

Withdrawn/Redacted Material

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Letter	[Response to request for views on S. 1447] - To: Mitchell E. Daniels, Jr. - From: Kirk K. Van Tine	4	11/19/2001	P5;

COLLECTION TITLE:

Executive Clerk, Office Of the

SERIES:

Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:

11/19/2001 [S. 1447] [1]

FRC ID:

780

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 17, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1447 - Aviation and Transportation Security Act
Sponsor - Sen. Hollings (D) South Carolina and 30 cosponsors

Last Day for Action

November 29, 2001 - Thursday. We understand that a signing ceremony is being planned for Monday, November 19, 2001.

Purpose

(1) Establishes Federal responsibility for aviation security, including screening operations for passenger air transportation, in a new Transportation Security Administration in the Department of Transportation; and (2) establishes limitations on the liability of certain entities for claims arising from the terrorist-related air crashes of September 11, 2001.

Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval (Informally)
Council of Economic Advisers	Approval
Department of Commerce	No objection (Informally)
Department of Justice	No objection (Informally)
Department of Labor	No objection (Informally)
General Services Administration	No objection (Informally)
Office of Personnel Management	No objection (Informally)
Office of National Drug Control Policy	No comment (Informally)
Department of State	No response
Department of the Treasury	No response

Discussion

S. 1447 would make security functions at the Nation's airports the responsibility of the Federal Government. The most important provisions of the enrolled bill are discussed below. Certain other significant provisions are noted in an Attachment.

Transportation Security Administration

S. 1447 would create a Transportation Security Administration (TSA) headed by an Under Secretary of Transportation for Security to be appointed by the President and confirmed by the Senate for a term of five years. The Under Secretary would be responsible for overseeing the Department's transportation security efforts for all modes of transportation, and would assume responsibility for civil aviation security functions no later than 3 months after enactment, in accordance with a schedule developed by the Secretary of Transportation. Based on the Secretary's evaluation of his or her performance, the Under Secretary could receive a bonus for any calendar year of no more than 30 percent of his or her annual rate of pay. Until the Under Secretary takes office, aviation security functions could be carried out by the Secretary or his designee.

The Under Secretary would be responsible for day-to-day Federal aviation security screening operations, including the hiring and training of all personnel responsible for providing security screening at U.S. airports. The Under Secretary would be required to work in conjunction with the FAA Administrator on all actions affecting aviation safety or air carrier operations and to serve as primary liaison for transportation security to the intelligence and law enforcement communities.

The Under Secretary would have the authority to issue, rescind, or revise regulations necessary to implement the TSA's responsibilities. If the Under Secretary determines that regulations or security directives must be issued immediately to protect transportation security, he or she would be authorized to do so without notice and comment, a cost-benefit analysis, or prior approval of the Secretary of Transportation or the Office of Management and Budget. The Transportation Security Oversight Board (described below) would be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance. The Under Secretary, in exercising either regular or emergency regulatory functions, would be required to consider "as a factor in the final determination" whether the costs of a regulation are excessive in relation to the increases in security it would provide.

In the event of a national emergency, the Under Secretary would be responsible for coordinating security for all modes of domestic transportation (including port security), coordinating the transportation-related responsibilities of all Federal non-military agencies, establishing uniform emergency transportation standards and practices, and providing notice to Federal agencies and appropriate State and local government agencies of threats to transportation. The Secretary of Transportation would define the circumstances under which these emergency functions would be exercised, and would supervise and direct the Under Secretary's performance of them.

The Under Secretary would be required to give "great weight" to the views of the National Transportation Safety Board in taking any transportation security action that could affect safety. The Under Secretary would also be prohibited from taking any aviation security action if the FAA Administrator notifies the Under Secretary that "the action could adversely

affect the airworthiness of an aircraft." The TSA would be subject to the FAA personnel and acquisition management systems, but these systems could be modified as the Under Secretary considers appropriate. The TSA would be subject to the Inspector General Act and other laws relating to the authority of the Department of Transportation's Inspector General.

Transportation Security Oversight Board

The enrolled bill would create a Transportation Security Oversight Board that would be required to meet at least quarterly to facilitate coordination of intelligence, security, and law enforcement activities affecting transportation. The Board would be chaired by the Secretary of Transportation or his designee and would also include the Attorney General, the Director of Central Intelligence, the Secretary of Defense, and the Secretary of the Treasury, or their designees, and two members designated by the President to represent the National Security Council and Office of Homeland Security. S. 1447 would also require the Board to explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security. As noted above, the Board would also be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance.

Aviation Security Screening

S. 1447 would require the Under Secretary to provide for the screening of all passengers and property, including carry-on and checked baggage, U.S. mail, and other cargo carried aboard an aircraft in air transportation. The Under Secretary would be required to designate a Federal Security Manager at each airport in the United States that is part of the United States air transportation system who would be responsible for overseeing the screening of all passengers and property at airports. The Under Secretary would also be required to order the deployment of law enforcement personnel authorized to carry firearms at all screening locations within airports. Law enforcement officers of the TSA would be authorized to carry firearms and make arrests, subject to guidelines issued by the Under Secretary in consultation with the Attorney General.

Within 30 days of enactment, the Under Secretary would be required to establish qualification standards for security screening personnel. Such qualifications would have to include United States citizenship, and other minimum standards established by the enrolled bill, including the ability to read, speak and write English. The Under Secretary would also be required to establish a program for hiring (including background investigations and pre-employment tests) and training aviation security screeners.

Upon assuming responsibility for civil aviation security, the Under Secretary would be authorized to assume the existing responsibilities of air carrier contracts for passenger screening, subject to payment of adequate compensation to parties to the contracts. The Under Secretary could also enter into agreements with air carriers to transfer these contracts to the Federal Government prior to the Under Secretary taking responsibility for the function. These transfers could occur no later than 90 days after enactment; for any contract, the Under Secretary may

enter into an agreement for one 180-day period that could be extended for one 90-day period. In recognition of the assumption of the financial costs of security screening by the TSA, air carriers could enter into agreements with the Under Secretary for transfer of ownership at no cost to the Federal Government of any personal property, equipment, supplies, and other material that the Under Secretary determines to be useful for performing security screening at U.S. airports.

Within one year of enactment, the Under Secretary would be required to deploy a sufficient number of Federal screeners and other law enforcement and security personnel to conduct the screening of all passengers and property at all airports that are part of the U.S. air transportation system, and would have to certify to Congress that this requirement has been met. During the ensuing two years, the Under Secretary would be required to implement a pilot program under which a maximum of five airports (including no more than one from each of five airport security risk categories defined by the Under Secretary) would be permitted to implement pilot projects under which private contractors would be hired to perform aviation security screening. Beginning three years after enactment, the Under Secretary would be authorized to approve any application by an airport to have aviation security screening performed by a qualified U.S.-owned private screening company under a contract with the TSA. The Under Secretary could enter into such a contract only if he determines and certifies to Congress that the screening services and protection will be "equal to or greater than" the level that would be provided by Federal personnel.

S. 1447 would authorize the Under Secretary to employ, appoint, discipline, terminate, and fix the compensation and terms and conditions of employment of security screening personnel "notwithstanding any other provision of law." Persons employed as aviation security screeners would be prohibited from striking. In addition, all screening would be required to be supervised by uniformed TSA personnel, who would have the authority to dismiss any screener.

The Under Secretary would be required to assure the screening of all checked baggage at all airports as soon as practicable, but no later than 60 days following enactment. Airports that do not employ explosives detection equipment would be required to screen all baggage using any combination of bag matching, manual searches, searches by canine explosive detection units, or other means approved by the Under Secretary. Explosives detection systems would have to be deployed at all airports in the United States no later than December 31, 2002.

As soon as practicable after enactment, all individuals with access to secured areas of airports would be required to undergo security screening "that will assure at least the same level of protection as" the screening of passengers and their baggage. The enrolled bill would require FAA to establish pilot programs in at least 20 airports to test emerging technology for providing access control in secured areas of airports.

The Under Secretary would be required to establish mandatory procedures under which air carriers would use information from government agencies to identify individuals on passenger lists who may be threats to civil aviation or national security and would notify appropriate law enforcement agencies and prevent such individuals from boarding aircraft.

Federal Air Marshals

S. 1447 would make the Under Secretary responsible for the training, supervision, and deployment of Federal air marshals. The Secretary would be authorized to require air marshals on all flights, and required to assign air marshals to every flight determined by the Secretary to present high security risks. Airlines would be required to provide seating for air marshals on any flight. The Under Secretary could appoint retired law enforcement officers, retired members of the armed forces, and commercial airline crew members furloughed within one year of September 11, 2001, as Federal air marshals, regardless of age, if they otherwise meet the required background and fitness qualifications. The Under Secretary may also use personnel from other Federal agencies, after consultation with the heads of those agencies, to provide marshal service on a non-reimbursable basis.

Flight Deck Security

S. 1447 would require the Federal Aviation Administration (FAA) to issue an order prohibiting access to the flight deck by any persons other than members of flight crews, mandating strengthened flight deck doors and locks on major air-carrier flights, requiring the door to be locked during flights except for crew access, limiting the provision of door keys to members of the flight deck crew, and making any other modifications of procedures to ensure the safety and security of aircraft. The FAA would also be required to investigate means of securing maximum feasible protection of commuter aircraft without locking doors.

Pilots of passenger aircraft would be authorized to carry firearms in the cockpit if the Under Secretary approves, the air carrier approves, and the pilot has received proper training on the use of the firearm as determined by the Under Secretary. In addition, S. 1447 would require the National Institute of Justice to provide recommendations to the Secretary of Transportation within 90 days of enactment regarding less-than-lethal weaponry that could be used by flight deck crew members to temporarily incapacitate individuals posing clear and present danger to the safety of aircraft, passengers, or individuals on the ground. Based upon these recommendations the Secretary could, with the approval of the Attorney General and the Secretary of State, authorize flight deck crew-members to carry such weapons while in flight. If the Secretary grants this authority, the Department would be required to issue rules prescribing training in the proper use of the weapon and guidelines defining the circumstances in which such weapons may be used.

Liability Limitations and Exemptions

The enrolled bill would modify a limitation on liability enacted in the Air Transportation Safety and System Stabilization Act (P.L. 107-42, enacted September 22, 2001). That provision limited the liability of air carriers for all claims "arising from the terrorist-related aircraft crashes of September 11, 2001" to the limits of their liability insurance coverage. The enrolled bill would extend this limitation to aircraft manufacturers (including manufacturers of the aircraft or any parts or components of the aircraft and their employees and agents), airport owners and

operators, and individuals or entities with a property interest in the World Trade Center on September 11th. However, individuals or entities with a property interest in the World Trade Center who are determined by the Attorney General to have defaulted willfully on a contractual obligation to rebuild or assist in the rebuilding of the World Trade Center would not be covered. The enrolled bill would also provide that the liability of the City of New York for all claims be limited to the greater of the city's insurance coverage or \$350 million.

S. 1447 would exempt law enforcement, medical, firefighting, and other personnel designated by the Department of Transportation who provide or attempt to provide assistance in any in-flight emergency from liability in Federal or State courts for any resulting acts or omissions unless the assistance is provided in a manner that constitutes gross negligence or willful misconduct.

S. 1447 would exempt persons who attempt to thwart acts of criminal violence or piracy on aircraft from damages if they reasonably believed that such acts were occurring or were about to occur. Air carriers and their employees would also be exempt from liability where they report suspicious activities which could be relevant to air piracy or other potential threats to aircraft or passenger safety.

Passenger and Baggage Screening Fees

S. 1447 would require the TSA to impose a fee on airline passengers to pay for specified costs of providing aviation security services, including salary and other costs of passenger and baggage screeners, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations. The fee could not exceed \$2.50 per enplanement or \$5.00 per one-way trip. To the extent that fees collected from passengers are insufficient to cover the total amount of these costs, TSA may impose an additional fee on air carriers to pay for the difference. The total amount of fees collected annually from air carriers could not exceed the total amount spent by all air carriers in calendar year 2000 for screening activities. Revenues would be required to be credited as offsetting collections, could be used only to provide aviation security services, and would be available until expended. The enrolled bill would authorize appropriations of "such sums as may be necessary" for each of FYs 2002-2005 to carry out aviation security activities, including those activities for which the fee revenues would be available.

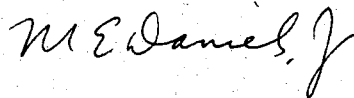
Specific Authorizations of Appropriations

The enrolled bill would authorize appropriations of \$500 million for FY 2002 to the Department of Transportation for grants to air carriers for fortified cockpit doors and other security enhancements. The enrolled bill would authorize appropriations of \$50 million for each of FYs 2002 through 2006 and such sums as may be necessary for each year thereafter to TSA for grants for research, development, testing, and evaluation of technologies that may enhance aviation security in the future. The enrolled bill would also authorize appropriations of \$20 million to TSA for research grants in conjunction with the Defense Advanced Research Projects

Agency. Finally, the enrolled bill would authorize appropriations, to remain available until expended, for FYs 2002 and 2003 of a total of \$1.5 billion to reimburse airport operators, on-airport parking lots, and vendors of on-airfield services to air carriers for the costs of complying with security requirements imposed by the FAA or TSA on or after September 11, 2001.

Conclusion and Recommendations

In its views letter, the Council of Economic Advisers states that the enrolled bill "should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system." We join the Department of Transportation and the Council of Economic Advisers in recommending approval of S. 1447, which passed the Senate by voice vote and the House by a vote of 410-9.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Significant Provisions of S. 1447

Other Aviation Security Enhancements

The enrolled bill would authorize the Under Secretary for Transportation Security to:

- Require that passenger aircraft and trains afford emergency call capability.
- Provide for the use of voice stress analysis, biometric, and other techniques to prevent dangerous persons from boarding aircraft.
- Establish a uniform system for identifying law enforcement personnel traveling on aircraft with firearms.
- Develop, in consultation with the Commissioner of the Food and Drug Administration, alternative security procedures that do not damage medical products.
- Permit airlines to implement trusted passenger programs that use technology to expedite screening on a voluntary basis.
- Provide for the use of technology to enhance communications among airport security personnel about potential threats.

Transportation Security Performance Plan

The enrolled bill would require the Secretary and Under Secretary, consistent with the Government Performance and Results Act (GPRA), to agree annually on an aviation security performance plan containing measurable goals and objectives covering the succeeding five years. The plan would also be required to identify the actions that will be taken to achieve the goals. The Under Secretary would be required to provide an annual report to Congress detailing the extent to which the goals and objectives were met.

Airline Antitrust Immunity

The enrolled bill would authorize the Secretary of Transportation to approve agreements between two or more air carriers covering flights which both originate and terminate within a State if its governor certifies that such agreements are necessary to ensure the continuing availability of such air transportation within that State. In order to approve an agreement relating to such States, the Secretary would have to find that the State to which it relates has extraordinary air transportation needs and concerns, and that approval of the agreement is in the public interest. Such agreements would have to expire on or before October 1, 2002, but could be extended by the Secretary to a date no later than October 1, 2003.

Compensation of the Chief Operating Officer of the Air Traffic Control System

The enrolled bill would provide that the Chief Operating Officer (COO) for the air traffic control system be paid at an annual rate determined by the FAA Administrator that could not exceed the annual compensation of the President of the United States. Under current law, the annual rate for the COO is equal to that of the FAA Administrator.

Miscellaneous Provisions

Finally, the enrolled bill would:

- Require Justice Department background checks on aliens before flight schools can provide them with training in the operations of certain aircraft.
- Require the FAA to conduct research and development on ways to enhance the detection of biological and chemical weapons.
- Authorize Transportation to require airports to maximize the use of equipment to detect and neutralize biological and chemical weapons.
- Require airlines, to the extent practicable, to give replacement tickets to passengers who bought plane tickets on other airlines that subsequently became insolvent or went bankrupt. This provision would not apply to transportation suspended more than 18 months after enactment.
- Establish criminal penalties for interference with the performance of a security screener's duties.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

01 NOV 19 01 11:10

Route Slip

To: Carol Cleveland	Take necessary action	X
Staff Secretary's Office	Approval or signature	
Ground Floor/West Wing/WH	Comment	
	Prepare reply	
	Discuss with me	
	For your information	
	See remarks below	

From: Dianne Wells, LRD

Date: 11/19/01

Remarks:

FOR YOUR RECORDS -- attached is the DOT's views letter on:

Enrolled Bill S. 1447 - Aviation and Transportation
Security Act

Withdrawal Marker

The George W. Bush Library

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**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

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WHITE HOUSE STAFFING MEMORANDUM

Date: 11-17-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-18-01 5:00 PM

ENROLLED BILL S.1447 -- AVIATION AND TRANSPORTATION SECURITY ACT
 Subject: SPONSOR -- SEN. HOLLINGS (D) SOUTH CAROLINA AND 30 COSPONSORS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD <i>concur</i>	☒	☐
CARD <i>approve</i>	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☐	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☐	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☒	☐
FLEISCHER	☐	☒	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS <i>ok</i>	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS DIRECTLY TO THE STAFF SECRETARY, X62702, NO LATER THAN 5:00 P.M., TOMORROW, SUNDAY, NOVEMBER 18, 2001, WITH A COPY TO JIM JUKES, X53458. THANK YOU.

RESPONSE:

Harriet E. Miers
 Assistant to the President
 and Staff Secretary
 Ext. 62702

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GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
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RESPONSE:

Harriet E. Miers
 Assistant to the President
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 Ext. 62702



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Within 30 days of enactment, the Under Secretary would be required to establish qualification standards for security screening personnel. Such qualifications would have to include United States citizenship, and other minimum standards established by the enrolled bill, including the ability to read, speak and write English. The Under Secretary would also be required to establish a program for hiring (including background investigations and pre-employment tests) and training aviation security screeners.

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enter into an agreement for one 180-day period that could be extended for one 90-day period. In recognition of the assumption of the financial costs of security screening by the TSA, air carriers could enter into agreements with the Under Secretary for transfer of ownership at no cost to the Federal Government of any personal property, equipment, supplies, and other material that the Under Secretary determines to be useful for performing security screening at U.S. airports.

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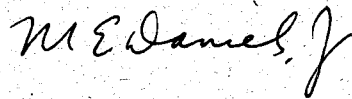
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Agency. Finally, the enrolled bill would authorize appropriations, to remain available until expended, for FYs 2002 and 2003 of a total of \$1.5 billion to reimburse airport operators, on-airport parking lots, and vendors of on-airfield services to air carriers for the costs of complying with security requirements imposed by the FAA or TSA on or after September 11, 2001.

Conclusion and Recommendations

In its views letter, the Council of Economic Advisers states that the enrolled bill "should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system." We join the Department of Transportation and the Council of Economic Advisers in recommending approval of S. 1447, which passed the Senate by voice vote and the House by a vote of 410-9.



Mitchell E. Daniels, Jr.
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Attachment

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- Require that passenger aircraft and trains afford emergency call capability.
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- Establish criminal penalties for interference with the performance of a security screener's duties.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20502

November 16, 2001

FROM: Mark McClellan

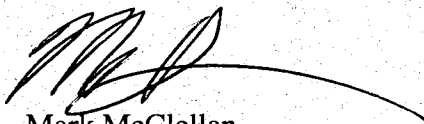
SUBJECT: CEA comments on Enrolled bill, S. 1447, Aviation Security, Conference Agreement

The Aviation and Transportation Security Act should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system.

The bill's security screening pilot program and security screening opt-out program, implemented after an appropriate delay, will allow a side-by-side comparison of alternate screening models. These two models, screening by federal employers or screening by private contractors with federal oversight, can be evaluated after the pilot program, and therefore provide an impetus for ongoing improvements in the air security system.

CEA recommends that the President sign this bill into law.

Sincerely,



Mark McClellan

WHITE HOUSE STAFFING MEMORANDUM

Date: 11-17-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-18-01 5:00 PM

Subject: ENROLLED BILL S.1447 -- AVIATION AND TRANSPORTATION SECURITY ACT
SPONSOR -- SEN. HOLLINGS (D) SOUTH CAROLINA AND 30 COSPONSORS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☐	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☐	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☒	☐
FLEISCHER	☐	☒	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS DIRECTLY TO THE STAFF SECRETARY, X62702, NO LATER THAN 5:00 P.M., TOMORROW, SUNDAY, NOVEMBER 18, 2001, WITH A COPY TO JIM JUKES, X53458. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 17, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1447 - Aviation and Transportation Security Act
Sponsor - Sen. Hollings (D) South Carolina and 30 cosponsors

Last Day for Action

November 29, 2001 - Thursday. We understand that a signing ceremony is being planned for Monday, November 19, 2001.

Purpose

(1) Establishes Federal responsibility for aviation security, including screening operations for passenger air transportation, in a new Transportation Security Administration in the Department of Transportation; and (2) establishes limitations on the liability of certain entities for claims arising from the terrorist-related air crashes of September 11, 2001.

Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval (Informally)
Council of Economic Advisers	Approval
Department of Commerce	No objection (Informally)
Department of Justice	No objection (Informally)
Department of Labor	No objection (Informally)
General Services Administration	No objection (Informally)
Office of Personnel Management	No objection (Informally)
Office of National Drug Control Policy	No comment (Informally)
Department of State	No response
Department of the Treasury	No response

Discussion

S. 1447 would make security functions at the Nation's airports the responsibility of the Federal Government. The most important provisions of the enrolled bill are discussed below. Certain other significant provisions are noted in an Attachment.

Transportation Security Administration

S. 1447 would create a Transportation Security Administration (TSA) headed by an Under Secretary of Transportation for Security to be appointed by the President and confirmed by the Senate for a term of five years. The Under Secretary would be responsible for overseeing the Department's transportation security efforts for all modes of transportation, and would assume responsibility for civil aviation security functions no later than 3 months after enactment, in accordance with a schedule developed by the Secretary of Transportation. Based on the Secretary's evaluation of his or her performance, the Under Secretary could receive a bonus for any calendar year of no more than 30 percent of his or her annual rate of pay. Until the Under Secretary takes office, aviation security functions could be carried out by the Secretary or his designee.

The Under Secretary would be responsible for day-to-day Federal aviation security screening operations, including the hiring and training of all personnel responsible for providing security screening at U.S. airports. The Under Secretary would be required to work in conjunction with the FAA Administrator on all actions affecting aviation safety or air carrier operations and to serve as primary liaison for transportation security to the intelligence and law enforcement communities.

The Under Secretary would have the authority to issue, rescind, or revise regulations necessary to implement the TSA's responsibilities. If the Under Secretary determines that regulations or security directives must be issued immediately to protect transportation security, he or she would be authorized to do so without notice and comment, a cost-benefit analysis, or prior approval of the Secretary of Transportation or the Office of Management and Budget. The Transportation Security Oversight Board (described below) would be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance. The Under Secretary, in exercising either regular or emergency regulatory functions, would be required to consider "as a factor in the final determination" whether the costs of a regulation are excessive in relation to the increases in security it would provide.

In the event of a national emergency, the Under Secretary would be responsible for coordinating security for all modes of domestic transportation (including port security), coordinating the transportation-related responsibilities of all Federal non-military agencies, establishing uniform emergency transportation standards and practices, and providing notice to Federal agencies and appropriate State and local government agencies of threats to transportation. The Secretary of Transportation would define the circumstances under which these emergency functions would be exercised, and would supervise and direct the Under Secretary's performance of them.

The Under Secretary would be required to give "great weight" to the views of the National Transportation Safety Board in taking any transportation security action that could affect safety. The Under Secretary would also be prohibited from taking any aviation security action if the FAA Administrator notifies the Under Secretary that "the action could adversely

affect the airworthiness of an aircraft." The TSA would be subject to the FAA personnel and acquisition management systems, but these systems could be modified as the Under Secretary considers appropriate. The TSA would be subject to the Inspector General Act and other laws relating to the authority of the Department of Transportation's Inspector General.

Transportation Security Oversight Board

The enrolled bill would create a Transportation Security Oversight Board that would be required to meet at least quarterly to facilitate coordination of intelligence, security, and law enforcement activities affecting transportation. The Board would be chaired by the Secretary of Transportation or his designee and would also include the Attorney General, the Director of Central Intelligence, the Secretary of Defense, and the Secretary of the Treasury, or their designees, and two members designated by the President to represent the National Security Council and Office of Homeland Security. S. 1447 would also require the Board to explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security. As noted above, the Board would also be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance.

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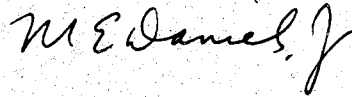
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EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20502

November 16, 2001

FROM: Mark McClellan

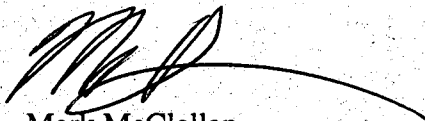
SUBJECT: CEA comments on Enrolled bill, S. 1447, Aviation Security, Conference Agreement

The Aviation and Transportation Security Act should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system.

The bill's security screening pilot program and security screening opt-out program, implemented after an appropriate delay, will allow a side-by-side comparison of alternate screening models. These two models, screening by federal employers or screening by private contractors with federal oversight, can be evaluated after the pilot program, and therefore provide an impetus for ongoing improvements in the air security system.

CEA recommends that the President sign this bill into law.

Sincerely,

A handwritten signature in black ink, appearing to be 'MM', with a long horizontal flourish extending to the right.

Mark McClellan

 *** TX REPORT ***

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WHITE HOUSE STAFFING MEMORANDUM

Date: 11-17-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-18-01 5:00 PM

ENROLLED BILL S.1447 -- AVIATION AND TRANSPORTATION SECURITY ACT
 Subject: SPONSOR -- SEN. HOLLINGS (D) SOUTH CAROLINA AND 30 COSPONSORS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☐	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☐	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☒	☐
FLEISCHER	☐	☒	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS DIRECTLY TO THE STAFF SECRETARY, X62702, NO LATER THAN 5:00 P.M., TOMORROW, SUNDAY, NOVEMBER 18, 2001, WITH A COPY TO .IIM JUKES. X53458. THANK YOU.

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RESPONSE:

Harriet E. Miers
 Assistant to the President
 and Staff Secretary
 Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 17, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1447 - Aviation and Transportation Security Act
Sponsor - Sen. Hollings (D) South Carolina and 30 cosponsors

Last Day for Action

November 29, 2001 - Thursday. We understand that a signing ceremony is being planned for Monday, November 19, 2001.

Purpose

(1) Establishes Federal responsibility for aviation security, including screening operations for passenger air transportation, in a new Transportation Security Administration in the Department of Transportation; and (2) establishes limitations on the liability of certain entities for claims arising from the terrorist-related air crashes of September 11, 2001.

Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval (Informally)
Council of Economic Advisers	Approval
Department of Commerce	No objection (Informally)
Department of Justice	No objection (Informally)
Department of Labor	No objection (Informally)
General Services Administration	No objection (Informally)
Office of Personnel Management	No objection (Informally)
Office of National Drug Control Policy	No comment (Informally)
Department of State	No response
Department of the Treasury	No response

Discussion

S. 1447 would make security functions at the Nation's airports the responsibility of the Federal Government. The most important provisions of the enrolled bill are discussed below. Certain other significant provisions are noted in an Attachment.

Transportation Security Administration

S. 1447 would create a Transportation Security Administration (TSA) headed by an Under Secretary of Transportation for Security to be appointed by the President and confirmed by the Senate for a term of five years. The Under Secretary would be responsible for overseeing the Department's transportation security efforts for all modes of transportation, and would assume responsibility for civil aviation security functions no later than 3 months after enactment, in accordance with a schedule developed by the Secretary of Transportation. Based on the Secretary's evaluation of his or her performance, the Under Secretary could receive a bonus for any calendar year of no more than 30 percent of his or her annual rate of pay. Until the Under Secretary takes office, aviation security functions could be carried out by the Secretary or his designee.

The Under Secretary would be responsible for day-to-day Federal aviation security screening operations, including the hiring and training of all personnel responsible for providing security screening at U.S. airports. The Under Secretary would be required to work in conjunction with the FAA Administrator on all actions affecting aviation safety or air carrier operations and to serve as primary liaison for transportation security to the intelligence and law enforcement communities.

The Under Secretary would have the authority to issue, rescind, or revise regulations necessary to implement the TSA's responsibilities. If the Under Secretary determines that regulations or security directives must be issued immediately to protect transportation security, he or she would be authorized to do so without notice and comment, a cost-benefit analysis, or prior approval of the Secretary of Transportation or the Office of Management and Budget. The Transportation Security Oversight Board (described below) would be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance. The Under Secretary, in exercising either regular or emergency regulatory functions, would be required to consider "as a factor in the final determination" whether the costs of a regulation are excessive in relation to the increases in security it would provide.

In the event of a national emergency, the Under Secretary would be responsible for coordinating security for all modes of domestic transportation (including port security), coordinating the transportation-related responsibilities of all Federal non-military agencies, establishing uniform emergency transportation standards and practices, and providing notice to Federal agencies and appropriate State and local government agencies of threats to transportation. The Secretary of Transportation would define the circumstances under which these emergency functions would be exercised, and would supervise and direct the Under Secretary's performance of them.

The Under Secretary would be required to give "great weight" to the views of the National Transportation Safety Board in taking any transportation security action that could affect safety. The Under Secretary would also be prohibited from taking any aviation security action if the FAA Administrator notifies the Under Secretary that "the action could adversely

affect the airworthiness of an aircraft." The TSA would be subject to the FAA personnel and acquisition management systems, but these systems could be modified as the Under Secretary considers appropriate. The TSA would be subject to the Inspector General Act and other laws relating to the authority of the Department of Transportation's Inspector General.

Transportation Security Oversight Board

The enrolled bill would create a Transportation Security Oversight Board that would be required to meet at least quarterly to facilitate coordination of intelligence, security, and law enforcement activities affecting transportation. The Board would be chaired by the Secretary of Transportation or his designee and would also include the Attorney General, the Director of Central Intelligence, the Secretary of Defense, and the Secretary of the Treasury, or their designees, and two members designated by the President to represent the National Security Council and Office of Homeland Security. S. 1447 would also require the Board to explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security. As noted above, the Board would also be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance.

Aviation Security Screening

S. 1447 would require the Under Secretary to provide for the screening of all passengers and property, including carry-on and checked baggage, U.S. mail, and other cargo carried aboard an aircraft in air transportation. The Under Secretary would be required to designate a Federal Security Manager at each airport in the United States that is part of the United States air transportation system who would be responsible for overseeing the screening of all passengers and property at airports. The Under Secretary would also be required to order the deployment of law enforcement personnel authorized to carry firearms at all screening locations within airports. Law enforcement officers of the TSA would be authorized to carry firearms and make arrests, subject to guidelines issued by the Under Secretary in consultation with the Attorney General.

Within 30 days of enactment, the Under Secretary would be required to establish qualification standards for security screening personnel. Such qualifications would have to include United States citizenship, and other minimum standards established by the enrolled bill, including the ability to read, speak and write English. The Under Secretary would also be required to establish a program for hiring (including background investigations and pre-employment tests) and training aviation security screeners.

Upon assuming responsibility for civil aviation security, the Under Secretary would be authorized to assume the existing responsibilities of air carrier contracts for passenger screening, subject to payment of adequate compensation to parties to the contracts. The Under Secretary could also enter into agreements with air carriers to transfer these contracts to the Federal Government prior to the Under Secretary taking responsibility for the function. These transfers could occur no later than 90 days after enactment; for any contract, the Under Secretary may

enter into an agreement for one 180-day period that could be extended for one 90-day period. In recognition of the assumption of the financial costs of security screening by the TSA, air carriers could enter into agreements with the Under Secretary for transfer of ownership at no cost to the Federal Government of any personal property, equipment, supplies, and other material that the Under Secretary determines to be useful for performing security screening at U.S. airports.

Within one year of enactment, the Under Secretary would be required to deploy a sufficient number of Federal screeners and other law enforcement and security personnel to conduct the screening of all passengers and property at all airports that are part of the U.S. air transportation system, and would have to certify to Congress that this requirement has been met. During the ensuing two years, the Under Secretary would be required to implement a pilot program under which a maximum of five airports (including no more than one from each of five airport security risk categories defined by the Under Secretary) would be permitted to implement pilot projects under which private contractors would be hired to perform aviation security screening. Beginning three years after enactment, the Under Secretary would be authorized to approve any application by an airport to have aviation security screening performed by a qualified U.S.-owned private screening company under a contract with the TSA. The Under Secretary could enter into such a contract only if he determines and certifies to Congress that the screening services and protection will be "equal to or greater than" the level that would be provided by Federal personnel.

S. 1447 would authorize the Under Secretary to employ, appoint, discipline, terminate, and fix the compensation and terms and conditions of employment of security screening personnel "notwithstanding any other provision of law." Persons employed as aviation security screeners would be prohibited from striking. In addition, all screening would be required to be supervised by uniformed TSA personnel, who would have the authority to dismiss any screener.

The Under Secretary would be required to assure the screening of all checked baggage at all airports as soon as practicable, but no later than 60 days following enactment. Airports that do not employ explosives detection equipment would be required to screen all baggage using any combination of bag matching, manual searches, searches by canine explosive detection units, or other means approved by the Under Secretary. Explosives detection systems would have to be deployed at all airports in the United States no later than December 31, 2002.

As soon as practicable after enactment, all individuals with access to secured areas of airports would be required to undergo security screening "that will assure at least the same level of protection as" the screening of passengers and their baggage. The enrolled bill would require FAA to establish pilot programs in at least 20 airports to test emerging technology for providing access control in secured areas of airports.

The Under Secretary would be required to establish mandatory procedures under which air carriers would use information from government agencies to identify individuals on passenger lists who may be threats to civil aviation or national security and would notify appropriate law enforcement agencies and prevent such individuals from boarding aircraft.

Federal Air Marshals

S. 1447 would make the Under Secretary responsible for the training, supervision, and deployment of Federal air marshals. The Secretary would be authorized to require air marshals on all flights, and required to assign air marshals to every flight determined by the Secretary to present high security risks. Airlines would be required to provide seating for air marshals on any flight. The Under Secretary could appoint retired law enforcement officers, retired members of the armed forces, and commercial airline crew members furloughed within one year of September 11, 2001, as Federal air marshals, regardless of age, if they otherwise meet the required background and fitness qualifications. The Under Secretary may also use personnel from other Federal agencies, after consultation with the heads of those agencies, to provide marshal service on a non-reimbursable basis.

Flight Deck Security

S. 1447 would require the Federal Aviation Administration (FAA) to issue an order prohibiting access to the flight deck by any persons other than members of flight crews, mandating strengthened flight deck doors and locks on major air-carrier flights, requiring the door to be locked during flights except for crew access, limiting the provision of door keys to members of the flight deck crew, and making any other modifications of procedures to ensure the safety and security of aircraft. The FAA would also be required to investigate means of securing maximum feasible protection of commuter aircraft without locking doors.

Pilots of passenger aircraft would be authorized to carry firearms in the cockpit if the Under Secretary approves, the air carrier approves, and the pilot has received proper training on the use of the firearm as determined by the Under Secretary. In addition, S. 1447 would require the National Institute of Justice to provide recommendations to the Secretary of Transportation within 90 days of enactment regarding less-than-lethal weaponry that could be used by flight deck crew members to temporarily incapacitate individuals posing clear and present danger to the safety of aircraft, passengers, or individuals on the ground. Based upon these recommendations the Secretary could, with the approval of the Attorney General and the Secretary of State, authorize flight deck crew-members to carry such weapons while in flight. If the Secretary grants this authority, the Department would be required to issue rules prescribing training in the proper use of the weapon and guidelines defining the circumstances in which such weapons may be used.

Liability Limitations and Exemptions

The enrolled bill would modify a limitation on liability enacted in the Air Transportation Safety and System Stabilization Act (P.L. 107-42, enacted September 22, 2001). That provision limited the liability of air carriers for all claims "arising from the terrorist-related aircraft crashes of September 11, 2001" to the limits of their liability insurance coverage. The enrolled bill would extend this limitation to aircraft manufacturers (including manufacturers of the aircraft or any parts or components of the aircraft and their employees and agents), airport owners and

operators, and individuals or entities with a property interest in the World Trade Center on September 11th. However, individuals or entities with a property interest in the World Trade Center who are determined by the Attorney General to have defaulted willfully on a contractual obligation to rebuild or assist in the rebuilding of the World Trade Center would not be covered. The enrolled bill would also provide that the liability of the City of New York for all claims be limited to the greater of the city's insurance coverage or \$350 million.

S. 1447 would exempt law enforcement, medical, firefighting, and other personnel designated by the Department of Transportation who provide or attempt to provide assistance in any in-flight emergency from liability in Federal or State courts for any resulting acts or omissions unless the assistance is provided in a manner that constitutes gross negligence or willful misconduct.

S. 1447 would exempt persons who attempt to thwart acts of criminal violence or piracy on aircraft from damages if they reasonably believed that such acts were occurring or were about to occur. Air carriers and their employees would also be exempt from liability where they report suspicious activities which could be relevant to air piracy or other potential threats to aircraft or passenger safety.

Passenger and Baggage Screening Fees

S. 1447 would require the TSA to impose a fee on airline passengers to pay for specified costs of providing aviation security services, including salary and other costs of passenger and baggage screeners, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations. The fee could not exceed \$2.50 per enplanement or \$5.00 per one-way trip. To the extent that fees collected from passengers are insufficient to cover the total amount of these costs, TSA may impose an additional fee on air carriers to pay for the difference. The total amount of fees collected annually from air carriers could not exceed the total amount spent by all air carriers in calendar year 2000 for screening activities. Revenues would be required to be credited as offsetting collections, could be used only to provide aviation security services, and would be available until expended. The enrolled bill would authorize appropriations of "such sums as may be necessary" for each of FYs 2002-2005 to carry out aviation security activities, including those activities for which the fee revenues would be available.

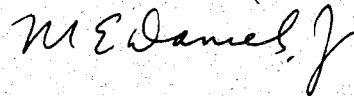
Specific Authorizations of Appropriations

The enrolled bill would authorize appropriations of \$500 million for FY 2002 to the Department of Transportation for grants to air carriers for fortified cockpit doors and other security enhancements. The enrolled bill would authorize appropriations of \$50 million for each of FYs 2002 through 2006 and such sums as may be necessary for each year thereafter to TSA for grants for research, development, testing, and evaluation of technologies that may enhance aviation security in the future. The enrolled bill would also authorize appropriations of \$20 million to TSA for research grants in conjunction with the Defense Advanced Research Projects

Agency. Finally, the enrolled bill would authorize appropriations, to remain available until expended, for FYs 2002 and 2003 of a total of \$1.5 billion to reimburse airport operators, on-airport parking lots, and vendors of on-airfield services to air carriers for the costs of complying with security requirements imposed by the FAA or TSA on or after September 11, 2001.

Conclusion and Recommendations

In its views letter, the Council of Economic Advisers states that the enrolled bill "should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system." We join the Department of Transportation and the Council of Economic Advisers in recommending approval of S. 1447, which passed the Senate by voice vote and the House by a vote of 410-9.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Significant Provisions of S. 1447

Other Aviation Security Enhancements

The enrolled bill would authorize the Under Secretary for Transportation Security to:

- Require that passenger aircraft and trains afford emergency call capability.
- Provide for the use of voice stress analysis, biometric, and other techniques to prevent dangerous persons from boarding aircraft.
- Establish a uniform system for identifying law enforcement personnel traveling on aircraft with firearms.
- Develop, in consultation with the Commissioner of the Food and Drug Administration, alternative security procedures that do not damage medical products.
- Permit airlines to implement trusted passenger programs that use technology to expedite screening on a voluntary basis.
- Provide for the use of technology to enhance communications among airport security personnel about potential threats.

Transportation Security Performance Plan

The enrolled bill would require the Secretary and Under Secretary, consistent with the Government Performance and Results Act (GPRA), to agree annually on an aviation security performance plan containing measurable goals and objectives covering the succeeding five years. The plan would also be required to identify the actions that will be taken to achieve the goals. The Under Secretary would be required to provide an annual report to Congress detailing the extent to which the goals and objectives were met.

Airline Antitrust Immunity

The enrolled bill would authorize the Secretary of Transportation to approve agreements between two or more air carriers covering flights which both originate and terminate within a State if its governor certifies that such agreements are necessary to ensure the continuing availability of such air transportation within that State. In order to approve an agreement relating to such States, the Secretary would have to find that the State to which it relates has extraordinary air transportation needs and concerns, and that approval of the agreement is in the public interest. Such agreements would have to expire on or before October 1, 2002, but could be extended by the Secretary to a date no later than October 1, 2003.

Compensation of the Chief Operating Officer of the Air Traffic Control System

The enrolled bill would provide that the Chief Operating Officer (COO) for the air traffic control system be paid at an annual rate determined by the FAA Administrator that could not exceed the annual compensation of the President of the United States. Under current law, the annual rate for the COO is equal to that of the FAA Administrator.

Miscellaneous Provisions

Finally, the enrolled bill would:

- Require Justice Department background checks on aliens before flight schools can provide them with training in the operations of certain aircraft.
- Require the FAA to conduct research and development on ways to enhance the detection of biological and chemical weapons.
- Authorize Transportation to require airports to maximize the use of equipment to detect and neutralize biological and chemical weapons.
- Require airlines, to the extent practicable, to give replacement tickets to passengers who bought plane tickets on other airlines that subsequently became insolvent or went bankrupt. This provision would not apply to transportation suspended more than 18 months after enactment.
- Establish criminal penalties for interference with the performance of a security screener's duties.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20502

November 16, 2001

FROM: Mark McClellan

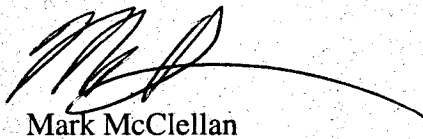
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The bill's security screening pilot program and security screening opt-out program, implemented after an appropriate delay, will allow a side-by-side comparison of alternate screening models. These two models, screening by federal employers or screening by private contractors with federal oversight, can be evaluated after the pilot program, and therefore provide an impetus for ongoing improvements in the air security system.

CEA recommends that the President sign this bill into law.

Sincerely,



Mark McClellan

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	ACTION	FYI		ACTION	FYI
VICE PRESIDENT →	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
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RESPONSE:

Harriet E. Miers
 Assistant to the President
 and Staff Secretary
 Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 17, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1447 - Aviation and Transportation Security Act
Sponsor - Sen. Hollings (D) South Carolina and 30 cosponsors

Last Day for Action

November 29, 2001 - Thursday. We understand that a signing ceremony is being planned for Monday, November 19, 2001.

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Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval (Informally)
Council of Economic Advisers	Approval
Department of Commerce	No objection (Informally)
Department of Justice	No objection (Informally)
Department of Labor	No objection (Informally)
General Services Administration	No objection (Informally)
Office of Personnel Management	No objection (Informally)
Office of National Drug Control Policy	No comment (Informally)
Department of State	No response
Department of the Treasury	No response

Discussion

S. 1447 would make security functions at the Nation's airports the responsibility of the Federal Government. The most important provisions of the enrolled bill are discussed below. Certain other significant provisions are noted in an Attachment.

Transportation Security Administration

S. 1447 would create a Transportation Security Administration (TSA) headed by an Under Secretary of Transportation for Security to be appointed by the President and confirmed by the Senate for a term of five years. The Under Secretary would be responsible for overseeing the Department's transportation security efforts for all modes of transportation, and would assume responsibility for civil aviation security functions no later than 3 months after enactment, in accordance with a schedule developed by the Secretary of Transportation. Based on the Secretary's evaluation of his or her performance, the Under Secretary could receive a bonus for any calendar year of no more than 30 percent of his or her annual rate of pay. Until the Under Secretary takes office, aviation security functions could be carried out by the Secretary or his designee.

The Under Secretary would be responsible for day-to-day Federal aviation security screening operations, including the hiring and training of all personnel responsible for providing security screening at U.S. airports. The Under Secretary would be required to work in conjunction with the FAA Administrator on all actions affecting aviation safety or air carrier operations and to serve as primary liaison for transportation security to the intelligence and law enforcement communities.

The Under Secretary would have the authority to issue, rescind, or revise regulations necessary to implement the TSA's responsibilities. If the Under Secretary determines that regulations or security directives must be issued immediately to protect transportation security, he or she would be authorized to do so without notice and comment, a cost-benefit analysis, or prior approval of the Secretary of Transportation or the Office of Management and Budget. The Transportation Security Oversight Board (described below) would be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance. The Under Secretary, in exercising either regular or emergency regulatory functions, would be required to consider "as a factor in the final determination" whether the costs of a regulation are excessive in relation to the increases in security it would provide.

In the event of a national emergency, the Under Secretary would be responsible for coordinating security for all modes of domestic transportation (including port security), coordinating the transportation-related responsibilities of all Federal non-military agencies, establishing uniform emergency transportation standards and practices, and providing notice to Federal agencies and appropriate State and local government agencies of threats to transportation. The Secretary of Transportation would define the circumstances under which these emergency functions would be exercised, and would supervise and direct the Under Secretary's performance of them.

The Under Secretary would be required to give "great weight" to the views of the National Transportation Safety Board in taking any transportation security action that could affect safety. The Under Secretary would also be prohibited from taking any aviation security action if the FAA Administrator notifies the Under Secretary that "the action could adversely

affect the airworthiness of an aircraft." The TSA would be subject to the FAA personnel and acquisition management systems, but these systems could be modified as the Under Secretary considers appropriate. The TSA would be subject to the Inspector General Act and other laws relating to the authority of the Department of Transportation's Inspector General.

Transportation Security Oversight Board

The enrolled bill would create a Transportation Security Oversight Board that would be required to meet at least quarterly to facilitate coordination of intelligence, security, and law enforcement activities affecting transportation. The Board would be chaired by the Secretary of Transportation or his designee and would also include the Attorney General, the Director of Central Intelligence, the Secretary of Defense, and the Secretary of the Treasury, or their designees, and two members designated by the President to represent the National Security Council and Office of Homeland Security. S. 1447 would also require the Board to explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security. As noted above, the Board would also be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance.

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Within 30 days of enactment, the Under Secretary would be required to establish qualification standards for security screening personnel. Such qualifications would have to include United States citizenship, and other minimum standards established by the enrolled bill, including the ability to read, speak and write English. The Under Secretary would also be required to establish a program for hiring (including background investigations and pre-employment tests) and training aviation security screeners.

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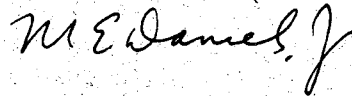
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Agency. Finally, the enrolled bill would authorize appropriations, to remain available until expended, for FYs 2002 and 2003 of a total of \$1.5 billion to reimburse airport operators, on-airport parking lots, and vendors of on-airfield services to air carriers for the costs of complying with security requirements imposed by the FAA or TSA on or after September 11, 2001.

Conclusion and Recommendations

In its views letter, the Council of Economic Advisers states that the enrolled bill "should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system." We join the Department of Transportation and the Council of Economic Advisers in recommending approval of S. 1447, which passed the Senate by voice vote and the House by a vote of 410-9.



Mitchell E. Daniels, Jr.
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Enclosures

Attachment

Other Significant Provisions of S. 1447

Other Aviation Security Enhancements

The enrolled bill would authorize the Under Secretary for Transportation Security to:

- Require that passenger aircraft and trains afford emergency call capability.
- Provide for the use of voice stress analysis, biometric, and other techniques to prevent dangerous persons from boarding aircraft.
- Establish a uniform system for identifying law enforcement personnel traveling on aircraft with firearms.
- Develop, in consultation with the Commissioner of the Food and Drug Administration, alternative security procedures that do not damage medical products.
- Permit airlines to implement trusted passenger programs that use technology to expedite screening on a voluntary basis.
- Provide for the use of technology to enhance communications among airport security personnel about potential threats.

Transportation Security Performance Plan

The enrolled bill would require the Secretary and Under Secretary, consistent with the Government Performance and Results Act (GPRA), to agree annually on an aviation security performance plan containing measurable goals and objectives covering the succeeding five years. The plan would also be required to identify the actions that will be taken to achieve the goals. The Under Secretary would be required to provide an annual report to Congress detailing the extent to which the goals and objectives were met.

Airline Antitrust Immunity

The enrolled bill would authorize the Secretary of Transportation to approve agreements between two or more air carriers covering flights which both originate and terminate within a State if its governor certifies that such agreements are necessary to ensure the continuing availability of such air transportation within that State. In order to approve an agreement relating to such States, the Secretary would have to find that the State to which it relates has extraordinary air transportation needs and concerns, and that approval of the agreement is in the public interest. Such agreements would have to expire on or before October 1, 2002, but could be extended by the Secretary to a date no later than October 1, 2003.

Compensation of the Chief Operating Officer of the Air Traffic Control System

The enrolled bill would provide that the Chief Operating Officer (COO) for the air traffic control system be paid at an annual rate determined by the FAA Administrator that could not exceed the annual compensation of the President of the United States. Under current law, the annual rate for the COO is equal to that of the FAA Administrator.

Miscellaneous Provisions

Finally, the enrolled bill would:

- Require Justice Department background checks on aliens before flight schools can provide them with training in the operations of certain aircraft.
- Require the FAA to conduct research and development on ways to enhance the detection of biological and chemical weapons.
- Authorize Transportation to require airports to maximize the use of equipment to detect and neutralize biological and chemical weapons.
- Require airlines, to the extent practicable, to give replacement tickets to passengers who bought plane tickets on other airlines that subsequently became insolvent or went bankrupt. This provision would not apply to transportation suspended more than 18 months after enactment.
- Establish criminal penalties for interference with the performance of a security screener's duties.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20502

November 16, 2001

FROM: Mark McClellan

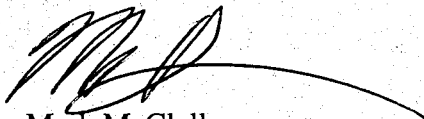
SUBJECT: CEA comments on Enrolled bill, S. 1447, Aviation Security, Conference Agreement

The Aviation and Transportation Security Act should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system.

The bill's security screening pilot program and security screening opt-out program, implemented after an appropriate delay, will allow a side-by-side comparison of alternate screening models. These two models, screening by federal employers or screening by private contractors with federal oversight, can be evaluated after the pilot program, and therefore provide an impetus for ongoing improvements in the air security system.

CEA recommends that the President sign this bill into law.

Sincerely,

A handwritten signature in black ink, appearing to be 'M. McClellan', with a long horizontal flourish extending to the right.

Mark McClellan



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

THE DIRECTOR

November 17, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1447 - Aviation and Transportation Security Act
Sponsor - Sen. Hollings (D) South Carolina and 30 cosponsors

Last Day for Action

November 29, 2001 - Thursday. We understand that a signing ceremony is being planned for Monday, November 19, 2001.

Purpose

(1) Establishes Federal responsibility for aviation security, including screening operations for passenger air transportation, in a new Transportation Security Administration in the Department of Transportation; and (2) establishes limitations on the liability of certain entities for claims arising from the terrorist-related air crashes of September 11, 2001.

Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval (Informally)
Council of Economic Advisers	Approval
Department of Commerce	No objection (Informally)
Department of Justice	No objection (Informally)
Department of Labor	No objection (Informally)
General Services Administration	No objection (Informally)
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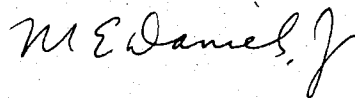
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- Develop, in consultation with the Commissioner of the Food and Drug Administration, alternative security procedures that do not damage medical products.
- Permit airlines to implement trusted passenger programs that use technology to expedite screening on a voluntary basis.
- Provide for the use of technology to enhance communications among airport security personnel about potential threats.

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- Require the FAA to conduct research and development on ways to enhance the detection of biological and chemical weapons.
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- Require airlines, to the extent practicable, to give replacement tickets to passengers who bought plane tickets on other airlines that subsequently became insolvent or went bankrupt. This provision would not apply to transportation suspended more than 18 months after enactment.
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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 17, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1447 - Aviation and Transportation Security Act
Sponsor - Sen. Hollings (D) South Carolina and 30 cosponsors

Last Day for Action

November 29, 2001 - Thursday. We understand that a signing ceremony is being planned for Monday, November 19, 2001.

Purpose

(1) Establishes Federal responsibility for aviation security, including screening operations for passenger air transportation, in a new Transportation Security Administration in the Department of Transportation; and (2) establishes limitations on the liability of certain entities for claims arising from the terrorist-related air crashes of September 11, 2001.

Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval (Informally)
Council of Economic Advisers	Approval
Department of Commerce	No objection (Informally)
Department of Justice	No objection (Informally)
Department of Labor	No objection (Informally)
General Services Administration	No objection (Informally)
Office of Personnel Management	No objection (Informally)
Office of National Drug Control Policy	No comment (Informally)
Department of State	No response
Department of the Treasury	No response

Discussion

S. 1447 would make security functions at the Nation's airports the responsibility of the Federal Government. The most important provisions of the enrolled bill are discussed below. Certain other significant provisions are noted in an Attachment.

Transportation Security Administration

S. 1447 would create a Transportation Security Administration (TSA) headed by an Under Secretary of Transportation for Security to be appointed by the President and confirmed by the Senate for a term of five years. The Under Secretary would be responsible for overseeing the Department's transportation security efforts for all modes of transportation, and would assume responsibility for civil aviation security functions no later than 3 months after enactment, in accordance with a schedule developed by the Secretary of Transportation. Based on the Secretary's evaluation of his or her performance, the Under Secretary could receive a bonus for any calendar year of no more than 30 percent of his or her annual rate of pay. Until the Under Secretary takes office, aviation security functions could be carried out by the Secretary or his designee.

The Under Secretary would be responsible for day-to-day Federal aviation security screening operations, including the hiring and training of all personnel responsible for providing security screening at U.S. airports. The Under Secretary would be required to work in conjunction with the FAA Administrator on all actions affecting aviation safety or air carrier operations and to serve as primary liaison for transportation security to the intelligence and law enforcement communities.

The Under Secretary would have the authority to issue, rescind, or revise regulations necessary to implement the TSA's responsibilities. If the Under Secretary determines that regulations or security directives must be issued immediately to protect transportation security, he or she would be authorized to do so without notice and comment, a cost-benefit analysis, or prior approval of the Secretary of Transportation or the Office of Management and Budget. The Transportation Security Oversight Board (described below) would be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance. The Under Secretary, in exercising either regular or emergency regulatory functions, would be required to consider "as a factor in the final determination" whether the costs of a regulation are excessive in relation to the increases in security it would provide.

In the event of a national emergency, the Under Secretary would be responsible for coordinating security for all modes of domestic transportation (including port security), coordinating the transportation-related responsibilities of all Federal non-military agencies, establishing uniform emergency transportation standards and practices, and providing notice to Federal agencies and appropriate State and local government agencies of threats to transportation. The Secretary of Transportation would define the circumstances under which these emergency functions would be exercised, and would supervise and direct the Under Secretary's performance of them.

The Under Secretary would be required to give "great weight" to the views of the National Transportation Safety Board in taking any transportation security action that could affect safety. The Under Secretary would also be prohibited from taking any aviation security action if the FAA Administrator notifies the Under Secretary that "the action could adversely

affect the airworthiness of an aircraft." The TSA would be subject to the FAA personnel and acquisition management systems, but these systems could be modified as the Under Secretary considers appropriate. The TSA would be subject to the Inspector General Act and other laws relating to the authority of the Department of Transportation's Inspector General.

Transportation Security Oversight Board

The enrolled bill would create a Transportation Security Oversight Board that would be required to meet at least quarterly to facilitate coordination of intelligence, security, and law enforcement activities affecting transportation. The Board would be chaired by the Secretary of Transportation or his designee and would also include the Attorney General, the Director of Central Intelligence, the Secretary of Defense, and the Secretary of the Treasury, or their designees, and two members designated by the President to represent the National Security Council and Office of Homeland Security. S. 1447 would also require the Board to explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security. As noted above, the Board would also be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance.

Aviation Security Screening

S. 1447 would require the Under Secretary to provide for the screening of all passengers and property, including carry-on and checked baggage, U.S. mail, and other cargo carried aboard an aircraft in air transportation. The Under Secretary would be required to designate a Federal Security Manager at each airport in the United States that is part of the United States air transportation system who would be responsible for overseeing the screening of all passengers and property at airports. The Under Secretary would also be required to order the deployment of law enforcement personnel authorized to carry firearms at all screening locations within airports. Law enforcement officers of the TSA would be authorized to carry firearms and make arrests, subject to guidelines issued by the Under Secretary in consultation with the Attorney General.

Within 30 days of enactment, the Under Secretary would be required to establish qualification standards for security screening personnel. Such qualifications would have to include United States citizenship, and other minimum standards established by the enrolled bill, including the ability to read, speak and write English. The Under Secretary would also be required to establish a program for hiring (including background investigations and pre-employment tests) and training aviation security screeners.

Upon assuming responsibility for civil aviation security, the Under Secretary would be authorized to assume the existing responsibilities of air carrier contracts for passenger screening, subject to payment of adequate compensation to parties to the contracts. The Under Secretary could also enter into agreements with air carriers to transfer these contracts to the Federal Government prior to the Under Secretary taking responsibility for the function. These transfers could occur no later than 90 days after enactment; for any contract, the Under Secretary may

enter into an agreement for one 180-day period that could be extended for one 90-day period. In recognition of the assumption of the financial costs of security screening by the TSA, air carriers could enter into agreements with the Under Secretary for transfer of ownership at no cost to the Federal Government of any personal property, equipment, supplies, and other material that the Under Secretary determines to be useful for performing security screening at U.S. airports.

Within one year of enactment, the Under Secretary would be required to deploy a sufficient number of Federal screeners and other law enforcement and security personnel to conduct the screening of all passengers and property at all airports that are part of the U.S. air transportation system, and would have to certify to Congress that this requirement has been met. During the ensuing two years, the Under Secretary would be required to implement a pilot program under which a maximum of five airports (including no more than one from each of five airport security risk categories defined by the Under Secretary) would be permitted to implement pilot projects under which private contractors would be hired to perform aviation security screening. Beginning three years after enactment, the Under Secretary would be authorized to approve any application by an airport to have aviation security screening performed by a qualified U.S.-owned private screening company under a contract with the TSA. The Under Secretary could enter into such a contract only if he determines and certifies to Congress that the screening services and protection will be "equal to or greater than" the level that would be provided by Federal personnel.

S. 1447 would authorize the Under Secretary to employ, appoint, discipline, terminate, and fix the compensation and terms and conditions of employment of security screening personnel "notwithstanding any other provision of law." Persons employed as aviation security screeners would be prohibited from striking. In addition, all screening would be required to be supervised by uniformed TSA personnel, who would have the authority to dismiss any screener.

The Under Secretary would be required to assure the screening of all checked baggage at all airports as soon as practicable, but no later than 60 days following enactment. Airports that do not employ explosives detection equipment would be required to screen all baggage using any combination of bag matching, manual searches, searches by canine explosive detection units, or other means approved by the Under Secretary. Explosives detection systems would have to be deployed at all airports in the United States no later than December 31, 2002.

As soon as practicable after enactment, all individuals with access to secured areas of airports would be required to undergo security screening "that will assure at least the same level of protection as" the screening of passengers and their baggage. The enrolled bill would require FAA to establish pilot programs in at least 20 airports to test emerging technology for providing access control in secured areas of airports.

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S. 1447 would make the Under Secretary responsible for the training, supervision, and deployment of Federal air marshals. The Secretary would be authorized to require air marshals on all flights, and required to assign air marshals to every flight determined by the Secretary to present high security risks. Airlines would be required to provide seating for air marshals on any flight. The Under Secretary could appoint retired law enforcement officers, retired members of the armed forces, and commercial airline crew members furloughed within one year of September 11, 2001, as Federal air marshals, regardless of age, if they otherwise meet the required background and fitness qualifications. The Under Secretary may also use personnel from other Federal agencies, after consultation with the heads of those agencies, to provide marshal service on a non-reimbursable basis.

Flight Deck Security

S. 1447 would require the Federal Aviation Administration (FAA) to issue an order prohibiting access to the flight deck by any persons other than members of flight crews, mandating strengthened flight deck doors and locks on major air-carrier flights, requiring the door to be locked during flights except for crew access, limiting the provision of door keys to members of the flight deck crew, and making any other modifications of procedures to ensure the safety and security of aircraft. The FAA would also be required to investigate means of securing maximum feasible protection of commuter aircraft without locking doors.

Pilots of passenger aircraft would be authorized to carry firearms in the cockpit if the Under Secretary approves, the air carrier approves, and the pilot has received proper training on the use of the firearm as determined by the Under Secretary. In addition, S. 1447 would require the National Institute of Justice to provide recommendations to the Secretary of Transportation within 90 days of enactment regarding less-than-lethal weaponry that could be used by flight deck crew members to temporarily incapacitate individuals posing clear and present danger to the safety of aircraft, passengers, or individuals on the ground. Based upon these recommendations the Secretary could, with the approval of the Attorney General and the Secretary of State, authorize flight deck crew-members to carry such weapons while in flight. If the Secretary grants this authority, the Department would be required to issue rules prescribing training in the proper use of the weapon and guidelines defining the circumstances in which such weapons may be used.

Liability Limitations and Exemptions

The enrolled bill would modify a limitation on liability enacted in the Air Transportation Safety and System Stabilization Act (P.L. 107-42, enacted September 22, 2001). That provision limited the liability of air carriers for all claims "arising from the terrorist-related aircraft crashes of September 11, 2001" to the limits of their liability insurance coverage. The enrolled bill would extend this limitation to aircraft manufacturers (including manufacturers of the aircraft or any parts or components of the aircraft and their employees and agents), airport owners and

operators, and individuals or entities with a property interest in the World Trade Center on September 11th. However, individuals or entities with a property interest in the World Trade Center who are determined by the Attorney General to have defaulted willfully on a contractual obligation to rebuild or assist in the rebuilding of the World Trade Center would not be covered. The enrolled bill would also provide that the liability of the City of New York for all claims be limited to the greater of the city's insurance coverage or \$350 million.

S. 1447 would exempt law enforcement, medical, firefighting, and other personnel designated by the Department of Transportation who provide or attempt to provide assistance in any in-flight emergency from liability in Federal or State courts for any resulting acts or omissions unless the assistance is provided in a manner that constitutes gross negligence or willful misconduct.

S. 1447 would exempt persons who attempt to thwart acts of criminal violence or piracy on aircraft from damages if they reasonably believed that such acts were occurring or were about to occur. Air carriers and their employees would also be exempt from liability where they report suspicious activities which could be relevant to air piracy or other potential threats to aircraft or passenger safety.

Passenger and Baggage Screening Fees

S. 1447 would require the TSA to impose a fee on airline passengers to pay for specified costs of providing aviation security services, including salary and other costs of passenger and baggage screeners, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations. The fee could not exceed \$2.50 per enplanement or \$5.00 per one-way trip. To the extent that fees collected from passengers are insufficient to cover the total amount of these costs, TSA may impose an additional fee on air carriers to pay for the difference. The total amount of fees collected annually from air carriers could not exceed the total amount spent by all air carriers in calendar year 2000 for screening activities. Revenues would be required to be credited as offsetting collections, could be used only to provide aviation security services, and would be available until expended. The enrolled bill would authorize appropriations of "such sums as may be necessary" for each of FYs 2002-2005 to carry out aviation security activities, including those activities for which the fee revenues would be available.

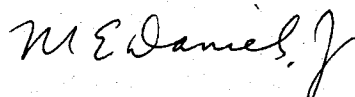
Specific Authorizations of Appropriations

The enrolled bill would authorize appropriations of \$500 million for FY 2002 to the Department of Transportation for grants to air carriers for fortified cockpit doors and other security enhancements. The enrolled bill would authorize appropriations of \$50 million for each of FYs 2002 through 2006 and such sums as may be necessary for each year thereafter to TSA for grants for research, development, testing, and evaluation of technologies that may enhance aviation security in the future. The enrolled bill would also authorize appropriations of \$20 million to TSA for research grants in conjunction with the Defense Advanced Research Projects

Agency. Finally, the enrolled bill would authorize appropriations, to remain available until expended, for FYs 2002 and 2003 of a total of \$1.5 billion to reimburse airport operators, on-airport parking lots, and vendors of on-airfield services to air carriers for the costs of complying with security requirements imposed by the FAA or TSA on or after September 11, 2001.

Conclusion and Recommendations

In its views letter, the Council of Economic Advisers states that the enrolled bill "should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system." We join the Department of Transportation and the Council of Economic Advisers in recommending approval of S. 1447, which passed the Senate by voice vote and the House by a vote of 410-9.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Significant Provisions of S. 1447

Other Aviation Security Enhancements

The enrolled bill would authorize the Under Secretary for Transportation Security to:

- Require that passenger aircraft and trains afford emergency call capability.
- Provide for the use of voice stress analysis, biometric, and other techniques to prevent dangerous persons from boarding aircraft.
- Establish a uniform system for identifying law enforcement personnel traveling on aircraft with firearms.
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WHITE HOUSE STAFFING MEMORANDUM

Date: 11-17-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-18-01 5:00 PM

ENROLLED BILL S.1447 -- AVIATION AND TRANSPORTATION SECURITY ACT
 Subject: SPONSOR -- SEN. HOLLINGS (D) SOUTH CAROLINA AND 30 COSPONSORS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☐	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☐	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☒	☐
FLEISCHER	☐	☒	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐		☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS DIRECTLY TO THE STAFF SECRETARY, X62702, NO LATER THAN 5:00 P.M., TOMORROW, SUNDAY, NOVEMBER 18, 2001, WITH A COPY TO JIM JUKES, X53458. THANK YOU.

OK

RESPONSE:

Harriet E. Miers
 Assistant to the President
 and Staff Secretary
 Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

November 17, 2001

MEMORANDUM FOR THE PRESIDENT

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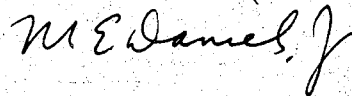
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Conclusion and Recommendations

In its views letter, the Council of Economic Advisers states that the enrolled bill "should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system." We join the Department of Transportation and the Council of Economic Advisers in recommending approval of S. 1447, which passed the Senate by voice vote and the House by a vote of 410-9.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Significant Provisions of S. 1447

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- Require that passenger aircraft and trains afford emergency call capability.
- Provide for the use of voice stress analysis, biometric, and other techniques to prevent dangerous persons from boarding aircraft.
- Establish a uniform system for identifying law enforcement personnel traveling on aircraft with firearms.
- Develop, in consultation with the Commissioner of the Food and Drug Administration, alternative security procedures that do not damage medical products.
- Permit airlines to implement trusted passenger programs that use technology to expedite screening on a voluntary basis.
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The enrolled bill would require the Secretary and Under Secretary, consistent with the Government Performance and Results Act (GPRA), to agree annually on an aviation security performance plan containing measurable goals and objectives covering the succeeding five years. The plan would also be required to identify the actions that will be taken to achieve the goals. The Under Secretary would be required to provide an annual report to Congress detailing the extent to which the goals and objectives were met.

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Miscellaneous Provisions

Finally, the enrolled bill would:

- Require Justice Department background checks on aliens before flight schools can provide them with training in the operations of certain aircraft.
- Require the FAA to conduct research and development on ways to enhance the detection of biological and chemical weapons.
- Authorize Transportation to require airports to maximize the use of equipment to detect and neutralize biological and chemical weapons.
- Require airlines, to the extent practicable, to give replacement tickets to passengers who bought plane tickets on other airlines that subsequently became insolvent or went bankrupt. This provision would not apply to transportation suspended more than 18 months after enactment.
- Establish criminal penalties for interference with the performance of a security screener's duties.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20502

November 16, 2001

FROM: Mark McClellan

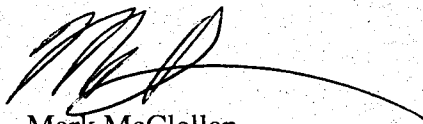
SUBJECT: CEA comments on Enrolled bill, S. 1447, Aviation Security, Conference Agreement

The Aviation and Transportation Security Act should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system.

The bill's security screening pilot program and security screening opt-out program, implemented after an appropriate delay, will allow a side-by-side comparison of alternate screening models. These two models, screening by federal employers or screening by private contractors with federal oversight, can be evaluated after the pilot program, and therefore provide an impetus for ongoing improvements in the air security system.

CEA recommends that the President sign this bill into law.

Sincerely,



Mark McClellan



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

THE DIRECTOR

November 17, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1447 - Aviation and Transportation Security Act
Sponsor - Sen. Hollings (D) South Carolina and 30 cosponsors

Last Day for Action

November 29, 2001 - Thursday. We understand that a signing ceremony is being planned for Monday, November 19, 2001.

Purpose

(1) Establishes Federal responsibility for aviation security, including screening operations for passenger air transportation, in a new Transportation Security Administration in the Department of Transportation; and (2) establishes limitations on the liability of certain entities for claims arising from the terrorist-related air crashes of September 11, 2001.

Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval (Informally)
Council of Economic Advisers	Approval
Department of Commerce	No objection (Informally)
Department of Justice	No objection (Informally)
Department of Labor	No objection (Informally)
General Services Administration	No objection (Informally)
Office of Personnel Management	No objection (Informally)
Office of National Drug Control Policy	No comment (Informally)
Department of State	No response
Department of the Treasury	No response

Discussion

S. 1447 would make security functions at the Nation's airports the responsibility of the Federal Government. The most important provisions of the enrolled bill are discussed below. Certain other significant provisions are noted in an Attachment.

Transportation Security Administration

S. 1447 would create a Transportation Security Administration (TSA) headed by an Under Secretary of Transportation for Security to be appointed by the President and confirmed by the Senate for a term of five years. The Under Secretary would be responsible for overseeing the Department's transportation security efforts for all modes of transportation, and would assume responsibility for civil aviation security functions no later than 3 months after enactment, in accordance with a schedule developed by the Secretary of Transportation. Based on the Secretary's evaluation of his or her performance, the Under Secretary could receive a bonus for any calendar year of no more than 30 percent of his or her annual rate of pay. Until the Under Secretary takes office, aviation security functions could be carried out by the Secretary or his designee.

The Under Secretary would be responsible for day-to-day Federal aviation security screening operations, including the hiring and training of all personnel responsible for providing security screening at U.S. airports. The Under Secretary would be required to work in conjunction with the FAA Administrator on all actions affecting aviation safety or air carrier operations and to serve as primary liaison for transportation security to the intelligence and law enforcement communities.

The Under Secretary would have the authority to issue, rescind, or revise regulations necessary to implement the TSA's responsibilities. If the Under Secretary determines that regulations or security directives must be issued immediately to protect transportation security, he or she would be authorized to do so without notice and comment, a cost-benefit analysis, or prior approval of the Secretary of Transportation or the Office of Management and Budget. The Transportation Security Oversight Board (described below) would be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance. The Under Secretary, in exercising either regular or emergency regulatory functions, would be required to consider "as a factor in the final determination" whether the costs of a regulation are excessive in relation to the increases in security it would provide.

In the event of a national emergency, the Under Secretary would be responsible for coordinating security for all modes of domestic transportation (including port security), coordinating the transportation-related responsibilities of all Federal non-military agencies, establishing uniform emergency transportation standards and practices, and providing notice to Federal agencies and appropriate State and local government agencies of threats to transportation. The Secretary of Transportation would define the circumstances under which these emergency functions would be exercised, and would supervise and direct the Under Secretary's performance of them.

The Under Secretary would be required to give "great weight" to the views of the National Transportation Safety Board in taking any transportation security action that could affect safety. The Under Secretary would also be prohibited from taking any aviation security action if the FAA Administrator notifies the Under Secretary that "the action could adversely

affect the airworthiness of an aircraft." The TSA would be subject to the FAA personnel and acquisition management systems, but these systems could be modified as the Under Secretary considers appropriate. The TSA would be subject to the Inspector General Act and other laws relating to the authority of the Department of Transportation's Inspector General.

Transportation Security Oversight Board

The enrolled bill would create a Transportation Security Oversight Board that would be required to meet at least quarterly to facilitate coordination of intelligence, security, and law enforcement activities affecting transportation. The Board would be chaired by the Secretary of Transportation or his designee and would also include the Attorney General, the Director of Central Intelligence, the Secretary of Defense, and the Secretary of the Treasury, or their designees, and two members designated by the President to represent the National Security Council and Office of Homeland Security. S. 1447 would also require the Board to explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security. As noted above, the Board would also be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance.

Aviation Security Screening

S. 1447 would require the Under Secretary to provide for the screening of all passengers and property, including carry-on and checked baggage, U.S. mail, and other cargo carried aboard an aircraft in air transportation. The Under Secretary would be required to designate a Federal Security Manager at each airport in the United States that is part of the United States air transportation system who would be responsible for overseeing the screening of all passengers and property at airports. The Under Secretary would also be required to order the deployment of law enforcement personnel authorized to carry firearms at all screening locations within airports. Law enforcement officers of the TSA would be authorized to carry firearms and make arrests, subject to guidelines issued by the Under Secretary in consultation with the Attorney General.

Within 30 days of enactment, the Under Secretary would be required to establish qualification standards for security screening personnel. Such qualifications would have to include United States citizenship, and other minimum standards established by the enrolled bill, including the ability to read, speak and write English. The Under Secretary would also be required to establish a program for hiring (including background investigations and pre-employment tests) and training aviation security screeners.

Upon assuming responsibility for civil aviation security, the Under Secretary would be authorized to assume the existing responsibilities of air carrier contracts for passenger screening, subject to payment of adequate compensation to parties to the contracts. The Under Secretary could also enter into agreements with air carriers to transfer these contracts to the Federal Government prior to the Under Secretary taking responsibility for the function. These transfers could occur no later than 90 days after enactment; for any contract, the Under Secretary may

enter into an agreement for one 180-day period that could be extended for one 90-day period. In recognition of the assumption of the financial costs of security screening by the TSA, air carriers could enter into agreements with the Under Secretary for transfer of ownership at no cost to the Federal Government of any personal property, equipment, supplies, and other material that the Under Secretary determines to be useful for performing security screening at U.S. airports.

Within one year of enactment, the Under Secretary would be required to deploy a sufficient number of Federal screeners and other law enforcement and security personnel to conduct the screening of all passengers and property at all airports that are part of the U.S. air transportation system, and would have to certify to Congress that this requirement has been met. During the ensuing two years, the Under Secretary would be required to implement a pilot program under which a maximum of five airports (including no more than one from each of five airport security risk categories defined by the Under Secretary) would be permitted to implement pilot projects under which private contractors would be hired to perform aviation security screening. Beginning three years after enactment, the Under Secretary would be authorized to approve any application by an airport to have aviation security screening performed by a qualified U.S.-owned private screening company under a contract with the TSA. The Under Secretary could enter into such a contract only if he determines and certifies to Congress that the screening services and protection will be "equal to or greater than" the level that would be provided by Federal personnel.

S. 1447 would authorize the Under Secretary to employ, appoint, discipline, terminate, and fix the compensation and terms and conditions of employment of security screening personnel "notwithstanding any other provision of law." Persons employed as aviation security screeners would be prohibited from striking. In addition, all screening would be required to be supervised by uniformed TSA personnel, who would have the authority to dismiss any screener.

The Under Secretary would be required to assure the screening of all checked baggage at all airports as soon as practicable, but no later than 60 days following enactment. Airports that do not employ explosives detection equipment would be required to screen all baggage using any combination of bag matching, manual searches, searches by canine explosive detection units, or other means approved by the Under Secretary. Explosives detection systems would have to be deployed at all airports in the United States no later than December 31, 2002.

As soon as practicable after enactment, all individuals with access to secured areas of airports would be required to undergo security screening "that will assure at least the same level of protection as" the screening of passengers and their baggage. The enrolled bill would require FAA to establish pilot programs in at least 20 airports to test emerging technology for providing access control in secured areas of airports.

The Under Secretary would be required to establish mandatory procedures under which air carriers would use information from government agencies to identify individuals on passenger lists who may be threats to civil aviation or national security and would notify appropriate law enforcement agencies and prevent such individuals from boarding aircraft.

Federal Air Marshals

S. 1447 would make the Under Secretary responsible for the training, supervision, and deployment of Federal air marshals. The Secretary would be authorized to require air marshals on all flights, and required to assign air marshals to every flight determined by the Secretary to present high security risks. Airlines would be required to provide seating for air marshals on any flight. The Under Secretary could appoint retired law enforcement officers, retired members of the armed forces, and commercial airline crew members furloughed within one year of September 11, 2001, as Federal air marshals, regardless of age, if they otherwise meet the required background and fitness qualifications. The Under Secretary may also use personnel from other Federal agencies, after consultation with the heads of those agencies, to provide marshal service on a non-reimbursable basis.

Flight Deck Security

S. 1447 would require the Federal Aviation Administration (FAA) to issue an order prohibiting access to the flight deck by any persons other than members of flight crews, mandating strengthened flight deck doors and locks on major air-carrier flights, requiring the door to be locked during flights except for crew access, limiting the provision of door keys to members of the flight deck crew, and making any other modifications of procedures to ensure the safety and security of aircraft. The FAA would also be required to investigate means of securing maximum feasible protection of commuter aircraft without locking doors.

Pilots of passenger aircraft would be authorized to carry firearms in the cockpit if the Under Secretary approves, the air carrier approves, and the pilot has received proper training on the use of the firearm as determined by the Under Secretary. In addition, S. 1447 would require the National Institute of Justice to provide recommendations to the Secretary of Transportation within 90 days of enactment regarding less-than-lethal weaponry that could be used by flight deck crew members to temporarily incapacitate individuals posing clear and present danger to the safety of aircraft, passengers, or individuals on the ground. Based upon these recommendations the Secretary could, with the approval of the Attorney General and the Secretary of State, authorize flight deck crew-members to carry such weapons while in flight. If the Secretary grants this authority, the Department would be required to issue rules prescribing training in the proper use of the weapon and guidelines defining the circumstances in which such weapons may be used.

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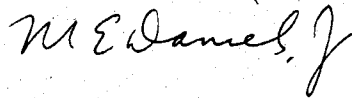
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Mitchell E. Daniels, Jr.
Director

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WHITE HOUSE STAFFING MEMORANDUM

Date: 11-17-01 ACTION / CONCURRENCE / COMMENT DUE BY: 11-18-01 5:00 PM

ENROLLED BILL S.1447 -- AVIATION AND TRANSPORTATION SECURITY ACT
 Subject: SPONSOR -- SEN. HOLLINGS (D) SOUTH CAROLINA AND 30 COSPONSORS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT →	☒	☐	HUBBARD	☒	☐
CARD	☒	☐	HUGHES	☒	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☒	☐	JOHNSON	☐	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☐	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☒	☐
FLEISCHER	☐	☒	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
GONZALES	☒	☐	SPELLINGS	☒	☐
HAGIN	☐	☐	CLERK	☐	☒
HAWKINS	☒	☐	_____	☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS DIRECTLY TO THE STAFF SECRETARY, X62702, NO LATER THAN 5:00 P.M., TOMORROW, SUNDAY, NOVEMBER 18, 2001, WITH A COPY TO JIM JUKES, X53458. THANK YOU.

RESPONSE:

Harriet E. Miers
 Assistant to the President
 and Staff Secretary
 Ext. 62702

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BOLTEN	☒	☐	JOHNSON	☐	☐
CALIO	☒	☐	LINDSEY	☒	☐
CONNAUGHTON	☐	☐	MIERS	☐	☒
DANIELS	☐	☒	RICE	☒	☐
FLEISCHER	☐	☒	RIDGE	☒	☐
GERSON	☐	☐	ROVE	☒	☐
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HAGIN	☐	☐	CLERK	☐	☒
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 Ext. 62702



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

THE DIRECTOR

November 17, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1447 - Aviation and Transportation Security Act
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In the event of a national emergency, the Under Secretary would be responsible for coordinating security for all modes of domestic transportation (including port security), coordinating the transportation-related responsibilities of all Federal non-military agencies, establishing uniform emergency transportation standards and practices, and providing notice to Federal agencies and appropriate State and local government agencies of threats to transportation. The Secretary of Transportation would define the circumstances under which these emergency functions would be exercised, and would supervise and direct the Under Secretary's performance of them.

The Under Secretary would be required to give "great weight" to the views of the National Transportation Safety Board in taking any transportation security action that could affect safety. The Under Secretary would also be prohibited from taking any aviation security action if the FAA Administrator notifies the Under Secretary that "the action could adversely

affect the airworthiness of an aircraft." The TSA would be subject to the FAA personnel and acquisition management systems, but these systems could be modified as the Under Secretary considers appropriate. The TSA would be subject to the Inspector General Act and other laws relating to the authority of the Department of Transportation's Inspector General.

Transportation Security Oversight Board

The enrolled bill would create a Transportation Security Oversight Board that would be required to meet at least quarterly to facilitate coordination of intelligence, security, and law enforcement activities affecting transportation. The Board would be chaired by the Secretary of Transportation or his designee and would also include the Attorney General, the Director of Central Intelligence, the Secretary of Defense, and the Secretary of the Treasury, or their designees, and two members designated by the President to represent the National Security Council and Office of Homeland Security. S. 1447 would also require the Board to explore the technical feasibility of developing a common database of individuals who may pose a threat to transportation or national security. As noted above, the Board would also be required to review emergency regulations issued by the Under Secretary and either ratify or disapprove them within 30 days of issuance.

Aviation Security Screening

S. 1447 would require the Under Secretary to provide for the screening of all passengers and property, including carry-on and checked baggage, U.S. mail, and other cargo carried aboard an aircraft in air transportation. The Under Secretary would be required to designate a Federal Security Manager at each airport in the United States that is part of the United States air transportation system who would be responsible for overseeing the screening of all passengers and property at airports. The Under Secretary would also be required to order the deployment of law enforcement personnel authorized to carry firearms at all screening locations within airports. Law enforcement officers of the TSA would be authorized to carry firearms and make arrests, subject to guidelines issued by the Under Secretary in consultation with the Attorney General.

Within 30 days of enactment, the Under Secretary would be required to establish qualification standards for security screening personnel. Such qualifications would have to include United States citizenship, and other minimum standards established by the enrolled bill, including the ability to read, speak and write English. The Under Secretary would also be required to establish a program for hiring (including background investigations and pre-employment tests) and training aviation security screeners.

Upon assuming responsibility for civil aviation security, the Under Secretary would be authorized to assume the existing responsibilities of air carrier contracts for passenger screening, subject to payment of adequate compensation to parties to the contracts. The Under Secretary could also enter into agreements with air carriers to transfer these contracts to the Federal Government prior to the Under Secretary taking responsibility for the function. These transfers could occur no later than 90 days after enactment; for any contract, the Under Secretary may

enter into an agreement for one 180-day period that could be extended for one 90-day period. In recognition of the assumption of the financial costs of security screening by the TSA, air carriers could enter into agreements with the Under Secretary for transfer of ownership at no cost to the Federal Government of any personal property, equipment, supplies, and other material that the Under Secretary determines to be useful for performing security screening at U.S. airports.

Within one year of enactment, the Under Secretary would be required to deploy a sufficient number of Federal screeners and other law enforcement and security personnel to conduct the screening of all passengers and property at all airports that are part of the U.S. air transportation system, and would have to certify to Congress that this requirement has been met. During the ensuing two years, the Under Secretary would be required to implement a pilot program under which a maximum of five airports (including no more than one from each of five airport security risk categories defined by the Under Secretary) would be permitted to implement pilot projects under which private contractors would be hired to perform aviation security screening. Beginning three years after enactment, the Under Secretary would be authorized to approve any application by an airport to have aviation security screening performed by a qualified U.S.-owned private screening company under a contract with the TSA. The Under Secretary could enter into such a contract only if he determines and certifies to Congress that the screening services and protection will be "equal to or greater than" the level that would be provided by Federal personnel.

S. 1447 would authorize the Under Secretary to employ, appoint, discipline, terminate, and fix the compensation and terms and conditions of employment of security screening personnel "notwithstanding any other provision of law." Persons employed as aviation security screeners would be prohibited from striking. In addition, all screening would be required to be supervised by uniformed TSA personnel, who would have the authority to dismiss any screener.

The Under Secretary would be required to assure the screening of all checked baggage at all airports as soon as practicable, but no later than 60 days following enactment. Airports that do not employ explosives detection equipment would be required to screen all baggage using any combination of bag matching, manual searches, searches by canine explosive detection units, or other means approved by the Under Secretary. Explosives detection systems would have to be deployed at all airports in the United States no later than December 31, 2002.

As soon as practicable after enactment, all individuals with access to secured areas of airports would be required to undergo security screening "that will assure at least the same level of protection as" the screening of passengers and their baggage. The enrolled bill would require FAA to establish pilot programs in at least 20 airports to test emerging technology for providing access control in secured areas of airports.

The Under Secretary would be required to establish mandatory procedures under which air carriers would use information from government agencies to identify individuals on passenger lists who may be threats to civil aviation or national security and would notify appropriate law enforcement agencies and prevent such individuals from boarding aircraft.

Federal Air Marshals

S. 1447 would make the Under Secretary responsible for the training, supervision, and deployment of Federal air marshals. The Secretary would be authorized to require air marshals on all flights, and required to assign air marshals to every flight determined by the Secretary to present high security risks. Airlines would be required to provide seating for air marshals on any flight. The Under Secretary could appoint retired law enforcement officers, retired members of the armed forces, and commercial airline crew members furloughed within one year of September 11, 2001, as Federal air marshals, regardless of age, if they otherwise meet the required background and fitness qualifications. The Under Secretary may also use personnel from other Federal agencies, after consultation with the heads of those agencies, to provide marshal service on a non-reimbursable basis.

Flight Deck Security

S. 1447 would require the Federal Aviation Administration (FAA) to issue an order prohibiting access to the flight deck by any persons other than members of flight crews, mandating strengthened flight deck doors and locks on major air-carrier flights, requiring the door to be locked during flights except for crew access, limiting the provision of door keys to members of the flight deck crew, and making any other modifications of procedures to ensure the safety and security of aircraft. The FAA would also be required to investigate means of securing maximum feasible protection of commuter aircraft without locking doors.

Pilots of passenger aircraft would be authorized to carry firearms in the cockpit if the Under Secretary approves, the air carrier approves, and the pilot has received proper training on the use of the firearm as determined by the Under Secretary. In addition, S. 1447 would require the National Institute of Justice to provide recommendations to the Secretary of Transportation within 90 days of enactment regarding less-than-lethal weaponry that could be used by flight deck crew members to temporarily incapacitate individuals posing clear and present danger to the safety of aircraft, passengers, or individuals on the ground. Based upon these recommendations the Secretary could, with the approval of the Attorney General and the Secretary of State, authorize flight deck crew-members to carry such weapons while in flight. If the Secretary grants this authority, the Department would be required to issue rules prescribing training in the proper use of the weapon and guidelines defining the circumstances in which such weapons may be used.

Liability Limitations and Exemptions

The enrolled bill would modify a limitation on liability enacted in the Air Transportation Safety and System Stabilization Act (P.L. 107-42, enacted September 22, 2001). That provision limited the liability of air carriers for all claims "arising from the terrorist-related aircraft crashes of September 11, 2001" to the limits of their liability insurance coverage. The enrolled bill would extend this limitation to aircraft manufacturers (including manufacturers of the aircraft or any parts or components of the aircraft and their employees and agents), airport owners and

operators, and individuals or entities with a property interest in the World Trade Center on September 11th. However, individuals or entities with a property interest in the World Trade Center who are determined by the Attorney General to have defaulted willfully on a contractual obligation to rebuild or assist in the rebuilding of the World Trade Center would not be covered. The enrolled bill would also provide that the liability of the City of New York for all claims be limited to the greater of the city's insurance coverage or \$350 million.

S. 1447 would exempt law enforcement, medical, firefighting, and other personnel designated by the Department of Transportation who provide or attempt to provide assistance in any in-flight emergency from liability in Federal or State courts for any resulting acts or omissions unless the assistance is provided in a manner that constitutes gross negligence or willful misconduct.

S. 1447 would exempt persons who attempt to thwart acts of criminal violence or piracy on aircraft from damages if they reasonably believed that such acts were occurring or were about to occur. Air carriers and their employees would also be exempt from liability where they report suspicious activities which could be relevant to air piracy or other potential threats to aircraft or passenger safety.

Passenger and Baggage Screening Fees

S. 1447 would require the TSA to impose a fee on airline passengers to pay for specified costs of providing aviation security services, including salary and other costs of passenger and baggage screeners, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations. The fee could not exceed \$2.50 per enplanement or \$5.00 per one-way trip. To the extent that fees collected from passengers are insufficient to cover the total amount of these costs, TSA may impose an additional fee on air carriers to pay for the difference. The total amount of fees collected annually from air carriers could not exceed the total amount spent by all air carriers in calendar year 2000 for screening activities. Revenues would be required to be credited as offsetting collections, could be used only to provide aviation security services, and would be available until expended. The enrolled bill would authorize appropriations of "such sums as may be necessary" for each of FYs 2002-2005 to carry out aviation security activities, including those activities for which the fee revenues would be available.

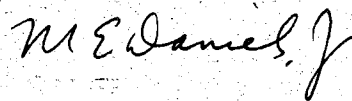
Specific Authorizations of Appropriations

The enrolled bill would authorize appropriations of \$500 million for FY 2002 to the Department of Transportation for grants to air carriers for fortified cockpit doors and other security enhancements. The enrolled bill would authorize appropriations of \$50 million for each of FYs 2002 through 2006 and such sums as may be necessary for each year thereafter to TSA for grants for research, development, testing, and evaluation of technologies that may enhance aviation security in the future. The enrolled bill would also authorize appropriations of \$20 million to TSA for research grants in conjunction with the Defense Advanced Research Projects

Agency. Finally, the enrolled bill would authorize appropriations, to remain available until expended, for FYs 2002 and 2003 of a total of \$1.5 billion to reimburse airport operators, on-airport parking lots, and vendors of on-airfield services to air carriers for the costs of complying with security requirements imposed by the FAA or TSA on or after September 11, 2001.

Conclusion and Recommendations

In its views letter, the Council of Economic Advisers states that the enrolled bill "should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system." We join the Department of Transportation and the Council of Economic Advisers in recommending approval of S. 1447, which passed the Senate by voice vote and the House by a vote of 410-9.



Mitchell E. Daniels, Jr.
Director

Enclosures

Attachment

Other Significant Provisions of S. 1447

Other Aviation Security Enhancements

The enrolled bill would authorize the Under Secretary for Transportation Security to:

- Require that passenger aircraft and trains afford emergency call capability.
- Provide for the use of voice stress analysis, biometric, and other techniques to prevent dangerous persons from boarding aircraft.
- Establish a uniform system for identifying law enforcement personnel traveling on aircraft with firearms.
- Develop, in consultation with the Commissioner of the Food and Drug Administration, alternative security procedures that do not damage medical products.
- Permit airlines to implement trusted passenger programs that use technology to expedite screening on a voluntary basis.
- Provide for the use of technology to enhance communications among airport security personnel about potential threats.

Transportation Security Performance Plan

The enrolled bill would require the Secretary and Under Secretary, consistent with the Government Performance and Results Act (GPRA), to agree annually on an aviation security performance plan containing measurable goals and objectives covering the succeeding five years. The plan would also be required to identify the actions that will be taken to achieve the goals. The Under Secretary would be required to provide an annual report to Congress detailing the extent to which the goals and objectives were met.

Airline Antitrust Immunity

The enrolled bill would authorize the Secretary of Transportation to approve agreements between two or more air carriers covering flights which both originate and terminate within a State if its governor certifies that such agreements are necessary to ensure the continuing availability of such air transportation within that State. In order to approve an agreement relating to such States, the Secretary would have to find that the State to which it relates has extraordinary air transportation needs and concerns, and that approval of the agreement is in the public interest. Such agreements would have to expire on or before October 1, 2002, but could be extended by the Secretary to a date no later than October 1, 2003.

Compensation of the Chief Operating Officer of the Air Traffic Control System

The enrolled bill would provide that the Chief Operating Officer (COO) for the air traffic control system be paid at an annual rate determined by the FAA Administrator that could not exceed the annual compensation of the President of the United States. Under current law, the annual rate for the COO is equal to that of the FAA Administrator.

Miscellaneous Provisions

Finally, the enrolled bill would:

- Require Justice Department background checks on aliens before flight schools can provide them with training in the operations of certain aircraft.
- Require the FAA to conduct research and development on ways to enhance the detection of biological and chemical weapons.
- Authorize Transportation to require airports to maximize the use of equipment to detect and neutralize biological and chemical weapons.
- Require airlines, to the extent practicable, to give replacement tickets to passengers who bought plane tickets on other airlines that subsequently became insolvent or went bankrupt. This provision would not apply to transportation suspended more than 18 months after enactment.
- Establish criminal penalties for interference with the performance of a security screener's duties.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20502

November 16, 2001

FROM: Mark McClellan

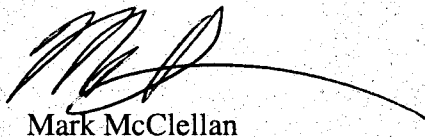
SUBJECT: CEA comments on Enrolled bill, S. 1447, Aviation Security, Conference Agreement

The Aviation and Transportation Security Act should raise security compared to the old system, and allay air traveler fears. The measure is therefore an important step in restoring confidence in the air travel system.

The bill's security screening pilot program and security screening opt-out program, implemented after an appropriate delay, will allow a side-by-side comparison of alternate screening models. These two models, screening by federal employers or screening by private contractors with federal oversight, can be evaluated after the pilot program, and therefore provide an impetus for ongoing improvements in the air security system.

CEA recommends that the President sign this bill into law.

Sincerely,



Mark McClellan