

HR 3150 EH

107th CONGRESS

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H. R. 3150

AN ACT

To improve aviation security, and for other purposes.

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

SECTION 1. SHORT TITLE; AMENDMENTS TO TITLE 49, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Airport Security Federalization Act of 2001'.

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

(c) TABLE OF CONTENTS- The table of contents for this Act is as follows:

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

TITLE I--AVIATION SECURITY

Sec. 101. Transportation Security Administration.

Sec. 102. Screening of passengers and property.

Sec. 103. Security programs.

Sec. 104. Employment standards and training.

Sec. 105. Deployment of Federal air marshals.

Sec. 106. Enhanced security measures.

Sec. 107. Criminal history record check for screeners and others.

Sec. 108. Passenger and baggage screening fee.

Sec. 109. Authorizations of appropriations.

Sec. 110. Limitation on liability for acts to thwart criminal violence or aircraft piracy.

Sec. 111. Passenger manifests.

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Sec. 114. Technical corrections.

Sec. 115. Alcohol and controlled substance testing.

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Sec. 117. Savings provision.

Sec. 118. Budget submissions.

Sec. 119. Aircraft operations in enhanced class B airspace.

Sec. 120. Waivers for certain isolated communities.

Sec. 121. Assessments of threats to airports.

Sec. 122. Requirement to honor passenger tickets of other carriers.

Sec. 123. Sense of Congress on certain aviation matters.

TITLE II--VICTIMS COMPENSATION

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

TITLE I--AVIATION SECURITY

SEC. 101. TRANSPORTATION SECURITY ADMINISTRATION.

(a) IN GENERAL- Chapter 1 is amended by adding at the end the following:

`Sec. 114. Transportation Security Administration

`(a) IN GENERAL- The Transportation Security Administration shall be an administration of the Department of Transportation.

`(b) UNDER SECRETARY-

`(1) APPOINTMENT- The head of the Administration shall be the Under Secretary of Transportation for Security. The Under Secretary shall be appointed by the President, by

and with the advice and consent of the Senate.

`(2) QUALIFICATIONS- The Under Secretary must--

`(A) be a citizen of the United States; and

`(B) have experience in a field directly related to transportation or security.

`(3) TERM- The term of office of an individual appointed as the Under Secretary shall be 5 years.

`(c) LIMITATION ON PECUNIARY INTERESTS- The Under Secretary may not have a pecuniary interest in, or own stock in or bonds of, a transportation or security enterprise, or an enterprise that makes equipment that could be used for security purposes.

`(d) FUNCTIONS-

`(1) IN GENERAL- The Under Secretary shall be responsible for security in all modes of transportation, including--

`(A) carrying out chapter 449 relating to civil aviation security; and

`(B) security responsibilities over nonaviation modes of transportation that are exercised by Administrations of the Department of Transportation (other than the Federal Aviation Administration).

`(2) SCHEDULE FOR ASSUMPTION OF CIVIL AVIATION SECURITY FUNCTIONS- Not later than 3 months after the date of enactment of this section, the Under Secretary shall assume civil aviation security functions and responsibilities under chapter 449 in accordance with a schedule to be developed by the Secretary of Transportation, in consultation with air carriers, foreign air carriers, and the Administrator of the Federal Aviation Administration. The Under Secretary shall publish an appropriate notice of the transfer of such security functions and responsibilities before assuming the functions and responsibilities.

`(3) ASSIGNMENT OF CONTRACTS- Upon request of the Under Secretary, an air carrier or foreign air carrier carrying out a screening or security function under chapter 449 may enter into an agreement with the Under Secretary to transfer any contract the carrier has entered into with respect to carrying out such function, before the Under Secretary assumes responsibility of such function.

`(e) ADDITIONAL DUTIES AND POWERS- In addition to carrying out the functions specified in subsection (d), the Under Secretary shall--

`(1) receive, assess, and distribute intelligence information related to transportation security;

`(2) assess threats to transportation;

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

`(4) make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;

`(5) serve as the primary liaison for transportation security to the intelligence and law enforcement communities;

`(6) supervise all airport security and screening services using Federal uniformed personnel;

`(7) on a day-to-day basis, manage and provide operational guidance to the field security resources of the Administration, including Federal Security Managers as provided by section 44933;

`(8) enforce security-related regulations and requirements;

`(9) identify and undertake research and development activities necessary to enhance transportation security;

`(10) inspect, maintain, and test security facilities, equipment, and systems;

`(11) ensure the adequacy of security measures for the transportation of cargo;

`(12) oversee the implementation, and ensure the adequacy, of security measures at airports and other transportation facilities;

`(13) perform background checks for airport security screening personnel, individuals with unescorted access to secure areas of airports, and other transportation security personnel;

`(14) develop standards for the hiring and retention of security screening personnel;

`(15) train and test security screening personnel; and

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

`(f) ACQUISITIONS-

`(1) IN GENERAL- The Under Secretary is authorized--

`(A) to acquire (by purchase, lease, condemnation, or otherwise) such real property, or any interest therein, within and outside the continental United States, as the Under Secretary considers necessary;

`(B) to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain such personal property (including office space and patents), or any interest therein, within and outside the continental United States, as the Under Secretary considers necessary;

`(C) to lease to others such real and personal property and to provide by contract or otherwise for necessary facilities for the welfare of its employees and to acquire

maintain and operate equipment for these facilities;

`(D) to acquire (by purchase, lease, condemnation, or otherwise) and to construct, repair, operate, and maintain research and testing sites and facilities; and

`(E) in cooperation with the Administrator of the Federal Aviation Administration, to utilize the research and development facilities of the Federal Aviation Administration located in Atlantic City, New Jersey.

`(2) TITLE- Title to any property or interest therein acquired pursuant to this subsection shall be held by the Government of the United States.

`(g) TRANSFERS OF FUNDS- The Under Secretary is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred, on or after the date of enactment of this section, by law to the Under Secretary.

`(h) REGULATIONS-

`(1) IN GENERAL- The Under Secretary is authorized to issue, rescind, and revise such regulations as are necessary to carry out the functions of the Administration.

`(2) EMERGENCY PROCEDURES-

`(A) IN GENERAL- Notwithstanding any other provision of law or executive order (including an executive order requiring a cost-benefit analysis) if the Under Secretary determines that a regulation or security directive must be issued immediately in order to protect transportation security, the Under Secretary shall issue the regulation or security directive without providing notice or an opportunity for comment and without prior approval of the Secretary.

`(B) REVIEW BY TRANSPORTATION SECURITY OVERSIGHT BOARD- Any regulation or security directive issued under this paragraph shall be subject to disapproval by the Transportation Security Oversight Board established under section 44951. Any regulation or security directive issued under this paragraph shall remain effective until disapproved by the Board or rescinded by the Under Secretary.

`(i) PERSONNEL AND SERVICES; COOPERATION BY UNDER SECRETARY-

`(1) AUTHORITY OF UNDER SECRETARY- In carrying out the functions of the Administration, the Under Secretary shall have the same authority as is provided to the Administrator of the Federal Aviation Administration under subsections (l) and (m) of section 106.

`(2) AUTHORITY OF AGENCY HEADS- The head of a Federal agency shall have the same authority to provide services, supplies, equipment, personnel, and facilities to the Under Secretary as the head has to provide services, supplies, equipment, personnel, and facilities to the Administrator of the Federal Aviation Administration under section 106(m).

`(j) PERSONNEL MANAGEMENT SYSTEM- The personnel management system established

by the Administrator of the Federal Aviation Administration under section 40122 shall apply to employees of the Transportation Security Administration, except that subject to the requirements of such section, the Under Secretary may make such modifications to the personnel management system with respect to such employees as the Under Secretary considers appropriate.

`(k) ACQUISITION MANAGEMENT SYSTEM- The acquisition management system established by the Administrator of the Federal Aviation Administration under section 40110 shall apply to acquisitions of equipment and materials by the Transportation Security Administration, except that subject to the requirements of such section, the Under Secretary may make such modifications to the acquisition management system with respect to such acquisitions of equipment and materials as the Under Secretary considers appropriate.

`(l) AUTHORITY OF INSPECTOR GENERAL- The Transportation Security Administration shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.) and other laws relating to the authority of the Inspector General of the Department of Transportation.'

(b) CONFORMING AMENDMENT- The analysis for chapter 1 is amended by adding at the end the following:

`114. Transportation Security Administration.'

(c) POSITION OF UNDER SECRETARY IN EXECUTIVE SCHEDULE- Section 5313 of title 5, United States Code, is amended by adding at the end the following:

`The Under Secretary of Transportation for Security'.

(d) PERSONNEL OF OTHER AGENCIES- The last sentence of section 106(m) is amended by inserting `personnel and' before `supplies and equipment'.

(e) SECURITY AND RESEARCH AND DEVELOPMENT ACTIVITIES- Section 40119 is amended--

(1) in subsection (a) by striking `Administrator of the Federal Aviation Administration' and inserting `Under Secretary of Transportation for Security'; and

(2) in subsections (b) and (c) by striking `Administrator' each place it appears and inserting `Under Secretary'.

(f) REFERENCES TO FAA IN CHAPTER 449- Chapter 449 is amended--

(1) in section 44904(b)(5) by striking `the Administration' and inserting `the Transportation Security Administration';

(2) in the second sentence of section 44913(a)(1) by striking `of the Administration' and inserting `of the Transportation Security Administration';

(3) in section 44916(a)--

(A) in the first sentence by striking `Administrator' and inserting `Under Secretary of Transportation for Security'; and

(B) in the second sentence by striking `Administration' and inserting `Transportation Security Administration';

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

(5) in section 44934(b)(1) by striking `Assistant Administrator' and inserting `Under Secretary';

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

(7) by striking `Administrator' each place it appears in such chapter (except in subsections (f) and (h) of section 44936) and inserting `Under Secretary';

(8) by striking `Administrator's' each place it appears in such chapter and inserting `Under Secretary's'; and

(9) by striking `of the Federal Aviation Administration' each place it appears in such chapter (except in section 44936(f)) and inserting `of Transportation for Security'.

SEC. 102. SCREENING OF PASSENGERS AND PROPERTY.

Section 44901 of such title is amended--

(1) in subsection (a)--

(A) by striking `a cabin of'; and

(B) by striking `a weapon-detecting' and all that follows through the period at the end of the second sentence and inserting `persons and procedures acceptable to the Under Secretary (or the Administrator before responsibilities under this subsection are assumed by the Under Secretary).'; and

(2) by adding at the end the following:

`(d) ASSUMPTION OF SCREENING FUNCTION BY UNDER SECRETARY-

`(1) IN GENERAL- The responsibility for the screening of passengers and property on passenger aircraft in air transportation that originates in the United States or intrastate air transportation that, on the date of enactment of this subsection, was performed by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier shall be assumed by the Under Secretary.

`(2) ADDITIONAL SCREENING AUTHORITY- The Under Secretary may perform any such additional screening of passengers and property on passenger aircraft in air transportation that originates in the United States or intrastate air transportation that the Under Secretary deems necessary to enhance aviation security.

`(e) SUPERVISION OF SCREENING- All screening of passengers and property at airports under

this section shall be supervised by uniformed Federal personnel of the Transportation Security Administration who shall have the power to order the dismissal of any individual performing such screening.

`(f) LIMITATION ON RIGHT TO STRIKE- An individual that screens passengers or property, or both, at an airport under this section may not participate in a strike, or assert the right to strike, against the person (including a governmental entity) employing such individual to perform such screening.

`(g) DEPUTIZATION OF AIRPORT SCREENING PERSONNEL- The Under Secretary shall deputize, for enforcement of such Federal laws as the Under Secretary determines appropriate, all airport screening personnel as Federal transportation security agents and shall ensure that such agents operate under common standards and common uniform, insignia, and badges.'

SEC. 103. SECURITY PROGRAMS.

Section 44903(c) is amended--

(1) in the first sentence of paragraph (1)--

(A) by striking 'a law enforcement presence' and inserting 'a law enforcement or military presence'; and

(B) by inserting after 'at each of those airports' the following: 'and at each location at those airports where passengers are screened'; and

(2) in paragraph (2)(C)(i) by striking 'shall issue an amendment to air carrier security programs to require' and inserting 'shall require'.

SEC. 104. EMPLOYMENT STANDARDS AND TRAINING.

(a) EMPLOYMENT STANDARDS- Section 44935(a) is amended--

(1) in the first sentence by inserting ', personnel who screen passengers and property,' after 'air carrier personnel';

(2) by striking 'and' at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(4) by adding at the end the following:

`(6) a requirement that all personnel who screen passengers and property be citizens of the United States;

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

`(8) minimum compensation levels, when appropriate;

`(9) a preference for the hiring of any individual who is a member or former member of the armed forces and who is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member of the armed forces; and

`(10) a preference for the hiring of any individual who is a former employee of an air carrier and whose employment with the air carrier was terminated as a result of a reduction in the workforce of the air carrier.'.

(b) FINAL RULES ESTABLISHING TRAINING STANDARDS FOR SCREENERS- Section 44935(e)(1) is amended by striking `May 31, 2001' and inserting `6 months after the date of enactment of the Airport Security Federalization Act of 2001'.

(c) EMPLOYMENT STANDARDS FOR SCREENERS; UNIFORMS- Section 44935 is amended by adding at the end the following:

`(g) TRAINING FOR ALL SCREENERS, SUPERVISORS, AND INSTRUCTORS-

`(1) IN GENERAL- The Under Secretary shall require any individual who screens passengers and property pursuant to section 44901, and the supervisors and instructors of such individuals, to have satisfactorily completed all initial, recurrent, and appropriate specialized training necessary to ensure compliance with the requirements of this section.

`(2) ON-THE-JOB PORTION OF SCREENER'S TRAINING- Notwithstanding paragraph (1), the Under Secretary may permit an individual, during the on-the-job portion of training, to perform security functions if the individual is closely supervised and does not make independent judgments as to whether persons or property may enter secure areas or aircraft or whether cargo may be loaded aboard aircraft without further inspection.

`(3) EFFECT OF SCREENER'S FAILURE OF OPERATION TEST- The Under Secretary may not allow an individual to perform a screening function after the individual has failed an operational test related to that function until the individual has successfully completed remedial training.

`(h) UNIFORMS- The Under Secretary shall require any individual who screens passengers and property pursuant section 44901 to be attired in a uniform, approved by the Under Secretary, while on duty.'.

(d) INTERIM EMPLOYMENT STANDARDS FOR SCREENING PERSONNEL- In the period beginning 30 days after the date of the enactment of this Act and ending on the first date that a final rule issued by the Under Secretary of Transportation for Security under section 44935(e)(1) of title 49, United States Code, takes effect, the following requirements shall apply to an individual who screens passengers and property pursuant to section 44901 of such title (in this subsection referred to as a `screener'):

(1) EDUCATION- A screener shall have a high school diploma, a general equivalency diploma, or a combination of education and experience that the Under Secretary has determined to have equipped the individual to perform the duties of the screening position.

(2) BASIC APTITUDES AND PHYSICAL ABILITIES- A screener shall have basic aptitudes and physical abilities (including color perception, visual and aural acuity, physical coordination, and motor skills) and shall have--

(A) the ability to identify the components that may constitute an explosive or an incendiary device;

(B) the ability to identify objects that appear to match those items described in all current regulations, security directives, and emergency amendments;

(C) for screeners operating X-ray and explosives detection system equipment, the ability to distinguish on the equipment monitors the appropriate images;

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

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

(F) for screeners performing manual searches or other related operations, the ability to efficiently and thoroughly manipulate and handle such baggage, containers, cargo, and other objects subject to security processing;

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

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

(I) for screeners performing pat-down or hand-held metal detector searches of persons, sufficient dexterity and capability to thoroughly conduct those procedures over a person's entire body; and

(J) the ability to demonstrate daily a fitness for duty without any impairment due to illegal drugs, sleep deprivation, medication, or alcohol.

(3) COMMAND OF ENGLISH LANGUAGE- A screener shall be able to read, speak, write, and understand the English language well enough to--

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

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

(C) provide direction to and understand and answer questions from English-speaking persons undergoing screening or submitting cargo for screening; and

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

SEC. 105. DEPLOYMENT OF FEDERAL AIR MARSHALS.

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

`Sec. 44917. Deployment of Federal air marshals

`(a) IN GENERAL- The Under Secretary of Transportation for Security under the authority provided by section 44903(d) shall--

`(1) provide for deployment of Federal air marshals on selected passenger flights of air carriers in air transportation or intrastate air transportation;

`(2) provide for appropriate background and fitness checks for candidates for appointment as Federal air marshals;

`(3) provide for appropriate training, supervision, and equipment of Federal air marshals at the facility of the Federal Aviation Administration in New Jersey;

`(4) require air carriers providing flights described in paragraph (1) to provide seating for a Federal air marshal on any such flight without regard to the availability of seats on the flight and at no cost to the United States Government or the marshal;

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

`(6) provide, in choosing among applicants for a position as a Federal air marshal, a preference for the hiring of a pilot of an air carrier whose employment with the air carrier was terminated as a result of a reduction in the workforce of the air carrier if the pilot is otherwise qualified for the position.

`(b) FLIGHTS IN FOREIGN AIR TRANSPORTATION- The Under Secretary shall work with appropriate aeronautic authorities of foreign governments under section 44907 to address security concerns on passenger flights in foreign air transportation.

`(c) INTERIM MEASURES- Until the Under Secretary completes implementation of subsection (a), the Under Secretary may use, after consultation with and concurrence of the heads of other Federal agencies and departments, personnel from those agencies and departments, on a nonreimbursable basis, to provide air marshal service.'

(b) CONFORMING AMENDMENT- The analysis for chapter 449 is amended by adding after the item relating to section 44916 the following:

`44917. Deployment of Federal air marshals.'

(c) BASIC PAY DEFINED- Section 8331(3)(E) of title 5, United States Code, is amended to read

as follows:

`(E) availability pay--

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

`(ii) received after September 11, 2001, by a Federal air marshal of the Department of Transportation;'

SEC. 106. ENHANCED SECURITY MEASURES.

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

`Sec. 44918. Enhanced security measures

`(a) IN GENERAL- To the extent the Under Secretary of Transportation for Security determines appropriate, the Under Secretary shall take the following actions:

`(1) After consultation with the Administrator of the Federal Aviation Administration, develop procedures and authorize equipment for pilots and other members of the flight crew to use to defend an aircraft against acts of criminal violence or aircraft piracy.

`(2) After consultation with the Administrator, develop and implement methods to--

`(A) restrict the opening of a cockpit door during a flight;

`(B) fortify cockpit doors to deny access from the cabin to the cockpit;

`(C) use video monitors or other devices to alert pilots in the cockpit to activity in the cabin; and

`(D) ensure continuous operation of an aircraft transponder in the event of an emergency.

`(3) Impose standards for the screening or inspection of persons and vehicles having access to secure areas of an airport.

`(4) Require effective 911 emergency call capability for telephones serving passenger aircraft and passenger trains.

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

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

`(7) Establish performance goals for individuals described in paragraph (6), provide for the use of threat image projection or similar devices to test such individuals, and establish

procedures to revoke the certification of such individuals if the individuals fail to maintain a required level of proficiency.

`(8) In consultation with air carriers and other government agencies, establish policies and procedures requiring air carriers to use information from government agencies to identify individuals on passenger lists who may be a threat to civil aviation and, if such an individual is identified, to notify appropriate law enforcement agencies and prohibit the individual from boarding an aircraft.

`(9) Provide for the enhanced use of computer profiling to more effectively screen passengers and property that will be carried in the cabin of an aircraft.

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

`(11) After consultation with the Administrator, provide for the installation of switches in an aircraft cabin to enable flight crews to discreetly notify the pilots in the case of a security breach occurring in the cabin.

`(12) Update training procedures used by the Federal Aviation Administration, law enforcement agencies, air carriers, and flight crews during hijackings to include measures relating to suicidal hijackers and other extremely dangerous events not currently described in the training procedures.

`(13) Provide for background checks of individuals seeking instruction (including training through the use of flight simulators) in flying aircraft that has a minimum certificated takeoff weight of more than 12,500 pounds.

`(14) Enter into agreements with Federal, State, and local agencies under which appropriately-trained law enforcement personnel from such agencies, when traveling on a flight of an air carrier, will carry a firearm and be prepared to assist Federal air marshals.

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

`(16) Establish a uniform system of identification for all State and local law enforcement personnel for use in obtaining permission to carry weapons in aircraft cabins and in obtaining access to a secured area of an airport.

`(17) Establish requirements under which air carriers, under the supervision of the Under Secretary, could implement trusted passenger programs and use available technologies to expedite the security screening of passengers who participate in such programs, thereby allowing security screening personnel to focus on those passengers who should be subject to more extensive screening.

`(18) In consultation with the Commissioner of Food and Drugs, develop security procedures under which a medical product to be transported on a flight of an air carrier

would not be subject to manual or x-ray inspection if conducting such an inspection would irreversibly damage the product.

`(19) Develop security procedures to allow passengers transporting a musical instrument on a flight of an air carrier to transport the instrument in the passenger cabin of the aircraft, notwithstanding any size or other restriction on carry-on baggage but subject to such other reasonable terms and conditions as may be established by the Under Secretary or the air carrier, including imposing additional charges by the air carrier.

`(20) Provide for the use of wireless and wire line data technologies enabling the private and secure communication of threats to aid in the screening of passengers and other individuals on airport property who are identified on any State or Federal security-related data base for the purpose of having an integrated response coordination of various authorized airport security forces.

`(b) AIRWORTHINESS OBJECTIONS BY FAA-

`(1) IN GENERAL- The Under Secretary shall not take an action under subsection (a) if the Administrator notifies the Under Secretary that the action could adversely affect the airworthiness of an aircraft.

`(2) REVIEW BY SECRETARY- Notwithstanding paragraph (1), the Under Secretary may take an action under subsection (a), after receiving a notification concerning the action from the Administrator under paragraph (1), if the Secretary of Transportation subsequently approves the action.

`(c) VIEW OF NTSB- In taking any action under subsection (a) that could affect safety, the Under Secretary shall solicit and give great weight to the views of the National Transportation Safety Board.

`(d) PROPERTY SECURITY PROGRAM-

`(1) CHECKED BAGGAGE-

`(A) FINAL DEADLINE FOR SCREENING- A system must be in operation to screen all checked baggage at all airports in the United States no later than December 31, 2003.

`(B) USE OF EXPLOSIVE DETECTION EQUIPMENT- The Under Secretary shall ensure that explosive detection equipment installed at airports to screen checked baggage is used to the maximum extent possible.

`(C) INSTALLATION OF ADDITIONAL EXPLOSIVE DETECTION EQUIPMENT- The Under Secretary shall install additional explosive detection equipment at airports as soon as possible to ensure that all checked baggage is screened before being placed in an aircraft.

`(D) INTERIM BAG-MATCH PROGRAMS- Until the Under Secretary has installed enough explosive detection equipment at airports to ensure that all checked baggage is screened, the Under Secretary shall require air carriers to implement bag-match

programs that ensure that no checked baggage is placed in an aircraft unless the passenger who checks the baggage is aboard the aircraft.

`(2) CARGO DEADLINE- A system must be in operation to screen all cargo that is to be transported in passenger aircraft in air transportation and intrastate air transportation as soon as practicable after the date of enactment of this paragraph.

`(e) LIMITATION ON CERTAIN ACTIONS- The Secretary of Transportation shall not take any action to prevent a pilot of an air carrier from taking a firearm into the cockpit of the aircraft if the policy of the air carrier permits its pilots to be armed and the pilot has successfully completed a training program for the carriage of firearms aboard aircraft that is acceptable to the Under Secretary.

`(f) REPORT- Not later than 6 months after the date of enactment of this section, and annually thereafter until the Under Secretary determines whether or not to take each of the actions specified in subsection (a), the Under Secretary shall transmit to Congress a report on the progress of the Under Secretary in evaluating and taking such actions, including any legislative recommendations that the Under Secretary may have for enhancing transportation security, and on the progress the Under Secretary is making in carrying out subsection (d).'

(b) CONFORMING AMENDMENT- The analysis for chapter 449 is amended by inserting after the item relating to section 44917 the following:

`44918. Enhanced security measures.'

(c) REPEAL OF EXISTING REPORTING REQUIREMENT-

(1) IN GENERAL- Section 44938 is amended--

(A) in the section heading by striking 'Reports' and inserting 'Report'; and

(B) by striking '(a) TRANSPORTATION SECURITY- ' and all that follows through '(b) SCREENING AND FOREIGN AIR CARRIER AND AIRPORT SECURITY- The Administrator' and inserting 'The Under Secretary of Transportation for Security'.

(2) CHAPTER ANALYSIS- The analysis for chapter 449 is amended by striking the item relating section 44938 and inserting the following:

`44938. Report.'

SEC. 107. CRIMINAL HISTORY RECORD CHECK FOR SCREENERS AND OTHERS.

Section 44936(a) is amended--

(1) in paragraph (1)(E)(iv)(II) by striking the period at the end and inserting `; except that at such an airport, the airport operator, air carriers, and certified screening companies may elect to implement the requirements of this subparagraph in advance of the effective date if the Under Secretary (or the Administrator of the Federal Aviation Administration before the

transfer of civil aviation security responsibilities to the Under Secretary) approves of such early implementation and if the airport operator, air carriers, and certified screening companies amend their security programs to conform those programs to the requirements of this subparagraph.';

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

`(G) BACKGROUND CHECKS OF CURRENT EMPLOYEES- A background check (including a criminal history record check and a review of available law enforcement data bases and records of other governmental and international agencies) shall be required for any individual who currently has unescorted access to an aircraft of an air carrier or foreign air carrier, unescorted access to a secured area of an airport in the United States that serves an air carrier or foreign air carrier, or is responsible for screening passengers or property, or both, unless that individual was subject to such a background check before the individual began his or her current employment or is exempted from such a check under section 107.31(m) of title 14, Code of Federal Regulations.'; and

(3) in paragraph (2)--

(A) by striking `or airport operator' and inserting `airport operator, or certificated screening company'; and

(B) by adding at the end the following: `In this paragraph, the term `certificated screening company' means a screening company to which the Under Secretary has issued a screening company certificate authorizing the screening company to provide security screening.'.

SEC. 108. PASSENGER AND BAGGAGE SCREENING FEE.

(a) IN GENERAL- Subchapter II of chapter 449 is amended by adding at the end the following:

`Sec. 44939. Passenger and baggage screening fee

`(a) GENERAL AUTHORITY-

`(1) PASSENGER FEES- The Under Secretary of Transportation for Security shall impose a fee, on passengers of air carriers and foreign air carriers in air transportation and intrastate air transportation originating at airports in the United States, to pay for the costs of the screening of passengers and property pursuant to section 44901(d). Such costs shall be limited to the salaries and benefits of screening personnel and their direct supervisors, training of screening personnel, and acquisition, operation, and maintenance of equipment used by screening personnel and shall be determined by the Under Secretary.

`(2) AIR CARRIER FEES-

`(A) AUTHORITY- In addition to the fee imposed pursuant to paragraph (1), and only to the extent that such fee is insufficient to pay for the costs of the screening of passengers and property pursuant to section 44901(d), the Under Secretary may impose a fee on air carriers to pay for the difference between any such costs and the

amount collected from such fee.

`(B) LIMITATION- The amounts of fees collected under this paragraph may not exceed, in the aggregate, the amounts paid in calendar year 2000 by air carriers for screening activities described in paragraph (1) as determined by the Under Secretary.

`(b) SCHEDULE OF FEES- In imposing fees under subsection (a), the Under Secretary shall ensure that the fees are reasonably related to the Transportation Security Administration's costs of providing services rendered.

`(c) LIMITATION ON FEE- Fees imposed under subsection (a)(1) may not exceed \$2.50 on a 1-way trip in air transportation or intrastate air transportation that originates at an airport in the United States.

`(d) IMPOSITION OF FEE-

`(1) IN GENERAL- Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Under Secretary shall impose the fee under subsection (a)(1), and may impose a fee under subsection (a)(2), through the publication of notice of such fee in the Federal Register and begin collection of the fee within 60 days of the date of enactment of this Act, or as soon as possible thereafter.

`(2) SUBSEQUENT MODIFICATION OF FEE- After imposing a fee in accordance with paragraph (1), the Under Secretary may modify, from time to time through publication of notice in the Federal Register, the imposition or collection of such fee, or both.

`(3) LIMITATION ON COLLECTION- No fee may be collected under this section, except to the extent that expenditure of such fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act.

`(e) ADMINISTRATION OF FEES-

`(1) FEES PAYABLE TO UNDER SECRETARY- All fees imposed and amounts collected under this section are payable to the Under Secretary.

`(2) FEES COLLECTED BY AIR CARRIER- A fee imposed under subsection (a)(1) shall be collected by the air carrier or foreign air carrier providing the transportation described in subsection (a)(1).

`(3) DUE DATE FOR REMITTANCE- A fee collected under this section shall be remitted on the last day of each calendar month by the carrier collecting the fee. The amount to be remitted shall be for the calendar month preceding the calendar month in which the remittance is made.

`(4) INFORMATION- The Under Secretary may require the provision of such information as the Under Secretary decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

`(f) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS- Notwithstanding section 3302 of title 31, any fee collected under this section--

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

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

`(3) shall remain available until expended.

`(g) REFUNDS- The Under Secretary may refund any fee paid by mistake or any amount paid in excess of that required.'.

(b) CONFORMING AMENDMENT- The analysis for chapter 449 is amended by adding after the item relating to section 44938 the following:

`44939. Passenger and baggage screening fee.'.

(c) EXEMPTIONS- Section 44915 is amended by striking `and 44936' and inserting `44936, and 44939'.

SEC. 109. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL- Subchapter II of chapter 449 is further amended by adding at the end the following:

`Sec. 44940. Authorizations of appropriations

`(a) OPERATIONS OF TRANSPORTATION SECURITY ADMINISTRATION- There are authorized to be appropriated such sums as may be necessary for the operations of the Transportation Security Administration, including the functions of the Administration under section 44901(d) if the fees imposed under section 44939 are insufficient to cover the costs of such functions.

`(b) GRANTS FOR AIRCRAFT SECURITY- There is authorized to be appropriated \$500,000,000 for the Secretary of Transportation to make grants to air carriers to--

`(1) fortify cockpit doors to deny access from the cabin to the pilots in the cockpit;

`(2) provide for the use of video monitors or other devices to alert the cockpit crew to activity in the passenger cabin;

`(3) ensure continuous operation of the aircraft transponder in the event the crew faces an emergency; and

`(4) provide for the use of other innovative technologies to enhance aircraft security.

`(c) AIRPORT SECURITY-

`(1) IN GENERAL- There is authorized to be appropriated to the Secretary for fiscal years 2002 and 2003 a total of \$1,500,000,000 to reimburse airport operators for direct costs incurred by such operators to comply with new, additional, or revised security requirements

imposed on such operators by the Federal Aviation Administration or Transportation Security Administration on or after September 11, 2001. Such sums shall remain available until expended.

`(2) CONDITIONS- Before providing financial assistance to an airport operator with funds appropriated pursuant to paragraph (1), the Secretary shall require the operator to provide assurances that the operator will--

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

`(B) provide to the Secretary an itemized list of costs incurred by the operator to comply with the security requirements described in paragraph (1), including costs relating to landing fees, automobile parking revenues, rental cars, restaurants, and gift shops.'.

(b) CONFORMING AMENDMENT- The analysis for chapter 449 is amended by adding after the item relating to section 44939 the following:

`44940. Authorizations of appropriations.'.

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

Section 44903 is amended by adding at the end the following:

`(h) LIMITATION ON LIABILITY FOR ACTS TO THWART CRIMINAL VIOLENCE OR AIRCRAFT PIRACY- An individual shall not be liable for damages in any action brought in a Federal or State court arising out of the acts of the individual in attempting to thwart an act of criminal violence or piracy on an aircraft if that individual in good faith believed that such an act of criminal violence or piracy was occurring or was about to occur.'.

SEC. 111. PASSENGER MANIFESTS.

Section 44909 is amended by adding at the end the following:

`(c) FLIGHTS IN FOREIGN AIR TRANSPORTATION TO THE UNITED STATES-

`(1) IN GENERAL- Not later than 60 days after the date of enactment of this subsection, the Under Secretary of Transportation for Security shall require each air carrier and foreign air carrier operating a passenger flight in foreign air transportation to the United States to provide to the Under Secretary by electronic transmission a passenger and crew manifest containing the information specified in paragraph (2).

`(2) INFORMATION- A passenger and crew manifest for a flight required under paragraph (1) shall contain the following information:

`(A) The full name of each passenger and crew member.

`(B) The date of birth and citizenship of each passenger and crew member.

`(C) The sex of each passenger and crew member.

`(D) The passport number and country of issuance of each passenger and crew member if required for travel.

`(E) The United States visa number or resident alien card number of each passenger and crew member, as applicable.

`(F) The passenger name record of each passenger.

`(G) Such other information as the Under Secretary, by regulation, determines is reasonably necessary to ensure aviation safety.

`(3) TRANSMISSION OF MANIFEST- Subject to paragraph (4), a passenger and crew manifest required for a flight under paragraph (1) shall be transmitted to the Under Secretary in advance of the aircraft landing in the United States in such manner, time, and form as the Under Secretary prescribes.

`(4) TRANSMISSION OF MANIFESTS TO OTHER FEDERAL AGENCIES- The Under Secretary may require by regulation that a passenger and crew manifest required for a flight under paragraph (1) be transmitted directly to the head of another Federal agency.'.

SEC. 112. TRANSPORTATION SECURITY OVERSIGHT BOARD.

(a) IN GENERAL- Chapter 449 is amended by adding at the end the following:

`SUBCHAPTER III--TRANSPORTATION SECURITY OVERSIGHT BOARD

`Sec. 44951. Transportation Security Oversight Board

`(a) IN GENERAL- There is established a board to be known as a `Transportation Security Oversight Board'.

`(b) MEMBERSHIP-

`(1) NUMBER AND APPOINTMENT- The Board shall be composed of 5 members as follows:

`(A) The Secretary of Transportation (or the Secretary's designee).

`(B) The Attorney General (or the Attorney General's designee).

`(C) The Secretary of the Treasury (or the Secretary's designee).

`(D) The Secretary of Defense (or the Secretary's designee).

`(E) One member appointed by the President to represent the National Security

Council or the Office of Homeland Security.

`(2) CHAIRPERSON- The Chairperson of the Board shall be the Secretary of Transportation.

`(c) DUTIES- The Board shall--

`(1) review and ratify or disapprove any regulation or security directive issued by the Under Secretary of Transportation for security under section 114(h)(2) within 30 days after the date of issuance of such regulation or directive;

`(2) share intelligence information with the Under Secretary;

`(3) review--

`(A) plans for transportation security;

`(B) standards established for performance of airport security screening personnel;

`(C) compensation being paid to airport security screening personnel;

`(D) procurement of security equipment;

`(E) selection, performance, and compensation of senior executives in the Transportation Security Administration;

`(F) waivers granted by the Under Secretary under section 120 of the Airport Security Federalization Act of 2001 and may ratify or disapprove such waivers; and

`(G) budget requests of the Under Secretary; and

`(4) make recommendations to the Under Secretary regarding matters reviewed under paragraph (3).

`(d) QUARTERLY MEETINGS- The Board shall meet at least quarterly.

`(e) CONSIDERATION OF SECURITY INFORMATION- A majority of the Board may vote to close a meeting of the Board to the public when classified, sensitive security information, or information protected in accordance with section 40119(b), will be discussed.

`Sec. 44952. Advisory council

`(a) ESTABLISHMENT- The Under Secretary of Transportation for Security shall establish an advisory council to be known as the 'Transportation Security Advisory Council'.

`(b) MEMBERSHIP- The Council shall be composed of members appointed by the Under Secretary to represent all modes of transportation, transportation labor, screening companies, organizations representing families of victims of transportation disasters, and other entities affected or involved in the transportation security process.

`(c) DUTIES- The Council shall provide advice and counsel to the Under Secretary on issues which affect or are affected by the operations of the Transportation Security Administration. The Council shall function as a resource for management, policy, spending, and regulatory matters under the jurisdiction of the Transportation Security Administration.

`(d) ADMINISTRATIVE MATTERS-

`(1) MEETINGS- The Council shall meet on a regular and periodic basis or at the call of the Chairperson or the Under Secretary.

`(2) ACCESS TO DOCUMENTS AND STAFF- The Under Secretary may give the Council appropriate access to relevant documents and personnel of the Administration, and the Under Secretary shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5 (commonly known as the 'Freedom of Information Act'), cost data associated with the acquisition and operation of security screening equipment. Any member of the Council who receives commercial or other proprietary data from the Under Secretary shall be subject to the provisions of section 1905 of title 18, pertaining to unauthorized disclosure of such information.

`(3) CHAIRPERSON AND VICE CHAIRPERSON- The Council shall elect a Chairperson and a Vice Chairperson from among the members, each of whom shall serve for a term of 2 years. The Vice Chairperson shall perform the duties of the Chairperson in the absence of the Chairperson.

`(4) TRAVEL AND PER DIEM- Each member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

`(5) DETAIL OF PERSONNEL FROM THE ADMINISTRATION- The Under Secretary shall make available to the Council such staff, information, and administrative services and assistance as may reasonably be required to enable the Council to carry out its responsibilities under this section.

`(e) FEDERAL ADVISORY COMMITTEE ACT NOT TO APPLY- The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Council.'

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

`SUBCHAPTER III--TRANSPORTATION SECURITY OVERSIGHT BOARD

`44951. Transportation Security Oversight Board.

`44952. Advisory council.'

SEC. 113. AIRPORT IMPROVEMENT PROGRAMS.

(a) COMPETITION PLAN- Section 47106(f) is amended--

(1) by redesignating paragraph (3) as paragraph (4); and

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

`(3) SPECIAL RULE FOR FISCAL YEAR 2002- This subsection does not apply to any passenger facility fee approved, or grant made, in fiscal year 2002 if the fee or grant is to be used to improve security at a covered airport.'

(b) AIRPORT DEVELOPMENT DEFINED- Section 47102(3) is amended by adding at the end the following:

`(J) hiring, training, compensating, or reimbursement for law enforcement personnel at a non-hub or small hub airport (as defined in section 41731).

`(K) in fiscal year 2002, any activity, including operational activities, of an airport that is not a primary airport if that airport is located within the confines of enhanced class B airspace, as defined by Notice to Airmen FDC 1/0618 issued by the Federal Aviation Administration.

`(L) in fiscal year 2002, payments for debt service on indebtedness incurred to carry out a project at an airport owned or controlled by the sponsor or at a privately owned or operated airport passenger terminal financed by indebtedness incurred by the sponsor if the Secretary determines that such payments are necessary to prevent a default on the indebtedness.'

(c) REIMBURSEMENT FOR PAST EXPENSES- Section 47110(b)(2) is amended--

(1) by striking `or' at the end of subparagraph (B);

(2) by inserting after the semicolon at the end of the subparagraph (C)(iii) `or'; and

(3) by inserting at the end the following:

`(D) if the cost is incurred after September 11, 2001, for a project described in subparagraphs (J), (K), or (L) of section 47102(3) without regard to the date of execution of a grant agreement under this subchapter.'

(d) FEDERAL SHARE- Section 47109(a) is amended--

(1) by striking `and' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting `; and'; and

(3) by adding at the end the following:

`(5) 100 percent for a project described in subparagraphs (J), (K), or (L) of section 47102(3).'

(e) CONFORMING AMENDMENT TO AIRPORT AND AIRWAY TRUST FUND- Section 9502(d)(1)(A) of the Internal Revenue Code of 1986 (relating to airport and airway program) is

amended by inserting `or the Airport Security Federalization Act of 2001' after `21st Century'.

SEC. 114. TECHNICAL CORRECTIONS.

(a) **REPORT DEADLINE**- Section 106(a) of the Air Transportation Safety and System Stabilization Act (Public Law 107-42) is amended by striking `February 1, 2001' and inserting `February 1, 2002'.

(b) **INSURANCE AND REINSURANCE OF AIRCRAFT**- Section 44306(c) (as redesignated by section 201(d) of such Act) is amended by inserting `in the interest of air commerce or national security' before `to carry out foreign policy'.

(c) **FEDERAL CREDIT INSTRUMENTS**- Section 102(c)(2)(A) of such Act is amended by striking `representatives' and inserting `representations'.

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

`(d) **COMPENSATION FOR AIR CARRIERS PROVIDING AIR AMBULANCE SERVICES**-

 `(1) **SET-ASIDE**- The President may set aside a portion of the amount of compensation payable to air carriers under section 101(a)(2) to provide compensation to air carriers providing air ambulance services. The President shall reduce the \$4,500,000,000 specified in subsection (b)(2)(A)(i) by the amount set aside under this subsection.

 `(2) **DISTRIBUTION OF AMOUNTS**- The President shall distribute the amount set aside under this subsection proportionally among air carriers providing air ambulance services based on an appropriate auditable measure, as determined by the President.'

SEC. 115. ALCOHOL AND CONTROLLED SUBSTANCE TESTING.

Chapter 451 is amended--

(1) by striking `contract personnel' each place it appears and inserting `personnel';

(2) by striking `contract employee' each place it appears and inserting `employee';

(3) in section 45106(c) by striking `contract employees' and inserting `employees';

(4) by inserting after section 45106 the following:

`Sec. 45107. Transportation Security Administration

 `(a) **TRANSFER OF FUNCTIONS RELATING TO TESTING PROGRAMS WITH RESPECT TO AIRPORT SECURITY SCREENING PERSONNEL**- The authority of the Administrator of the Federal Aviation Administration under this chapter with respect to programs relating to testing of airport security screening personnel are transferred to the Under Secretary of Transportation for Security. Notwithstanding section 45102(a), the regulations prescribed under section 45102(a) shall require testing of such personnel by their employers instead of by air carriers and foreign air carriers.

`(b) APPLICABILITY OF CHAPTER WITH RESPECT TO EMPLOYEES OF ADMINISTRATION- The provisions of this chapter that apply with respect to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions shall apply with respect to employees of the Transportation Security Administration whose duties include responsibility for security-sensitive functions. The Under Secretary of Transportation for Security, the Transportation Security Administration, and employees of the Transportation Security Administration whose duties include responsibility for security-sensitive functions shall be subject to and comply with such provisions in the same manner and to the same extent as the Administrator of the Federal Aviation Administration, the Federal Aviation Administration, and employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions, respectively.'; and

(5) in the analysis for such chapter by inserting after the item relating to section 45106 the following:

`45107. Transportation Security Administration.'.

SEC. 116. CONFORMING AMENDMENTS TO SUBTITLE VII.

(a) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS- Part A of subtitle VII is amended--

(1) by moving subsections (f), (g), and (h) of section 44936 from section 44936, inserting them at the end of section 44703, and redesignating them as subsections (h), (i), and (j), respectively; and

(2) in subsections (i) and (j) of section 44703 (as moved to the end of section 44703 by paragraph (1) of this subsection), by striking `subsection (f)' each place it appears and inserting `subsection (h)'.

(b) INVESTIGATIONS AND PROCEDURES- Chapter 461 is amended--

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

(2) by striking `or Administrator' each place it appears and inserting `, Under Secretary, or Administrator';

(3) in section 46101(a)(2) by striking `of Transportation or the' and inserting `, Under Secretary, or';

(4) in section 46102(b) by striking `and the Administrator' and inserting `, the Under Secretary, and the Administrator';

(5) in section 46102(c) by striking `and Administrator' each place it appears and inserting `, Under Secretary, and Administrator';

(6) in each of sections 46102(d) and 46104(b) by inserting `the Under Secretary,' after

`Secretary,';

(7) in the heading to section 46106 by striking `**Secretary of Transportation and Administrator of the Federal Aviation Administration**' and inserting `**Department of Transportation**'; and

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

(c) ADMINISTRATIVE- Section 40113 is amended--

(1) in subsection (a)--

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

(B) by striking `or Administrator' and inserting `, Under Secretary, or Administrator'; and

(2) in subsection (d)--

(A) by inserting after `The' the following: `Under Secretary of Transportation for Security or the';

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

(C) by striking `the Administrator decides' and inserting `the Under Secretary or Administrator, as the case may be, decides'.

(d) PENALTIES- Chapter 463 is amended--

(1) in section 46301(d)(2)--

(A) by striking `, chapter 449 (except sections 44902, 44903(d), 44907(a)-(d)(1)(A) and (d)(1)(C)-(f), 44908, and 44909),';

(B) by inserting after the first sentence the following: `The Under Secretary of Transportation for Security may impose a civil penalty for a violation of chapter 449 (except sections 44902, 44903(d), 44907(a)-(d)(1)(A), 44907(d)(1)(C)-(f), 44908, and 44909) or a regulation prescribed or order issued under such chapter 449.'; and

(C) by inserting `Under Secretary or' before `Administrator shall';

(2) in each of paragraphs (3) and (4) of section 46301(d) by striking `Administrator' each place it appears and inserting `Under Secretary or Administrator';

(3) in section 46301(d)(8) by striking `Administrator' and inserting `Under Secretary, Administrator,';

(4) in section 46301(h)(2) by inserting after `(or' the following: `the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or';

(5) in section 46303(c)(2) by inserting `or the Under Secretary of Transportation for Security' after `Federal Aviation Administration';

(6) in section 46311--

(A) by inserting after `Transportation,' the following: `the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary,';

(B) by inserting after `Secretary,' each place it appears the following: `Under Secretary,'; and

(C) by striking `or Administrator' each place it appears and inserting `, Under Secretary, or Administrator';

(7) in each of sections 46313 and 46316 by inserting after `(or' the following: `the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or'; and

(8) in section 46505(d)(2) by inserting `or the Under Secretary of Transportation for Security' after `Federal Aviation Administration'.

SEC. 117. SAVINGS PROVISION.

(a) **TRANSFER OF ASSETS AND PERSONNEL-** Except as otherwise provided in this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Transportation Security Administration by this Act shall be transferred to the Transportation Security Administration for use in connection with the functions transferred. Unexpended balances of appropriations, allocations, and other funds made available to the Federal Aviation Administration to carry out such functions shall also be transferred to the Transportation Security Administration for use in connection with the functions transferred.

(b) **LEGAL DOCUMENTS-** All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges--

(1) that have been issued, made, granted, or allowed to become effective by the Federal Aviation Administration, any officer or employee thereof, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect

according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Under Secretary of Transportation for Security, any other authorized official, a court of competent jurisdiction, or operation of law.

(c) PROCEEDINGS-

(1) IN GENERAL- The provisions of this Act shall not affect any proceedings or any application for any license pending before the Federal Aviation Administration at the time this Act takes effect, insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

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

(3) ORDERLY TRANSFER- The Secretary of Transportation is authorized to provide for the orderly transfer of pending proceedings from the Federal Aviation Administration.

(d) SUITS-

(1) IN GENERAL- This Act shall not affect suits commenced before the date of the enactment of this Act, except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) SUITS BY OR AGAINST FAA- Any suit by or against the Federal Aviation Administration begun before the date of the enactment of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Transportation Security Administration (to the extent the suit involves functions transferred to the Transportation Security Administration under this Act) substituted for the Federal Aviation Administration.

(3) REMANDED CASES- If the court in a suit described in paragraph (1) remands a case to the Transportation Security Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS- No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Federal Aviation Administration shall abate by reason of the enactment of this Act. No cause of action by or against the Federal Aviation Administration, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

(f) EXERCISE OF AUTHORITIES- Except as otherwise provided by law, an officer or employee

of the Transportation Security Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act.

(g) ACT DEFINED- In this section, the term 'Act' includes the amendments made by this Act.

SEC. 118. BUDGET SUBMISSIONS.

The President's budget submission for fiscal year 2003 and each fiscal year thereafter shall reflect the establishment of the Transportation Security Administration.

SEC. 119. AIRCRAFT OPERATIONS IN ENHANCED CLASS B AIRSPACE.

Notice to Airmen FDC 1/0618 issued by the Federal Aviation Administration, and any other regulation, order, or directive that restricts the ability of United States registered aircraft to conduct operations under part 91 of title 14, Code of Federal Regulations, in enhanced class B airspace (as defined by such Notice), shall cease to be in effect beginning on the 10th day following the date of the enactment of this Act, unless the Secretary of Transportation publishes a notice in the Federal Register before such 10th day reimposing the restriction and explaining the reasons for the restriction.

SEC. 120. WAIVERS FOR CERTAIN ISOLATED COMMUNITIES.

(a) IN GENERAL- In any case in which a restriction is imposed on an air carrier (as defined in section 40102 of title 49, United States Code) for reasons of national security by any government agency, the Under Secretary of Transportation for Security may grant a waiver from such restrictions for the carriage of cargo, mail, patients, and emergency medical supplies (and associated personnel) on flights to or from a community that is not accessible by road, or that is more than 200 miles, from a hub airport (as defined in section 41731 of such title).

(b) REVIEW AND DISAPPROVAL- Any grant of a waiver by the Under Secretary under this section shall be subject to review and disapproval by the Transportation Security Oversight Board.

(c) LIMITATIONS- The Board may impose reasonable limitations on any waiver granted under this section.

SEC. 121. ASSESSMENTS OF THREATS TO AIRPORTS.

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

`(d) PASSENGER VEHICLES-

`(1) THREAT ASSESSMENT- An operator of an airport with scheduled passenger service, in consultation with appropriate State or local law enforcement authorities, may conduct a threat assessment of the airport to determine whether passenger vehicles should be permitted to park within 300 feet of the airport terminal building.

`(2) REMOVAL OF CERTAIN RESTRICTIONS- If the airport operator, after consultation with the appropriate State or local law enforcement authorities, determines that safeguards are in place to sufficiently protect public safety and so certifies, in writing, to the Secretary of Transportation, any rule, order, or other directive of the Secretary prohibiting the parking of passenger vehicles within 300 feet of an airport terminal building shall not apply to the terminal building at such airport.'.

SEC. 122. REQUIREMENT TO HONOR PASSENGER TICKETS OF OTHER CARRIERS.

(a) IN GENERAL- Subchapter I of chapter 417 is amended by adding at the end the following:

`Sec. 41722. Requirement to honor passenger tickets of other carriers

`Each air carrier that provides scheduled air transportation on a route shall provide, to the extent practicable, air transportation to passengers ticketed for air transportation on that route by any other air carrier that suspends, interrupts, or discontinues air passenger service on the route by reason of an act of war or terrorism or insolvency or bankruptcy of the carrier.'.

(b) CONFORMING AMENDMENT- The analysis for such subchapter is amended by adding at the end the following:

`41722. Requirement to honor passenger tickets of other carriers.'.

SEC. 123. SENSE OF CONGRESS ON CERTAIN AVIATION MATTERS.

(a) FLIGHT SERVICE STATION EMPLOYEES- It is the sense of Congress that the Administrator of the Federal Aviation Administration should continue negotiating in good faith with flight service station employees of the Administration with a goal of reaching agreement on a contract as soon as possible.

(b) WAR RISK INSURANCE- It is the sense of Congress that the Secretary of Transportation should implement section 202 of the Air Transportation Safety and System Stabilization Act (Public Law 107-42) so as to make war risk insurance available to vendors, agents, and subcontractors of general aviation aircraft.

(c) TRANSPORT OF ANIMALS- It is the sense of Congress that an air carrier that transports mail under a contract with the United States Postal Service should transport any animal that the Postal Service allows to be shipped through the mail.

(d) SCREENING- It is the sense of Congress that the Under Secretary of Transportation for Security should require, as soon as practicable, that all property carried in a passenger aircraft in air transportation or intrastate air transportation (including checked baggage) be screened by any currently available means, including X-ray machine, hand-held metal detector, explosive detection system equipment, or manual search.

(e) CONTRACTS FOR AIRPORT SECURITY SERVICES- It is the sense of Congress that, in awarding a contract for airport security services, the Under Secretary of Transportation for Security should, to the maximum extent practicable, award the contract to a firm that is owned and controlled by a citizen of the United States.

TITLE II--VICTIMS COMPENSATION

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

Section 408 of the Air Transportation Safety and System Stabilization Act (Public Law 107-42; 115 Stat. 240; 49 U.S.C. 40101 note) is amended--

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

`SEC. 408. LIMITATION ON LIABILITY FOR DAMAGES ARISING OUT OF CRASHES OF SEPTEMBER 11, 2001.';

(2) by amending subsection (a) to read as follows:

`(a) GENERAL LIMITATION OF LIABILITY- Except as provided in this section, no Federal court or agency or State court or agency shall enforce any Federal or State law holding any person, or any State or political subdivision thereof, liable for any damages arising out of the hijacking and subsequent crashes of American Airlines flights 11 or 77, or United Airlines flights 93 or 175, on September 11, 2001.';

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

`(4) DAMAGES- If any party to any action brought under this subsection is determined to be liable--

`(A) no damages in the aggregate ordered by the court to be paid by such party shall exceed the amount of insurance, minus any payments made pursuant to a court approved settlement, which such party is determined to have obtained prior to September 11, 2001, and which is determined to cover such party's liability for any damages arising out of the hijacking and subsequent crashes of American Airlines flights 11 or 77, or United Airlines flights 93 or 175, on September 11, 2001;

`(B) such party shall not be liable for interest prior to the judgment or for punitive damages intended to punish or deter; and

`(C) the court shall reduce the amount of damages awarded to a plaintiff by the amount of collateral source compensation that the plaintiff has received or is entitled to receive as a result of the terrorist-related aircraft crashes of September 11, 2001.

`(5) ATTORNEYS' FEES- Reasonable attorneys' fees for work performed in any action brought under this subsection shall be subject to the discretion of the court, but in no event shall any attorney charge, demand, receive, or collect for services rendered, fees in excess of 20 percent of the damages ordered by the court to be paid pursuant to this subsection, or in excess of 20 percent of any court approved settlement made of any claim cognizable under this subsection. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this subsection, if recovery be had, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.';

(4) by amending subsection (c) to read as follows:

`(c) EXCLUSION- Nothing in this section shall in any way limit any liability of any person who--

`(1) hijacks any aircraft or commits any terrorist act; or

`(2) knowingly participates in a conspiracy to hijack any aircraft or commit any terrorist act.'; and

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

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

`(e) STATE DEFINED- In this section, the term `State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory of possession of the United States or any political subdivision of any of the foregoing.'.

Passed the House of Representatives November 1, 2001.

Attest:

Clerk.

107th CONGRESS

1st Session

H. R. 3150

AN ACT

To improve aviation security, and for other purposes.

END