Retirement Board, the National Railroad Retirement Investment Trust shall transfer funds to the Railroad Retirement Account.".

(2) Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(d)(2)) is amended—

(A) by inserting "or the Railroad Retirement Account" after "National Railroad Retirement Investment Trust" the second place it appears;

(B) by inserting "or the Railroad Retirement Board" after "National Railroad Retirement Investment Trust" the third place it appears; and

(C) by inserting "or the Railroad Retirement Board" after "the Trust".

(c) **INVESTMENT AUTHORITY.**—Section 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) is amended by striking "shall" and inserting "may".

(d) **CLERICAL.**—

(1) Subparagraphs (C) and (D) of section 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) are each amended by striking "assets in the Trust" and inserting "assets of the Trust".

(2) Paragraph (5) of section 15(j) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is amended—

(A) in subparagraph (B), by striking "trustee's" each place it appears and inserting "Trustee's";

(B) in subparagraph (C), by striking "trustee" and "trustees" each place it appears and inserting "Trustee" and "Trustees", respectively; and

(C) in the matter preceding clause (i) of subparagraph (D), by striking "trustee" and inserting "Trustee".

**SA 4968.** Mrs. HUTCHISON (for Mr. HOLLINGS (for himself and Mr. MCCAIN)) proposed an amendment to the bill S. 2949, to provide for enhanced aviation security, and for other purposes; as follows:

#### **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 VI—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 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 for 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 requirement 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 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 House of Representatives Committees 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:

“§4922. 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 abroad 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 abroad 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.

(e) 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:

“§4923. 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:

“§4924. 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)” and

(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, 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 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 the 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 for 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”; 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(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);”; and

(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(c)(1)(C)–(F), 44908, and 44909), section 46302, 463403, 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 Acts 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.”

**SA 4969.** Mrs. HUTCHISON (for Mr. HOLLINGS (for himself, Mr. ROCKEFELLER, and Mr. MCCAIN)) proposed an amendment to amend SA 4968 proposed by Mrs. HUTCHISON (for Mr. HOLLINGS (for himself, and Mr. MCCAIN)) to the bill S. 2949, to provide for enhanced aviation security, and for other purposes; as follows:

At the end of the bill, add the following:

#### **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 rule-making 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 the requirement to passenger motor vehicles in phases in accordance with the 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 Sec-

retary 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.

**PRIVILEGE OF THE FLOOR**

Mr. LEAHY. Mr. President, I ask unanimous consent that Marit Delozier and Brian Greer, law clerks with the Judiciary Committee, be allowed floor privileges during the pendency of and vote on the Shedd nomination.

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

Mr. REID. Mr. President, I ask unanimous consent that Elaine Perry, a detailee with the Finance Committee, be granted floor privileges for the duration of consideration of H.R. 4070.

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

**EXECUTIVE SESSION**

**EXECUTIVE CALENDAR**

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Environment Committee be discharged from further consideration of the following nominations: Ann Pope to be