

FEDERAL AVIATION AUTHORIZATION ACT OF 1996

SEPTEMBER 26, 1996.—Ordered to be printed

Mr. SHUSTER, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 3539]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—*This Act may be cited as the “Federal Aviation Reauthorization Act of 1996”.*

(b) *TABLE OF CONTENTS.*—

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to title 49, United States Code.

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TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Reauthorization of FAA Programs

Sec. 101. Airport improvement program.

Sec. 102. Airway facilities improvement program.

Sec. 103. FAA operations.

Subtitle B—Airport Development Financing

Sec. 121. Apportionments.

Sec. 122. Discretionary fund.

Sec. 123. Use of apportioned amounts.

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Subtitle C—Airport Improvement Program Modifications

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- Sec. 143. Access to airports by intercity buses.*
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- Sec. 202. Definitions.*
- Sec. 203. Effective date.*

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- Sec. 222. Purposes.*
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- Sec. 251. Review of acquisition management system.*
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TITLE III—AVIATION SECURITY

- Sec. 301. Report including proposed legislation on funding for airport security.*
- Sec. 302. Certification of screening companies.*
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- Sec. 308. Authority to use certain funds for airport security programs and activities.*
- Sec. 309. Development of aviation security liaison agreement.*
- Sec. 310. Regular joint threat assessments.*
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- Sec. 313. Report on air cargo.*
- Sec. 314. Sense of the Senate regarding acts of international terrorism.*

TITLE IV—AVIATION SAFETY

- Sec. 401. Elimination of dual mandate.*
- Sec. 402. Protection of voluntarily submitted information.*

- Sec. 403. *Supplemental type certificates.*
- Sec. 404. *Certification of small airports.*
- Sec. 405. *Authorization for State-specific safety measures.*
- Sec. 406. *Aircraft engine standards.*
- Sec. 407. *Accident and safety data classification; report on effects of publication and automated surveillance targeting systems.*

TITLE V—PILOT RECORD SHARING

- Sec. 501. *Short title.*
- Sec. 502. *Employment investigations of pilot applicants.*
- Sec. 503. *Studies of minimum standards for pilot qualifications and of pay for training.*
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TITLE VI—CHILD PILOT SAFETY

- Sec. 601. *Short title.*
- Sec. 602. *Child pilot safety.*

TITLE VII—FAMILY ASSISTANCE

- Sec. 701. *Short title.*
- Sec. 702. *Assistance by National Transportation Safety Board to families of passengers involved in aircraft accidents.*
- Sec. 703. *Air carrier plans to address needs of families of passengers involved in aircraft accidents.*
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TITLE VIII—AIRPORT REVENUE PROTECTION

- Sec. 801. *Short title.*
- Sec. 802. *Findings; purpose.*
- Sec. 803. *Definitions.*
- Sec. 804. *Restriction on use of airport revenues.*
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TITLE IX—METROPOLITAN WASHINGTON AIRPORTS

- Sec. 901. *Short title.*
- Sec. 902. *Use of leased property.*
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TITLE X—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURES

- Sec. 1001. *Extension of Airport and Airway Trust Fund expenditures.*

TITLE XI—FAA RESEARCH, ENGINEERING, AND DEVELOPMENT

- Sec. 1101. *Short title.*
- Sec. 1102. *Authorization of appropriations.*
- Sec. 1103. *Research priorities.*
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TITLE XII—MISCELLANEOUS PROVISIONS

- Sec. 1201. *Purchase of housing units.*
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- Sec. 1203. *Authority to close airport located near closed or realigned military base.*
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 Sec. 1217. Location of Doppler radar stations, New York.
 Sec. 1218. Train whistle requirements.
 Sec. 1219. Increased fees.
 Sec. 1220. Structures interfering with air commerce.
 Sec. 1221. Hawaii cargo.
 Sec. 1222. Limitation on authority of States to regulate gambling devices on vessels.
 Sec. 1223. Clarifying amendment.

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. APPLICABILITY.

(a) *IN GENERAL.*—*Except as otherwise specifically provided, this Act and the amendments made by this Act apply only to fiscal years beginning after September 30, 1996.*

(b) *LIMITATION ON STATUTORY CONSTRUCTION.*—*Nothing in this Act or any amendment made by this Act shall be construed as affecting funds made available for a fiscal year ending before October 1, 1996.*

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Reauthorization of FAA Programs

SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

(a) *AUTHORIZATION OF APPROPRIATIONS.*—*Section 48103 is amended—*

(1) *by striking “September 30, 1981” and inserting “September 30, 1996”; and*

(2) *by striking “\$17,583,500,000” and all that follows through the period at the end and inserting the following: “\$2,280,000,000 for fiscal years ending before October 1, 1997, and \$4,627,000,000 for fiscal years ending before October 1, 1998.”.*

(b) *OBLIGATIONAL AUTHORITY.*—*Section 47104(c) is amended by striking “1996” and inserting “1998”.*

SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

(a) *AUTHORIZATION OF APPROPRIATIONS.*—*Section 48101(a) is amended by striking paragraphs (1) through (4) and inserting the following:*

“(1) \$2,068,000,000 for fiscal year 1997.

“(2) \$2,129,000,000 for fiscal year 1998.”.
 (b) CLERICAL AMENDMENTS.—Chapter 481 is amended—
 (1) by striking the heading for section 48101 and inserting
 the following:

“§ 48101. Air navigation facilities and equipment”; and

(2) in the table of sections by striking the item relating to
 section 48101 and inserting the following:

“48101. Air navigation facilities and equipment.”.

SEC. 103. FAA OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FROM GENERAL
 FUND.—Section 106(k) is amended by striking “\$4,088,000,000” and
 all that follows through the period at the end and inserting the fol-
 lowing: “\$5,158,000,000 for fiscal year 1997 and \$5,344,000,000 for
 fiscal year 1998.”.

(b) AUTHORIZATION OF APPROPRIATIONS FROM TRUST FUND.—
 Section 48104(c) is amended—

(1) in the subsection heading by striking “1996” and insert-
 ing “1998”;

(2) in the matter preceding paragraph (1) by striking “1994,
 1995, and 1996” and inserting “1994 through 1998”; and

(3) in paragraph (2)(A) by striking “70 percent” and insert-
 ing “72.5 percent”.

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—Sec-
 tion 48108(c) is amended by striking “1996” and inserting “1998”.

(d) CLERICAL AMENDMENTS.—Chapter 481 is amended—

(1) by striking the heading for section 48104 and inserting
 the following:

“§ 48104. Operations and maintenance”; and

(2) in the table of sections by striking the item relating to
 section 48104 and inserting the following:

“48104. Operations and maintenance.”.

Subtitle B—Airport Development Financing

SEC. 121. APPORTIONMENTS.

(a) AMOUNTS APPORTIONED TO SPONSORS.—

(1) PRIMARY AIRPORTS.—Section 47114(c)(1)(A) is amend-
 ed—

(A) by striking “and” at the end of clause (iii);

(B) in clause (iv) by striking “additional passenger
 boarding” and inserting “of the next 500,000 passenger
 boardings”;

(C) by striking the period at the end of clause (iv) and
 inserting “; and”; and

(D) by adding at the end the following:

“(v) \$.50 for each additional passenger boarding at the air-
 port during the prior calendar year.”.

(2) CARGO ONLY AIRPORTS.—Section 47114(c)(2) of such
 title is amended to read as follows:

“(2) CARGO ONLY AIRPORTS.—

“(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to 2.5 percent of the amount subject to apportionment each fiscal year to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds.

“(B) SUBALLOCATION FORMULA.—Any funds apportioned under subparagraph (A) to sponsors of airports described in subparagraph (A) shall be allocated among those airports in the proportion that the total annual landed weight of aircraft described in subparagraph (A) landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports.

“(C) LIMITATION.—Not more than 8 percent of the amount apportioned under subparagraph (A) may be apportioned for any one airport.

“(D) DISTRIBUTION TO OTHER AIRPORTS.—Before apportioning amounts to the sponsors of airports under subparagraph (A) for a fiscal year, the Secretary may set-aside a portion of such amounts for distribution to the sponsors of other airports, selected by the Secretary, that the Secretary finds will be served primarily by aircraft providing air transportation of only cargo.

“(E) DETERMINATION OF LANDED WEIGHT.—Landed weight under this paragraph is the landed weight of aircraft landing at each airport described in subparagraph (A) during the prior calendar year.”.

(3) REPEAL OF LIMITATION.—Section 47114(c)(3) is repealed.

(b) AMOUNTS APPORTIONED TO STATES.—Section 47114(d)(2) of such title is amended—

(1) by striking “12” and inserting “18.5”;

(2) in subparagraph (A) by striking “one” and inserting “0.66”;

(3) in each of subparagraphs (B) and (C) by striking “49.5” and inserting “49.67”; and

(4) in each of subparagraphs (B) and (C) by striking “except” the second place it appears and all that follows through “title,” and inserting “excluding primary airports but including reliever and nonprimary commercial service airports,”.

SEC. 122. DISCRETIONARY FUND.

Section 47115 is amended by striking the second subsection (f), relating to minimum amounts to be credited, and inserting the following:

“(g) MINIMUM AMOUNT TO BE CREDITED.—

“(1) GENERAL RULE.—In a fiscal year, there shall be credited to the fund, out of amounts made available under section 48103 of this title, an amount that is at least equal to the sum of—

“(A) \$148,000,000; plus

“(B) the total amount required from the fund to carry out in the fiscal year letters of intent issued before January 1, 1996, under section 47110(e) of this title or the Airport and Airway Improvement Act of 1982.

The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

“(2) REDUCTION OF APPORTIONMENTS.—In a fiscal year in which the amount credited under subsection (a) is less than the minimum amount to be credited under paragraph (1), the total amount calculated under paragraph (3) shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals such minimum amount.

“(3) AMOUNT OF REDUCTION.—For a fiscal year, the total amount available to make a reduction to carry out paragraph (2) is the total of the amounts determined under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.

“(4) SPECIAL RULE.—For a fiscal year in which the amount credited to the fund under this subsection exceeds \$300,000,000, the Secretary shall allocate the amount of such excess as follows:

“(A) $\frac{1}{3}$ shall be made available to airports for which apportionments are made under section 47114(d) of this title.

“(B) $\frac{1}{3}$ shall be made available for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

“(C) $\frac{1}{3}$ shall be made available to current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title.”.

SEC. 123. USE OF APPORTIONED AMOUNTS.

(a) PERIOD OF AVAILABILITY.—Section 47117(b) is amended by inserting before the period at the end of the first sentence the following: “or the 3 fiscal years immediately following that year in the case of a primary airport that had less than .05 percent of the total boardings in the United States in the preceding calendar year”.

(b) SPECIAL APPORTIONMENT CATEGORIES.—Section 47117(e)(1) is amended—

(1) by striking “made available under section 48103” and inserting “available to the discretionary fund under section 47115”;

(2) by striking subparagraphs (A), (C), and (D);

(3) by redesignating subparagraphs (B) and (E) as subparagraphs (A) and (B), respectively;

(4) in subparagraph (A), as so redesignated, by striking “at least 12.5” and inserting “At least 31”;

(5) by adding at the end of subparagraph (A), as so redesignated, the following: “The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such 31 percent requirement is being met in that fiscal year.”;

(6) in subparagraph (B), as so redesignated, by striking “at least 2.25” and all that follows through “1996,” and inserting “At least 4 percent for each fiscal year thereafter”; and

(7) by inserting before the period at the end of subparagraph (B), as so redesignated, the following: “and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed \$30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant”.

(c) CONFORMING AMENDMENTS.—Section 47117(e) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 124. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

(a) GENERAL REQUIREMENTS.—Section 47118(a) is amended to read as follows:

“(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title. The maximum number of airports bearing such designation at any time is 12. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

“(1) the airport is a former military installation closed or realigned under—

“(A) section 2687 of title 10;

“(B) section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); or

“(C) section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); or

“(2) the Secretary finds that such grants would—

“(A) reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; or

“(B) enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays.”.

(b) ADDITIONAL DESIGNATION PERIODS.—Section 47118(d) is amended by striking “designation.” and inserting “designation, and for subsequent 5-fiscal-year periods if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of each such subsequent 5-fiscal-year period.”.

(c) PARKING LOTS, FUEL FARMS, UTILITIES, AND HANGARS.—Section 47118(f) is amended—

(1) in the heading by striking “AND UTILITIES” and inserting “UTILITIES, AND HANGARS”;

(2) by striking “for the fiscal years ending September 30, 1993–1996,” and inserting “for fiscal years beginning after September 30, 1992,”; and

(3) by striking “and utilities” and inserting “utilities, and hangars”.

(d) 2-YEAR EXTENSION.—Section 47117(e)(1)(B), as redesignated by section 123(b) of this Act, is amended by striking “and 1996,” and inserting “1996, 1997, and 1998”.

SEC. 125. PERIOD OF APPLICABILITY OF AMENDMENTS.

The amendments made by this subtitle shall cease to be effective on September 30, 1998. On and after such date, sections 47114, 47115, 47117, and 47118 of title 49, United States Code, shall read as if such amendments had not been enacted.

Subtitle C—Airport Improvement Program Modifications

SEC. 141. INTERMODAL PLANNING.

Section 47101(g) is amended to read as follows:

“(g) INTERMODAL PLANNING.—To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall take each of the following actions:

“(1) COORDINATION IN DEVELOPMENT OF AIRPORT PLANS AND PROGRAMS.—Cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.

“(2) GOALS FOR AIRPORT MASTER AND SYSTEM PLANS.—Encourage airport sponsors and State and local officials to develop airport master plans and airport system plans that—

“(A) foster effective coordination between aviation planning and metropolitan planning;

“(B) include an evaluation of aviation needs within the context of multimodal planning; and

“(C) are integrated with metropolitan plans to ensure that airport development proposals include adequate consideration of land use and ground transportation access.

“(3) REPRESENTATION OF AIRPORT OPERATORS ON MPO’S.—Encourage metropolitan planning organizations, particularly in areas with populations greater than 200,000, to establish membership positions for airport operators.”.

SEC. 142. PAVEMENT MAINTENANCE PROGRAM.

(a) PAVEMENT MAINTENANCE.—Subchapter I of chapter 471 is amended by adding at the end the following:

“§47132. Pavement maintenance

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue guidelines to carry out a pavement maintenance pilot project to preserve and extend the useful life of runways, taxiways, and aprons at airports for which apportionments are made under section 47114(d). The guidelines shall provide that

the Administrator may designate not more than 10 projects. The guidelines shall provide criteria for the Administrator to use in choosing the projects. At least 2 such projects must be in States without a primary airport that had 0.25 percent or more of the total boardings in the United States in the preceding calendar year. In designating a project, the Administrator shall take into consideration geographical, climatological, and soil diversity.

“(b) **EFFECTIVE DATE.**—This section shall be effective beginning on the date of the enactment of this section and ending on September 30, 1999.”.

(b) **COMPLIANCE WITH FEDERAL MANDATES.**—

(1) **USE OF AIP GRANTS.**—Section 47102(3) is amended—

(A) in subparagraph (E) by inserting “or under section 40117” before the period at the end; and

(B) in subparagraph (F) by striking “paid for by a grant under this subchapter and”.

(2) **USE OF PASSENGER FACILITY CHARGES.**—Section 40117(a)(3) is amended—

(A) by inserting “and” at the end of subparagraph (D);

(B) by striking “; and” at the end of subparagraph (E) and inserting a period; and

(C) by striking subparagraph (F).

(c) **CONFORMING AMENDMENT.**—The table of sections for such subchapter is amended by inserting after the item relating to section 47131 the following:

“47132. Pavement maintenance.”.

SEC. 143. ACCESS TO AIRPORTS BY INTERCITY BUSES.

Section 47107(a) is amended—

(1) by striking “and” at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting “; and”; and

(3) by adding at the end the following:

“(20) the airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, but the sponsor does not have any obligation under this paragraph, or because of it, to fund special facilities for intercity bus service or for other modes of transportation.”.

SEC. 144. COST REIMBURSEMENT FOR PROJECTS COMMENCED PRIOR TO GRANT AWARD.

(a) **COST REIMBURSEMENT.**—Section 47110(b)(2)(C) is amended to read as follows:

“(C) if the Government’s share is paid only with amounts apportioned under paragraphs (1) and (2) of section 47114(c) of this title and if the cost is incurred—

“(i) after September 30, 1996;

“(ii) before a grant agreement is executed for the project; and

“(iii) in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after the grant agreement had been executed;”.

(b) *USE OF DISCRETIONARY FUNDS.*—Section 47110 is amended by adding at the end the following:

“(g) *USE OF DISCRETIONARY FUNDS.*—A project for which cost reimbursement is provided under subsection (b)(2)(C) shall not receive priority consideration with respect to the use of discretionary funds made available under section 47115 of this title even if the amounts made available under paragraphs (1) and (2) of section 47114(c) are not sufficient to cover the Government’s share of the cost of project.”.

SEC. 145. SELECTION OF PROJECTS FOR GRANTS FROM DISCRETIONARY FUND.

(a) *SELECTION OF PROJECTS FOR GRANTS.*—Section 47115(d) is amended—

(1) by striking “; and” at the end of paragraph (2) and inserting the following: “, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;”;

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

(3) by adding at the end the following:

“(4) the airport improvement priorities of the States, and regional offices of the Administration, to the extent such priorities are not in conflict with paragraphs (1) and (2);

“(5) the projected growth in the number of passengers that will be using the airport at which the project will be carried out; and

“(6) any increase in the number of passenger boardings in the preceding 12-month period at the airport at which the project will be carried out, with priority consideration to be given to projects at airports at which the number of passenger boardings increased by at least 20 percent as compared to the number of passenger boardings in the 12-month period preceding such period.”.

(b) *PRIORITY FOR LETTERS OF INTENT.*—Section 47115, as amended by section 122 of this Act, is further amended by adding at the end the following:

“(h) *PRIORITY FOR LETTERS OF INTENT.*—In making grants in a fiscal year with funds made available under this section, the Secretary shall fulfill intentions to obligate under section 47110(e).”.

SEC. 146. SMALL AIRPORT FUND.

Section 47116 is amended by adding at the end the following:

“(d) *PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.*—In making grants to sponsors described in subsection (b)(2), the Secretary shall give priority consideration to multi-year projects for construction of new runways that the Secretary finds are cost beneficial and would increase capacity in a region of the United States.”.

SEC. 147. STATE BLOCK GRANT PROGRAM.

(a) *PARTICIPATING STATES.*—Section 47128 is amended—

(1) in subsection (a) by striking “7 qualified States” and inserting “8 qualified States for fiscal year 1997 and 9 qualified States for each fiscal year thereafter”;

- (2) in subsection (b)(1)—
- (A) by striking “(1)”; and
- (B) by redesignating subparagraphs (A) through (E) as paragraphs (1) through (5), respectively; and
- (3) by striking subsection (b)(2).
- (b) *USE OF STATE PRIORITY SYSTEM.*—Section 47128(c) is amended—
- (1) by striking “(b)(1)(B) or (C)” and inserting “(b)(2) or (b)(3)”; and
- (2) by adding at the end the following: “In carrying out this subsection, the Secretary shall permit a State to use the priority system of the State if such system is not inconsistent with the national priority system.”.
- (c) *REPEAL OF EXPIRATION DATE.*—
- (1) *IN GENERAL.*—Section 47128 is amended—
- (A) by striking “**pilot**” in the section heading;
- (B) by striking “pilot” in subsection (a); and
- (C) by striking subsection (d).
- (2) *CONFORMING AMENDMENT.*—The table of sections for chapter 471 is amended by striking the item relating to section 47128 and inserting the following:
- “47128. State block grant program.”.

SEC. 148. INNOVATIVE FINANCING TECHNIQUES.

- (a) *IN GENERAL.*—The Secretary of Transportation is authorized to carry out a demonstration program under which the Secretary may approve applications under subchapter I of chapter 471 of title 49, United States Code, for not more than 10 projects for which grants received under such subchapter may be used to implement innovative financing techniques.
- (b) *PURPOSE.*—The purpose of the demonstration program shall be to provide information on the use of innovative financing techniques for airport development projects to Congress and the National Civil Aviation Review Commission.
- (c) *LIMITATION.*—In no case shall the implementation of an innovative financing technique under the demonstration program result in a direct or indirect guarantee of any airport debt instrument by the Federal Government.
- (d) *INNOVATIVE FINANCING TECHNIQUE DEFINED.*—In this section, the term “innovative financing technique” shall be limited to the following:

- (1) Payment of interest.
- (2) Commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development.
- (3) Flexible non-Federal matching requirements.
- (e) *EXPIRATION OF AUTHORITY.*—The authority of the Secretary to carry out the demonstration program shall expire on September 30, 1998.

SEC. 149. PILOT PROGRAM ON PRIVATE OWNERSHIP OF AIRPORTS.

- (a) *ESTABLISHMENT OF PROGRAM.*—
- (1) *IN GENERAL.*—Subchapter I of chapter 471, as amended by section 804 of this Act, is further amended by adding after section 47133 the following:

“§ 47134. Pilot program on private ownership of airports

“(a) *SUBMISSION OF APPLICATIONS.*—If a sponsor intends to sell or lease a general aviation airport or lease any other type of airport for a long term to a person (other than a public agency), the sponsor and purchaser or lessee may apply to the Secretary of Transportation for exemptions under this section.

“(b) *APPROVAL OF APPLICATIONS.*—The Secretary may approve, with respect to not more than 5 airports, applications submitted under subsection (a) granting exemptions from the following provisions:

“(1) *USE OF REVENUES.*—

“(A) *IN GENERAL.*—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease of the airport such amount as may be approved—

“(i) by at least 65 percent of the air carriers serving the airport; and

“(ii) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

“(B) *LANDED WEIGHT DEFINED.*—In this paragraph, the term ‘landed weight’ means the weight of aircraft transporting passengers or cargo, or both, in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

“(2) *REPAYMENT REQUIREMENTS.*—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107 and 47152 of this title (and any other law, regulation, or grant assurance) to the extent necessary to waive any obligation of the sponsor to repay to the Federal Government any grants, or to return to the Federal Government any property, received by the airport under this title, the Airport and Airway Improvement Act of 1982, or any other law.

“(3) *COMPENSATION FROM AIRPORT OPERATIONS.*—The Secretary may grant an exemption to a purchaser or lessee from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

“(c) *TERMS AND CONDITIONS.*—The Secretary may approve an application under subsection (b) only if the Secretary finds that the sale or lease agreement includes provisions satisfactory to the Secretary to ensure the following:

“(1) The airport will continue to be available for public use on reasonable terms and conditions and without unjust discrimination.

“(2) The operation of the airport will not be interrupted in the event that the purchaser or lessee becomes insolvent or seeks or becomes subject to any State or Federal bankruptcy, reorganization, insolvency, liquidation, or dissolution proceeding or

any petition or similar law seeking the dissolution or reorganization of the purchaser or lessee or the appointment of a receiver, trustee, custodian, or liquidator for the purchaser or lessee or a substantial part of the purchaser or lessee's property, assets, or business.

"(3) The purchaser or lessee will maintain, improve, and modernize the facilities of the airport through capital investments and will submit to the Secretary a plan for carrying out such maintenance, improvements, and modernization.

"(4) Every fee of the airport imposed on an air carrier on the day before the date of the lease of the airport will not increase faster than the rate of inflation unless a higher amount is approved—

"(A) by at least 65 percent of the air carriers serving the airport; and

"(B) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

"(5) The percentage increase in fees imposed on general aviation aircraft at the airport will not exceed the percentage increase in fees imposed on air carriers at the airport.

"(6) Safety and security at the airport will be maintained at the highest possible levels.

"(7) The adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport.

"(8) Any adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport.

"(9) Any collective bargaining agreement that covers employees of the airport and is in effect on the date of the sale or lease of the airport will not be abrogated by the sale or lease.

"(d) PARTICIPATION OF CERTAIN AIRPORTS.—

"(1) GENERAL AVIATION AIRPORTS.—If the Secretary approves under subsection (b) applications with respect to 5 airports, one of the airports must be a general aviation airport.

"(2) LARGE HUB AIRPORTS.—The Secretary may not approve under subsection (b) more than 1 application submitted by an airport that had 1 percent or more of the total passenger boardings (as defined in section 47102) in the United States in the preceding calendar year.

"(e) REQUIRED FINDING THAT APPROVAL WILL NOT RESULT IN UNFAIR METHODS OF COMPETITION.—The Secretary may approve an application under subsection (b) only if the Secretary finds that the approval will not result in unfair and deceptive practices or unfair methods of competition.

"(f) INTERESTS OF GENERAL AVIATION USERS.—In approving an application of an airport under this section, the Secretary shall ensure that the interests of general aviation users of the airport are not adversely affected.

"(g) PASSENGER FACILITY FEES; APPORTIONMENTS; SERVICE CHARGES.—Notwithstanding that the sponsor of an airport receiv-

ing an exemption under subsection (b) is not a public agency, the sponsor shall not be prohibited from—

“(1) imposing a passenger facility fee under section 40117 of this title;

“(2) receiving apportionments under section 47114 of this title; or

“(3) collecting reasonable rental charges, landing fees, and other service charges from aircraft operators under section 40116(e)(2) of this title.

“(h) **EFFECTIVENESS OF EXEMPTIONS.**—An exemption granted under subsection (b) shall continue in effect only so long as the facilities sold or leased continue to be used for airport purposes.

“(i) **REVOCATION OF EXEMPTIONS.**—The Secretary may revoke an exemption issued to a purchaser or lessee of an airport under subsection (b)(3) if, after providing the purchaser or lessee with notice and an opportunity to be heard, the Secretary determines that the purchaser or lessee has knowingly violated any of the terms specified in subsection (c) for the sale or lease of the airport.

“(j) **NONAPPLICATION OF PROVISIONS TO AIRPORTS OWNED BY PUBLIC AGENCIES.**—The provisions of this section requiring the approval of air carriers in determinations concerning the use of revenues, and imposition of fees, at an airport shall not be extended so as to apply to any airport owned by a public agency that is not participating in the program established by this section.

“(k) **AUDITS.**—The Secretary may conduct periodic audits of the financial records and operations of an airport receiving an exemption under this section.

“(l) **REPORT.**—Not later than 2 years after the date of the initial approval of an application under this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on implementation of the program under this section.

“(m) **GENERAL AVIATION AIRPORT DEFINED.**—In this section, the term ‘general aviation airport’ means an airport that is not a commercial service airport.”.

(2) **CONFORMING AMENDMENT.**—The table of sections for such chapter is amended by inserting after the item relating to section 47133, as added by section 804 of this Act, the following:

“47134. Pilot program on private ownership of airports.”.

(b) **TAXATION.**—Section 40116(b) is amended—

(1) by striking “a State or” and inserting “a State, a”; and

(2) by inserting after “of a State” the following: “, and any person that has purchased or leased an airport under section 47134 of this title”.

(c) **FEDERAL SHARE.**—Section 47109(a) is amended—

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

(2) by striking the period at the end of paragraph (2) and inserting “; and”; and

(3) by adding at the end the following:

“(3) 40 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134.”

(d) **RESOLUTION OF AIRPORT-AIR CARRIER DISPUTES CONCERNING AIRPORT FEES.**—Section 47129(a) is amended by adding at the end the following:

“(4) **FEES IMPOSED BY PRIVATELY-OWNED AIRPORTS.**—In evaluating the reasonableness of a fee imposed by an airport receiving an exemption under section 47134 of this title, the Secretary shall consider whether the airport has complied with section 47134(c)(4).”.

TITLE II—FAA REFORM

SEC. 201. SHORT TITLE.

This title may be cited as the “Air Traffic Management System Performance Improvement Act of 1996”.

SEC. 202. DEFINITIONS.

In this title, the following definitions apply:

(1) **ADMINISTRATION.**—The term “Administration” means the Federal Aviation Administration.

(2) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

SEC. 203. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect on the date that is 30 days after the date of the enactment of this Act.

Subtitle A—General Provisions

SEC. 221. FINDINGS.

Congress finds the following:

(1) *In many respects the Administration is a unique agency, being one of the few non-defense government agencies that operates 24 hours a day, 365 days of the year, while continuing to rely on outdated technology to carry out its responsibilities for a state-of-the-art industry.*

(2) *Until January 1, 1996, users of the air transportation system paid 70 percent of the budget of the Administration, with the remaining 30 percent coming from the General Fund. The General Fund contribution over the years is one measure of the benefit received by the general public, military, and other users of Administration’s services.*

(3) *The Administration must become a more efficient, effective, and different organization to meet future challenges.*

(4) *The need to balance the Federal budget means that it may become more and more difficult to obtain sufficient General Fund contributions to meet the Administration’s future budget needs.*

(5) Congress must keep its commitment to the users of the national air transportation system by seeking to spend all monies collected from them each year and deposited into the Airport and Airway Trust Fund. Existing surpluses representing past receipts must also be spent for the purposes for which such funds were collected.

(6) The aviation community and the employees of the Administration must come together to improve the system. The Administration must continue to recognize who its customers are and what their needs are, and to design and redesign the system to make safety improvements and increase productivity.

(7) The Administration projects that commercial operations will increase by 18 percent and passenger traffic by 35 percent by the year 2002. Without effective airport expansion and system modernization, these needs cannot be met.

(8) Absent significant and meaningful reform, future challenges and needs cannot be met.

(9) The Administration must have a new way of doing business.

(10) There is widespread agreement within government and the aviation industry that reform of the Administration is essential to safely and efficiently accommodate the projected growth of aviation within the next decade.

(11) To the extent that Congress determines that certain segments of the aviation community are not required to pay all of the costs of the government services which they require and benefits which they receive, Congress should appropriate the difference between such costs and any receipts received from such segment.

(12) Prior to the imposition of any new charges or user fees on segments of the industry, an independent review must be performed to assess the funding needs and assumptions for operations, capital spending, and airport infrastructure.

(13) An independent, thorough, and complete study and assessment must be performed of the costs to the Administration and the costs driven by each segment of the aviation system for safety and operational services, including the use of the air traffic control system and the Nation's airports.

(14) Because the Administration is a unique Federal entity in that it is a participant in the daily operations of an industry, and because the national air transportation system faces significant problems without significant changes, the Administration has been authorized to change the Federal procurement and personnel systems to ensure that the Administration has the ability to keep pace with new technology and is able to match resources with the real personnel needs of the Administration.

(15) The existing budget system does not allow for long-term planning or timely acquisition of technology by the Administration.

(16) Without reforms in the areas of procurement, personnel, funding, and governance, the Administration will continue to experience delays and cost overruns in its major moderniza-

tion programs and needed improvements in the performance of the air traffic management system will not occur.

(17) All reforms should be designed to help the Administration become more responsive to the needs of its customers and maintain the highest standards of safety.

SEC. 222. PURPOSES.

The purposes of this title are—

(1) to ensure that final action shall be taken on all notices of proposed rulemaking of the Administration within 18 months after the date of their publication;

(2) to permit the Administration, with Congressional review, to establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;

(3) to establish a more autonomous and accountable Administration within the Department of Transportation; and

(4) to make the Administration a more efficient and effective organization, able to meet the needs of a dynamic, growing industry, and to ensure the safety of the traveling public.

SEC. 223. REGULATION OF CIVILIAN AIR TRANSPORTATION AND RELATED SERVICES BY THE FEDERAL AVIATION ADMINISTRATION AND DEPARTMENT OF TRANSPORTATION.

(a) *IN GENERAL.*—Section 106 is amended—

(1) by striking “The Administrator” in subsection (b) and inserting “Except as provided in subsection (f) or in other provisions of law, the Administrator”; and

(2) in subsection (f)—

(A) by striking “(f) The Secretary” and inserting the following:

“(f) *AUTHORITY OF THE SECRETARY AND THE ADMINISTRATOR.*—

“(1) *AUTHORITY OF THE SECRETARY.*—Except as provided in paragraph (2), the Secretary”;

(B) in subsection (f)(1), as so designated—

(i) by moving the remainder of the text 2 ems to the right;

(ii) by striking “The Secretary may not” and inserting “Neither the Secretary nor the Administrator may”; and

(iii) by striking “nor” and inserting “or”; and

(C) by adding at the end the following:

“(2) *AUTHORITY OF THE ADMINISTRATOR.*—The Administrator—

“(A) is the final authority for carrying out all functions, powers, and duties of the Administration relating to—

“(i) the appointment and employment of all officers and employees of the Administration (other than Presidential and political appointees);

“(ii) the acquisition and maintenance of property and equipment of the Administration;

“(iii) except as otherwise provided in paragraph (3), the promulgation of regulations, rules, orders, circulars, bulletins, and other official publications of the Administration; and

“(iv) any obligation imposed on the Administrator, or power conferred on the Administrator, by the Air Traffic Management System Performance Improvement Act of 1996 (or any amendment made by that Act);

“(B) shall offer advice and counsel to the President with respect to the appointment and qualifications of any officer or employee of the Administration to be appointed by the President or as a political appointee;

“(C) may delegate, and authorize successive redelegations of, to an officer or employee of the Administration any function, power, or duty conferred upon the Administrator, unless such delegation is prohibited by law; and

“(D) except as otherwise provided for in this title, and notwithstanding any other provision of law, shall not be required to coordinate, submit for approval or concurrence, or seek the advice or views of the Secretary or any other officer or employee of the Department of Transportation on any matter with respect to which the Administrator is the final authority.

“(3) **DEFINITION OF POLITICAL APPOINTEE.**—For purposes of this subsection, the term ‘political appointee’ means any individual who—

“(A) is employed in a position listed in sections 5312 through 5316 of title 5 (relating to the Executive Schedule);

“(B) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5; or

“(C) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.”.

(b) **PRESERVATION OF EXISTING AUTHORITY.**—Nothing in this title or the amendments made by this title limits any authority granted to the Administrator by statute or by delegation that was in effect on the day before the date of the enactment of this Act.

SEC. 224. REGULATIONS.

Section 106(f), as amended by section 223 of this Act, is further amended—

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

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

“(3) **REGULATIONS.**—

“(A) **IN GENERAL.**—In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to issue, rescind, and revise such regulations as are necessary to carry out those functions. The issuance of such regulations shall be governed by the provisions of chapter 5 of title 5. The Administrator shall act upon all petitions for rulemaking no later than 6 months after the date such petitions are filed by dismissing such petitions, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking or advanced notice of proposed rulemaking. The Administrator shall issue a final regulation, or take other final action, not

later than 16 months after the last day of the public comment period for the regulations or, in the case of an advanced notice of proposed rulemaking, if issued, not later than 24 months after the date of publication in the Federal Register of notice of the proposed rulemaking.

“(B) APPROVAL OF SECRETARY OF TRANSPORTATION.—(i) The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996) in any year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance. For purposes of this paragraph, a regulation is significant if the Administrator, in consultation with the Secretary (as appropriate), determines that the regulation is likely to—

“(I) have an annual effect on the economy of \$100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

“(II) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

“(III) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

“(IV) raise novel legal or policy issues arising out of legal mandates.

“(ii) In an emergency, the Administrator may issue a regulation described in clause (i) without prior approval by the Secretary, but any such emergency regulation is subject to ratification by the Secretary after it is issued and shall be rescinded by the Administrator within 5 days (excluding Saturdays, Sundays, and legal public holidays) after issuance if the Secretary fails to ratify its issuance.

“(iii) Any regulation that does not meet the criteria of clause (i), and any regulation or other action that is a routine or frequent action or a procedural action, may be issued by the Administrator without review or approval by the Secretary.

“(iv) The Administrator shall submit a copy of any regulation requiring approval by the Secretary under clause (i) to the Secretary, who shall either approve it or return it to the Administrator with comments within 45 days after receiving it.

“(C) PERIODIC REVIEW.—(i) Beginning on the date which is 3 years after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall review any unusually bur-

densome regulation issued by the Administrator after such date of enactment beginning not later than 3 years after the effective date of the regulation to determine if the cost assumptions were accurate, the benefit of the regulations, and the need to continue such regulations in force in their present form.

“(ii) The Administrator may identify for review under the criteria set forth in clause (i) unusually burdensome regulations that were issued before the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and that have been in force for more than 3 years.

“(iii) For purposes of this subparagraph, the term ‘unusually burdensome regulation’ means any regulation that results in the annual expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$25,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Air Traffic Management System Performance Act of 1996) in any year.

“(iv) The periodic review of regulations may be performed by advisory committees and the Management Advisory Council established under subsection (p).”

SEC. 225. PERSONNEL AND SERVICES.

Section 106 is amended by adding at the end the following:

“(l) PERSONNEL AND SERVICES.—

“(1) OFFICERS AND EMPLOYEES.—Except as provided in section 40122(a) of this title and section 347 of Public Law 104–50, the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. In fixing compensation and benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40122(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.

“(2) EXPERTS AND CONSULTANTS.—The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5.

“(3) TRANSPORTATION AND PER DIEM EXPENSES.—The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5.

“(4) USE OF PERSONNEL FROM OTHER AGENCIES.—The Administrator is authorized to utilize the services of personnel of any other Federal agency (as such term is defined under section 551(1) of title 5).

“(5) VOLUNTARY SERVICES.—

“(A) GENERAL RULE.—In exercising the authority to accept gifts and voluntary services under section 326 of this title, and without regard to section 1342 of title 31, the Administrator may not accept voluntary and uncompensated

services if such services are used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

“(B) *INCIDENTAL EXPENSES.*—The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence, for volunteers who provide voluntary services under this subsection.

“(C) *LIMITED TREATMENT AS FEDERAL EMPLOYEES.*—An individual who provides voluntary services under this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, relating to compensation for work injuries, and chapter 171 of title 28, relating to tort claims.”.

SEC. 226. CONTRACTS.

Section 106(l), as added by section 225 of this Act, is further amended by adding at the end the following:

“(6) *CONTRACTS.*—The Administrator is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, cooperative agreements, and other transactions with any Federal agency (as such term is defined in section 551(1) of title 5) or any instrumentality of the United States, any State, territory, or possession, or political subdivision thereof, any other governmental entity, or any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate.”.

SEC. 227. FACILITIES.

Section 106, as amended by section 225 of this Act, is further amended by adding at the end the following:

“(m) *COOPERATION BY ADMINISTRATOR.*—With the consent of appropriate officials, the Administrator may, with or without reimbursement, use or accept the services, equipment, personnel, and facilities of any other Federal agency (as such term is defined in section 551(1) of title 5) and any other public or private entity. The Administrator may also cooperate with appropriate officials of other public and private agencies and instrumentalities concerning the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies and equipment other than administrative supplies or equipment.”.

SEC. 228. PROPERTY.

Section 106, as amended by section 227 of this Act, is further amended by adding at the end the following:

“(n) *ACQUISITION.*—

“(1) *IN GENERAL.*—The Administrator is authorized—

“(A) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

“(i) air traffic control facilities and equipment;

“(ii) research and testing sites and facilities; and

“(iii) such other real and personal property (including office space and patents), or any interest therein, within and outside the continental United States as the Administrator considers necessary;

“(B) to lease to others such real and personal property; and

“(C) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at the installations of the Administration, and to acquire, operate, and maintain equipment for these facilities.

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

SEC. 229. TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES.

Section 106, as amended by section 228 of this Act, is further amended by adding at the end the following:

“(o) TRANSFERS OF FUNDS.—The Administrator is authorized to accept transfers of unobligated balances and unexpended balances of funds appropriated to other Federal agencies (as such term is defined in section 551(1) of title 5) to carry out functions transferred by law to the Administrator or functions transferred pursuant to law to the Administrator on or after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996.”.

SEC. 230. MANAGEMENT ADVISORY COUNCIL.

Section 106, as amended by section 229 of this Act, is further amended by adding at the end the following:

“(p) MANAGEMENT ADVISORY COUNCIL.—

“(1) ESTABLISHMENT.—Within 3 months after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall establish an advisory council which shall be known as the Federal Aviation Management Advisory Council (in this subsection referred to as the ‘Council’). With respect to Administration management, policy, spending, funding, and regulatory matters affecting the aviation industry, the Council may submit comments, recommended modifications, and dissenting views to the Administrator. The Administrator shall include in any submission to Congress, the Secretary, or the general public, and in any submission for publication in the Federal Register, a description of the comments, recommended modifications, and dissenting views received from the Council, together with the reasons for any differences between the views of the Council and the views or actions of the Administrator.

“(2) MEMBERSHIP.—The Council shall consist of 15 members, who shall consist of—

“(A) a designee of the Secretary of Transportation;

“(B) a designee of the Secretary of Defense; and

“(C) 13 members representing aviation interests, appointed by the President by and with the advice and consent of the Senate.

“(3) QUALIFICATIONS.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council.

“(4) FUNCTIONS.—

“(A) IN GENERAL.—(i) The Council shall provide advice and counsel to the Administrator on issues which affect or are affected by the operations of the Administrator. The Council shall function as an oversight resource for management, policy, spending, and regulatory matters under the jurisdiction of the Administration.

“(ii) The Council shall review the rulemaking cost-benefit analysis process and develop recommendations to improve the analysis and ensure that the public interest is fully protected.

“(iii) The Council shall review the process through which the Administration determines to use advisory circulars and service bulletins.

“(B) MEETINGS.—The Council shall meet on a regular and periodic basis or at the call of the chairman or of the Administrator.

“(C) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Council appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5 (commonly known as the ‘Freedom of Information Act’), cost data associated with the acquisition and operation of air traffic service systems. Any member of the Council who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, pertaining to unauthorized disclosure of such information.

“(5) FEDERAL ADVISORY COMMITTEE ACT NOT TO APPLY.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Council or such aviation rulemaking committees as the Administrator shall designate.

“(6) ADMINISTRATIVE MATTERS.—

“(A) TERMS OF MEMBERS.—(i) Except as provided in subparagraph (B), members of the Council appointed by the President under paragraph (2)(C) shall be appointed for a term of 3 years.

“(ii) Of the members first appointed by the President—

“(I) 4 shall be appointed for terms of 1 year;

“(II) 5 shall be appointed for terms of 2 years; and

“(III) 4 shall be appointed for terms of 3 years.

“(iii) An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

“(iv) A member whose term expires shall continue to serve until the date on which the member’s successor takes office.

“(B) CHAIRMAN; VICE CHAIRMAN.—The Council shall elect a chair and a vice chair from among the members appointed under paragraph (2)(C), each of whom shall serve for a term of 1 year. The vice chair shall perform the duties of the chairman in the absence of the chairman.

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

“(D) DETAIL OF PERSONNEL FROM THE ADMINISTRATION.—The Administrator shall make available to the Council such staff, information, and administrative services and assistance as may reasonably be required to enable the Council to carry out its responsibilities under this subsection.”.

Subtitle B—Federal Aviation Administration Streamlining Programs

SEC. 251. REVIEW OF ACQUISITION MANAGEMENT SYSTEM.

Not later than April 1, 1999, the Administrator shall employ outside experts to provide an independent evaluation of the effectiveness of the Administration’s acquisition management system within 3 months after such date. The Administrator shall transmit a copy of the evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 252. AIR TRAFFIC CONTROL MODERNIZATION REVIEWS.

Chapter 401 is amended by adding at the end the following:

“§ 40121. Air traffic control modernization reviews

“(a) REQUIRED TERMINATIONS OF ACQUISITIONS.—The Administrator of the Federal Aviation Administration shall terminate any acquisition program initiated after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996 and funded under the Facilities and Equipment account that—

“(1) is more than 50 percent over the cost goal established for the program;

“(2) fails to achieve at least 50 percent of the performance goals established for the program; or

“(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program.

“(b) AUTHORIZED TERMINATION OF ACQUISITION PROGRAMS.—The Administrator shall consider terminating, under the authority of subsection (a), any substantial acquisition program that—

“(1) is more than 10 percent over the cost goal established for the program;

“(2) fails to achieve at least 90 percent of the performance goals established for the program; or

“(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program.

“(c) **EXCEPTIONS AND REPORT.**—

“(1) **CONTINUANCE OF PROGRAM, ETC.**—Notwithstanding subsection (a), the Administrator may continue an acquisitions program required to be terminated under subsection (a) if the Administrator determines that termination would be inconsistent with the development or operation of the national air transportation system in a safe and efficient manner.

“(2) **DEPARTMENT OF DEFENSE.**—The Department of Defense shall have the same exemptions from acquisition laws as are waived by the Administrator under section 348(b) of Public Law 104–50 when engaged in joint actions to improve or replenish the national air traffic control system. The Administration may acquire real property, goods, and services through the Department of Defense, or other appropriate agencies, but is bound by the acquisition laws and regulations governing those cases.

“(3) **REPORT.**—If the Administrator makes a determination under paragraph (1), the Administrator shall transmit a copy of the determination, together with a statement of the basis for the determination, to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.”

SEC. 253. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

Chapter 401, as amended by section 252 of this Act, is further amended by adding at the end the following:

“§ 40122. Federal Aviation Administration personnel management system

“(a) **IN GENERAL.**—

“(1) **CONSULTATION AND NEGOTIATION.**—In developing and making changes to the personnel management system initially implemented by the Administrator of the Federal Aviation Administration on April 1, 1996, the Administrator shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and consult with other employees of the Administration.

“(2) **MEDIATION.**—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator’s proposed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress.

“(3) **COST SAVINGS AND PRODUCTIVITY GOALS.**—The Administration and the exclusive bargaining representatives of the em-

ployees shall use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units.

“(4) ANNUAL BUDGET DISCUSSIONS.—The Administration and the exclusive bargaining representatives of the employees shall meet annually for the purpose of finding additional cost savings within the Administration’s annual budget as it applies to each of the affected bargaining units and throughout the agency.

“(b) EXPERT EVALUATION.—On the date that is 3 years after the personnel management system is implemented, the Administration shall employ outside experts to provide an independent evaluation of the effectiveness of the system within 3 months after such date. For this purpose, the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary.

“(c) PAY RESTRICTION.—No officer or employee of the Administration may receive an annual rate of basic pay in excess of the annual rate of basic pay payable to the Administrator.

“(d) ETHICS.—The Administration shall be subject to Executive Order No. 12674 and regulations and opinions promulgated by the Office of Government Ethics, including those set forth in section 2635 of title 5 of the Code of Federal Regulations.

“(e) EMPLOYEE PROTECTIONS.—Until July 1, 1999, basic wages (including locality pay) and operational differential pay provided employees of the Administration shall not be involuntarily adversely affected by reason of the enactment of this section, except for unacceptable performance or by reason of a reduction in force or reorganization or by agreement between the Administration and the affected employees’ exclusive bargaining representative.

“(f) LABOR-MANAGEMENT AGREEMENTS.—Except as otherwise provided by this title, all labor-management agreements covering employees of the Administration that are in effect on the effective date of the Air Traffic Management System Performance Improvement Act of 1996 shall remain in effect until their normal expiration date, unless the Administrator and the exclusive bargaining representative agree to the contrary.”.

SEC. 254. CONFORMING AMENDMENT.

The table of sections for chapter 401 is amended by adding at the end the following:

“40121. Air traffic control modernization reviews.

“40122. Federal Aviation Administration personnel management system.”.

Subtitle C—System To Fund Certain Federal Aviation Administration Functions

SEC. 271. FINDINGS.

Congress finds the following:

(1) The Administration is recognized throughout the world as a leader in aviation safety.

(2) *The Administration certifies aircraft, engines, propellers, and other manufactured parts.*

(3) *The Administration certifies more than 650 training schools for pilots and nonpilots, more than 4,858 repair stations, and more than 193 maintenance schools.*

(4) *The Administration certifies pilot examiners, who are then qualified to determine if a person has the skills necessary to become a pilot.*

(5) *The Administration certifies more than 6,000 medical examiners, each of whom is then qualified to medically certify the qualifications of pilots and nonpilots.*

(6) *The Administration certifies more than 470 airports, and provides a limited certification for another 205 airports. Other airports in the United States are also reviewed by the Administration.*

(7) *The Administration each year performs more than 355,000 inspections.*

(8) *The Administration issues more than 655,000 pilot's licenses and more than 560,000 nonpilot's licenses (including mechanics).*

(9) *The Administration's certification means that the product meets worldwide recognized standards of safety and reliability.*

(10) *The Administration's certification means aviation-related equipment and services meet world-wide recognized standards.*

(11) *The Administration's certification is recognized by governments and businesses throughout the world and as such may be a valuable element for any company desiring to sell aviation-related products throughout the world.*

(12) *The Administration's certification may constitute a valuable license, franchise, privilege or benefits for the holders.*

(13) *The Administration also is a major purchaser of computers, radars, and other systems needed to run the air traffic control system. The Administration's design, acceptance, commissioning, or certification of such equipment enables the private sector to market those products around the world, and as such confers a benefit on the manufacturer.*

(14) *The Administration provides extensive services to public use aircraft.*

SEC. 272. PURPOSES.

The purposes of this subtitle are—

(1) *to provide a financial structure for the Administration so that it will be able to support the future growth in the national aviation and airport system;*

(2) *to review existing and alternative funding options, including incentive-based fees for services, and establish a program to improve air traffic management system performance and to establish appropriate levels of cost accountability for air traffic management services provided by the Administration;*

(3) *to ensure that any funding will be dedicated solely for the use of the Administration;*

(4) *to authorize the Administration to recover the costs of its services from those who benefit from, but do not contribute*

to, the national aviation system and the services provided by the Administration;

(5) to consider a fee system based on the cost or value of the services provided and other funding alternatives;

(6) to develop funding options for Congress in order to provide for the long-term efficient and cost-effective support of the Administration and the aviation system; and

(7) to achieve a more efficient and effective Administration for the benefit of the aviation transportation industry.

SEC. 273. USER FEES FOR VARIOUS FEDERAL AVIATION ADMINISTRATION SERVICES.

(a) *IN GENERAL.*—Chapter 453 is amended by striking section 45301 and inserting the following:

“§45301. General provisions

“(a) *SCHEDULE OF FEES.*—The Administrator shall establish a schedule of new fees, and a collection process for such fees, for the following services provided by the Administration:

“(1) Air traffic control and related services provided to aircraft other than military and civilian aircraft of the United States government or of a foreign government that neither take off from, nor land in, the United States.

“(2) Services (other than air traffic control services) provided to a foreign government.

“(b) *LIMITATIONS.*—

“(1) *AUTHORIZATION AND IMPACT CONSIDERATIONS.*—In establishing fees under subsection (a), the Administrator—

“(A) is authorized to recover in fiscal year 1997 \$100,000,000; and

“(B) shall ensure that each of the fees required by subsection (a) is directly related to the Administration’s costs of providing the service rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States.

“(2) *PUBLICATION; COMMENT.*—The Administrator shall publish in the Federal Register an initial fee schedule and associated collection process as an interim final rule, pursuant to which public comment will be sought and a final rule issued.

“(c) *USE OF EXPERTS AND CONSULTANTS.*—In developing the system, the Administrator may consult with such nongovernmental experts as the Administrator may employ and the Administrator may utilize the services of experts and consultants under section 3109 of title 5 without regard to the limitation imposed by the last sentence of section 3109(b) of such title, and may contract on a sole source basis, notwithstanding any other provision of law to the contrary. Notwithstanding any other provision of law to the contrary, the Administrator may retain such experts under a contract awarded on a basis other than a competitive basis and without regard to

any such provisions requiring competitive bidding or precluding sole source contract authority.”.

(b) *CONFORMING AMENDMENT.*—The table of sections for chapter 453 is amended by striking the item relating to section 45301 and inserting the following:

“45301. General provisions.”.

SEC. 274. INDEPENDENT ASSESSMENT OF FAA FINANCIAL REQUIREMENTS; ESTABLISHMENT OF NATIONAL CIVIL AVIATION REVIEW COMMISSION.

(a) *INDEPENDENT ASSESSMENT.*—

(1) *INITIATION.*—Not later than 30 days after the date of the enactment of this Act, the Administrator shall contract with an entity independent of the Administration and the Department of Transportation to conduct a complete independent assessment of the financial requirements of the Administration through the year 2002.

(2) *ASSESSMENT CRITERIA.*—The Administrator shall provide to the independent entity estimates of the financial requirements of the Administration for the period described in paragraph (1), using as a base the fiscal year 1997 appropriation levels established by Congress. The independent assessment shall be based on an objective analysis of agency funding needs.

(3) *CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.*—The independent assessment shall take into account all relevant factors, including—

(A) anticipated air traffic forecasts;

(B) other workload measures;

(C) estimated productivity gains, if any, which contribute to budgetary requirements;

(D) the need for programs; and

(E) the need to provide for continued improvements in all facets of aviation safety, along with operational improvements in air traffic control.

(4) *COST ALLOCATION.*—The independent assessment shall also assess the costs to the Administration occasioned by the provision of services to each segment of the aviation system.

(5) *DEADLINE.*—The independent assessment shall be completed no later than 90 days after the contract is awarded, and shall be submitted to the Commission established under subsection (b), the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

(b) *NATIONAL CIVIL AVIATION REVIEW COMMISSION.*—

(1) *ESTABLISHMENT.*—There is established a commission to be known as the National Civil Aviation Review Commission (hereinafter in this section referred to as the “Commission”).

(2) *MEMBERSHIP.*—The Commission shall consist of 21 members to be appointed as follows:

(A) 13 members to be appointed by the Secretary, in consultation with the Secretary of the Treasury, from among individuals who have expertise in the aviation industry and who are able, collectively, to represent a bal-

anced view of the issues important to general aviation, major air carriers, air cargo carriers, regional air carriers, business aviation, airports, aircraft manufacturers, the financial community, aviation industry workers, and airline passengers. At least one member appointed under this subparagraph shall have detailed knowledge of the congressional budgetary process.

(B) 2 members appointed by the Speaker of the House of Representatives.

(C) 2 members appointed by the minority leader of the House of Representatives.

(D) 2 members appointed by the majority leader of the Senate.

(E) 2 members appointed by the minority leader of the Senate.

(3) **TASK FORCES.**—The Commission shall establish an aviation funding task force and an aviation safety task force to carry out the responsibilities of the Commission under this subsection.

(4) **FIRST MEETING.**—The Commission may conduct its first meeting as soon as a majority of the members of the Commission are appointed.

(5) **HEARINGS AND CONSULTATION.**—

(A) **HEARINGS.**—The Commission shall take such testimony and solicit and receive such comments from the public and other interested parties as it considers appropriate, shall conduct 2 public hearings after affording adequate notice to the public thereof, and may conduct such additional hearings as may be necessary.

(B) **CONSULTATION.**—The Commission shall consult on a regular and frequent basis with the Secretary, the Secretary of the Treasury, the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives.

(C) **FACA NOT TO APPLY.**—The Commission shall not be considered an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(6) **DUTIES OF AVIATION FUNDING TASK FORCE.**—

(A) **REPORT TO SECRETARY.**—

(i) **IN GENERAL.**—The aviation funding task force established pursuant to paragraph (3) shall submit a report setting forth a comprehensive analysis of the Administration's budgetary requirements through fiscal year 2002, based upon the independent assessment under subsection (a), that analyzes alternative financing and funding means for meeting the needs of the aviation system through the year 2002. The task force shall submit a preliminary report of that analysis to the Secretary not later than 6 months after the independent assessment is completed under subsection (a). The Secretary shall provide comments on the preliminary report to the task force within 30 days after re-

ceiving the report. The task force shall issue a final report of such comprehensive analysis within 30 days after receiving the Secretary's comments on its preliminary report.

(ii) *CONTENTS.*—The report submitted by the aviation funding task force under clause (i)—

(I) shall consider the independent assessment under subsection (a);

(II) shall consider estimated cost savings, if any, resulting from the procurement and personnel reforms included in this Act or in sections 347 and 348 of Public Law 104–50, and additional financial initiatives;

(III) shall include specific recommendations to Congress on how the Administration can reduce costs, raise additional revenue for the support of agency operations, and accelerate modernization efforts; and

(IV) shall include a draft bill containing the changes in law necessary to implement its recommendations.

(B) *RECOMMENDATIONS.*—The aviation funding task force shall make such recommendations under subparagraph (A)(ii)(III) as the task force deems appropriate. Those recommendations may include—

(i) proposals for off-budget treatment of the Airport and Airway Trust Fund;

(ii) alternative financing and funding proposals, including linked financing proposals;

(iii) modifications to existing levels of Airport and Airways Trust Fund receipts and taxes for each type of tax;

(iv) establishment of a cost-based user fee system based on, but not limited to, criteria under subparagraph (F) and methods to ensure that costs are borne by users on a fair and equitable basis;

(v) methods to ensure that funds collected from the aviation community are able to meet the needs of the agency;

(vi) methods to ensure that funds collected from the aviation community and passengers are used to support the aviation system;

(vii) means of meeting the airport infrastructure needs for large, medium, and small airports; and

(viii) any other matter the task force deems appropriate to address the funding and needs of the Administration and the aviation system.

(C) *ADDITIONAL RECOMMENDATIONS.*—The aviation funding task force report may also make recommendations concerning—

(i) means of improving productivity by expanding and accelerating the use of automation and other technology;

(ii) means of contracting out services consistent with this Act, other applicable law, and safety and national defense needs;

(iii) methods to accelerate air traffic control modernization and improvements in aviation safety and safety services;

(iv) the elimination of unneeded programs; and

(v) a limited innovative program based on funding mechanisms such as loan guarantees, financial partnerships with for-profit private sector entities, government-sponsored enterprises, and revolving loan funds, as a means of funding specific facilities and equipment projects, and to provide limited additional funding alternatives for airport capacity development.

(D) **IMPACT ASSESSMENT FOR RECOMMENDATIONS.**—For each recommendation contained in the aviation funding task force’s report, the report shall include a full analysis and assessment of the impact implementation of the recommendation would have on—

(i) safety;

(ii) administrative costs;

(iii) the congressional budget process;

(iv) the economics of the industry (including the proportionate share of all users);

(v) the ability of the Administration to utilize the sums collected; and

(vi) the funding needs of the Administration.

(E) **TRUST FUND TAX RECOMMENDATIONS.**—If the task force’s report includes a recommendation that the existing Airport and Airways Trust Fund tax structure be modified, the report shall—

(i) state the specific rates for each group affected by the proposed modifications;

(ii) consider the impact such modifications shall have on specific users and the public (including passengers); and

(iii) state the basis for the recommendations.

(F) **FEE SYSTEM RECOMMENDATIONS.**—If the task force’s report includes a recommendation that a fee system be established, including an air traffic control performance-based user fee system, the report shall consider—

(i) the impact such a recommendation would have on passengers, air fares (including low-fare, high frequency service), service, and competition;

(ii) existing contributions provided by individual air carriers toward funding the Administration and the air traffic control system through contributions to the Airport and Airways Trust Fund;

(iii) continuing the promotion of fair and competitive practices;

(iv) the unique circumstances associated with interisland air carrier service in Hawaii and rural air service in Alaska;

(v) the impact such a recommendation would have on service to small communities;

(vi) the impact such a recommendation would have on services provided by regional air carriers;

(vii) alternative methodologies for calculating fees so as to achieve a fair and reasonable distribution of costs of service among users;

(viii) the usefulness of phased-in approaches to implementing such a financing system;

(ix) means of assuring the provision of general fund contributions, as appropriate, toward the support of the Administration; and

(x) the provision of incentives to encourage greater efficiency in the provision of air traffic services by the Administration and greater efficiency in the use of air traffic services by aircraft operators.

(7) *DUTIES OF AVIATION SAFETY TASK FORCE.*—

(A) *REPORT TO ADMINISTRATOR.*—Not later than 1 year after the date of the enactment of this Act, the aviation safety task force established pursuant to paragraph (3) shall submit to the Administrator a report setting forth a comprehensive analysis of aviation safety in the United States and emerging trends in the safety of particular sectors of the aviation industry.

(B) *CONTENTS.*—The report to be submitted under subparagraph (A) shall include an assessment of—

(i) the adequacy of staffing and training resources for safety personnel of the Administration, including safety inspectors;

(ii) the Administration's processes for ensuring the public safety from fraudulent parts in civil aviation and the extent to which use of suspected unapproved parts requires additional oversight or enforcement action; and

(iii) the ability of the Administration to anticipate changes in the aviation industry and to develop policies and actions to ensure the highest level of aviation safety in the 21st century.

(8) *ACCESS TO DOCUMENTS AND STAFF.*—The Administration may give the Commission appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), cost data associated with the acquisition and operation of air traffic service systems. Any member of the Commission who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, United States Code, pertaining to unauthorized disclosure of such information.

(9) *TRAVEL AND PER DIEM.*—Each member of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place

of residence, in accordance with section 5703 of title 5, United States Code.

(10) *DETAIL OF PERSONNEL FROM THE ADMINISTRATION.*—The Administrator shall make available to the Commission such staff, information, and administrative services and assistance as may reasonably be required to enable the Commission to carry out its responsibilities under this subsection.

(11) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(c) *REPORTS TO CONGRESS.*—

(1) *REPORT BY THE SECRETARY BASED ON FINAL REPORT OF AVIATION FUNDING TASK FORCE.*—

(A) *CONSIDERATION OF TASK FORCE'S PRELIMINARY REPORT.*—Not later than 30 days after receiving the preliminary report of the aviation funding task force, the Secretary, in consultation with the Secretary of the Treasury, shall furnish comments on the report to the task force.

(B) *REPORT TO CONGRESS.*—Not later than 30 days after receiving the final report of the aviation funding task force, and in no event more than 1 year after the date of the enactment of this Act, the Secretary, after consulting the Secretary of the Treasury, shall transmit a report to the Committee on Commerce, Science, and Transportation and the Committee on Finance of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives. Such report shall be based upon the final report of the task force and shall contain the Secretary's recommendations for funding the needs of the aviation system through the year 2002.

(C) *CONTENTS.*—The Secretary shall include in the report to Congress under subparagraph (B)—

(i) a copy of the final report of the task force; and

(ii) a draft bill containing the changes in law necessary to implement the Secretary's recommendations.

(D) *PUBLICATION.*—The Secretary shall cause a copy of the report to be printed in the Federal Register upon its transmittal to Congress under subparagraph (B).

(2) *REPORT BY THE ADMINISTRATOR BASED ON FINAL REPORT OF AVIATION SAFETY TASK FORCE.*—Not later than 30 days after receiving the report of the aviation safety task force, the Administrator shall transmit the report to Congress, together with the Administrator's recommendations for improving aviation safety in the United States.

(d) *GAO AUDIT OF COST ALLOCATION.*—The Comptroller General shall conduct an assessment of the manner in which costs for air traffic control services are allocated between the Administration and the Department of Defense. The Comptroller General shall report the results of the assessment, together with any recommendations the Comptroller General may have for reallocation of costs and for opportunities to increase the efficiency of air traffic control services provided by the Administration and by the Department of Defense, to the Commission, the Administrator, the Secretary of De-

fense, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of the enactment of this Act.

(e) GAO ASSESSMENT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall transmit to the Commission and Congress an independent assessment of airport development needs.

SEC. 275. PROCEDURE FOR CONSIDERATION OF CERTAIN FUNDING PROPOSALS.

(a) IN GENERAL.—Chapter 481 is amended by adding at the end the following:

“§ 48111. Funding proposals

“(a) INTRODUCTION IN THE SENATE.—Within 15 days (not counting any day on which the Senate is not in session) after a funding proposal is submitted to the Senate by the Secretary of Transportation under section 274(c) of the Air Traffic Management System Performance Improvement Act of 1996, an implementing bill with respect to such funding proposal shall be introduced in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate.

“(b) CONSIDERATION IN THE SENATE.—An implementing bill introduced in the Senate under subsection (a) shall be referred to the Committee on Commerce, Science, and Transportation. The Committee on Commerce, Science, and Transportation shall report the bill with its recommendations within 60 days following the date of introduction of the bill. Upon the reporting of the bill by the Committee on Commerce, Science, and Transportation, the reported bill shall be referred sequentially to the Committee on Finance for a period of 60 legislative days.

“(c) DEFINITIONS.—For purposes of this section, the following definitions apply:

“(1) IMPLEMENTING BILL.—The term ‘implementing bill’ means only a bill of the Senate which is introduced as provided in subsection (a) with respect to one or more Federal Aviation Administration funding proposals which contain changes in existing laws or new statutory authority required to implement such funding proposal or proposals.

“(2) FUNDING PROPOSAL.—The term ‘funding proposal’ means a proposal to provide interim or permanent funding for operations of the Federal Aviation Administration.

“(d) RULES OF THE SENATE.—The provisions of this section are enacted—

“(1) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate and they supersede other rules only to the extent that they are inconsistent therewith; and

“(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.”.

(b) *CLERICAL AMENDMENT.*—The table of sections for chapter 481 is amended by adding at the end thereof the following:

“48111. *Funding proposals.*”.

SEC. 276. ADMINISTRATIVE PROVISIONS.

(a) *IN GENERAL.*—Chapter 453 is amended—

- (1) by redesignating section 45303 as section 45304; and
- (2) by inserting after section 45302 the following:

“§ 45303. Administrative provisions

“(a) *FEES PAYABLE TO ADMINISTRATOR.*—All fees imposed and amounts collected under this chapter for services performed, or materials furnished, by the Federal Aviation Administration are payable to the Administrator of the Federal Aviation Administration.

“(b) *REFUNDS.*—The Administrator may refund any fee paid by mistake or any amount paid in excess of that required.

“(c) *RECEIPTS CREDITED TO ACCOUNT.*—Notwithstanding section 3302 of title 31, all fees and amounts collected by the Administration, except insurance premiums and other fees charged for the provision of insurance and deposited in the Aviation Insurance Revolving Fund and interest earned on investments of such Fund, and except amounts which on September 30, 1996, are required to be credited to the general fund of the Treasury (whether imposed under this section or not)—

“(1) shall be credited to a separate account established in the Treasury and made available for Administration activities;

“(2) shall be available immediately for expenditure but only for congressionally authorized and intended purposes; and

“(3) shall remain available until expended.

“(d) *ANNUAL BUDGET REPORT BY ADMINISTRATOR.*—The Administrator shall, on the same day each year as the President submits the annual budget to Congress, provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(1) a list of fee collections by the Administration during the preceding fiscal year;

“(2) a list of activities by the Administration during the preceding fiscal year that were supported by fee expenditures and appropriations;

“(3) budget plans for significant programs, projects, and activities of the Administration, including out-year funding estimates;

“(4) any proposed disposition of surplus fees by the Administration; and

“(5) such other information as those committees consider necessary.

“(e) *DEVELOPMENT OF COST ACCOUNTING SYSTEM.*—The Administration shall develop a cost accounting system that adequately and accurately reflects the investments, operating and overhead costs, revenues, and other financial measurement and reporting aspects of its operations.

“(f) *COMPENSATION TO CARRIERS FOR ACTING AS COLLECTION AGENTS.*—The Administration shall prescribe regulations to ensure

that any air carrier required, pursuant to the Air Traffic Management System Performance Improvement Act of 1996 or any amendments made by that Act, to collect a fee imposed on another party by the Administrator may collect from such other party an additional uniform amount that the Administrator determines reflects the necessary and reasonable expenses (net of interest accruing to the carrier after collection and before remittance) incurred in collecting and handling the fee.”

(b) **CONFORMING AMENDMENT.**—The table of sections for chapter 453 is amended by striking the item relating to section 45303 and inserting the following:

“45303. Administrative provisions.

“45304. Maximum fees for private person services.”.

SEC. 277. ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FUND ACTIVITIES.

(a) **IN GENERAL.**—Part C of subtitle VII is amended by adding at the end the following:

“CHAPTER 482—ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES

“Sec.
“48201. Advance appropriations.

“§ 48201. Advance appropriations

“(a) **MULTIYEAR AUTHORIZATIONS.**—Beginning with fiscal year 1999, any authorization of appropriations for an activity for which amounts are to be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 shall provide funds for a period of not less than 3 fiscal years unless the activity for which appropriations are authorized is to be concluded before the end of that period.

“(b) **MULTIYEAR APPROPRIATIONS.**—Beginning with fiscal year 1999, amounts appropriated from the Airport and Airway Trust Fund shall be appropriated for periods of 3 fiscal years rather than annually.”.

(b) **CONFORMING AMENDMENT.**—The analysis for subtitle VII is amended by inserting after the item relating to chapter 481 the following:

“482. ADVANCE APPROPRIATIONS FOR AIRPORT AND AIRWAY TRUST FACILITIES48201.”.

SEC. 278. RURAL AIR SERVICE SURVIVAL ACT.

(a) **SHORT TITLE.**—This section may be cited as the “Rural Air Service Survival Act”.

(b) **FINDINGS.**—Congress finds that—

(1) air service in rural areas is essential to a national and international transportation network;

(2) the rural air service infrastructure supports the safe operation of all air travel;

(3) rural air service creates economic benefits for all air carriers by making the national aviation system available to passengers from rural areas;

(4) rural air service has suffered since deregulation;

(5) *the essential air service program under the Department of Transportation—*

(A) *provides essential airline access to rural and isolated rural communities throughout the Nation;*

(B) *is necessary for the economic growth and development of rural communities;*

(C) *is a critical component of the national and international transportation system of the United States; and*

(D) *has endured serious funding cuts in recent years; and*

(6) *a reliable source of funding must be established to maintain air service in rural areas and the essential air service program.*

(c) *ESSENTIAL AIR SERVICE AUTHORIZATION.—Section 41742 is amended to read as follows:*

“§41742. Essential air service authorization

“(a) IN GENERAL.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, the sum of \$50,000,000 is authorized and shall be made available immediately for obligation and expenditure to carry out the essential air service program under this subchapter for each fiscal year.

“(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Notwithstanding any other provision of law, moneys credited to the account established under section 45303(a) of this title, including the funds derived from fees imposed under the authority contained in section 45301(a) of this title, shall be used to carry out the essential air service program under this subchapter. Notwithstanding section 47114(g) of this title, any amounts from those fees that are not obligated or expended at the end of the fiscal year for the purpose of funding the essential air service program under this subchapter shall be made available to the Administration for use in improving rural air safety under subchapter I of chapter 471 of this title and shall be used exclusively for projects at rural airports under this subchapter.

“(c) SPECIAL RULE FOR FISCAL YEAR 1997.—Notwithstanding subsections (a) and (b), in fiscal year 1997, amounts in excess of \$75,000,000 that are collected in fees pursuant to section 45301(a)(1) of this title shall be available for the essential air service program under this subchapter, in addition to amounts specifically provided for in appropriations Acts.”.

(d) CONFORMING AMENDMENT.—The table of sections for chapter 417 is amended by striking the item relating to section 41742 and inserting the following:

“41742. Essential air service authorization.”.

TITLE III—AVIATION SECURITY

SEC. 301. REPORT INCLUDING PROPOSED LEGISLATION ON FUNDING FOR AIRPORT SECURITY.

(a) *IN GENERAL.*—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration, in cooperation with other appropriate persons, shall conduct a study and submit to Congress a report on whether, and if so how, to transfer certain responsibilities of air carriers under Federal law for security activities conducted onsite at commercial service airports to airport operators or to the Federal Government or to provide for shared responsibilities between air carriers and airport operators or the Federal Government.

(b) *CONTENTS OF REPORT.*—The report submitted under this section shall—

(1) examine potential sources of Federal and non-Federal revenue that may be used to fund security activities, including providing grants from funds received as fees collected under a fee system established under subtitle C of title II of this Act and the amendments made by that subtitle; and

(2) provide legislative proposals, if necessary, for accomplishing the transfer of responsibilities referred to in subsection (a).

SEC. 302. CERTIFICATION OF SCREENING COMPANIES.

The Administrator of the Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.

SEC. 303. WEAPONS AND EXPLOSIVE DETECTION STUDY.

(a) *IN GENERAL.*—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the Director of the National Academy of Sciences (or if the National Academy of Sciences is not available, the head of another equivalent entity) to conduct a study in accordance to this section.

(b) *PANEL OF EXPERTS.*—

(1) *IN GENERAL.*—In carrying out a study under this section, the Director of the National Academy of Sciences (or the head of another equivalent entity) shall establish a panel (hereinafter in this section referred to as the “panel”).

(2) *EXPERTISE.*—Each member of the panel shall have expertise in weapons and explosive detection technology, security, air carrier and airport operations, or another appropriate area. The Director of the National Academy of Sciences (or the head of another equivalent entity) shall ensure that the panel has an appropriate number of representatives of the areas specified in the preceding sentence.

(c) *STUDY.*—The panel, in consultation with the National Science and Technology Council, representatives of appropriate Federal agencies, and appropriate members of the private sector, shall—

(1) assess the weapons and explosive detection technologies that are available at the time of the study that are capable of being effectively deployed in commercial aviation;

(2) determine how the technologies referred to in paragraph (1) may more effectively be used for promotion and improvement of security at airport and aviation facilities and other secured areas;

(3) assess the cost and advisability of requiring hardened cargo containers as a way to enhance aviation security and reduce the required sensitivity of bomb detection equipment; and

(4) on the basis of the assessments and determinations made under paragraphs (1), (2), and (3), identify the most promising technologies for the improvement of the efficiency and cost-effectiveness of weapons and explosive detection.

(d) COOPERATION.—The National Science and Technology Council shall take such actions as may be necessary to facilitate, to the maximum extent practicable and upon request of the Director of the National Academy of Sciences (or the head of another equivalent entity), the cooperation of representatives of appropriate Federal agencies, as provided for in subsection (c), in providing the panel, for the study under this section—

(1) expertise; and

(2) to the extent allowable by law, resources and facilities.

(e) REPORTS.—The Director of the National Academy of Sciences (or the head of another equivalent entity) shall, pursuant to an arrangement entered into under subsection (a), submit to the Administrator such reports as the Administrator considers to be appropriate. Upon receipt of a report under this subsection, the Administrator shall submit a copy of the report to the appropriate committees of Congress.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1997 through 2001 such sums as may be necessary to carry out this section.

SEC. 304. REQUIREMENT FOR CRIMINAL HISTORY RECORDS CHECKS.

(a) IN GENERAL.—Section 44936(a)(1) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking “(1)” and inserting “(1)(A)”; and

(3) by adding at the end the following:

“(B) The Administrator shall require by regulation that an employment investigation (including a criminal history record check in any case described in subparagraph (C)) be conducted for—

“(i) individuals who will be responsible for screening passengers or property under section 44901 of this title;

“(ii) supervisors of the individuals described in clause (i); and

“(iii) such other individuals who exercise security functions associated with baggage or cargo, as the Administrator determines is necessary to ensure air transportation security.

“(C) Under the regulations issued under subparagraph (B), a criminal history record check shall be conducted in any case in which—

“(i) an employment investigation reveals a gap in employment of 12 months or more that the individual who is the subject of the investigation does not satisfactorily account for;

“(ii) such individual is unable to support statements made on the application of such individual;

“(iii) there are significant inconsistencies in the information provided on the application of such individual; or

“(iv) information becomes available during the employment investigation indicating a possible conviction for one of the crimes listed in subsection (b)(1)(B).

“(D) If an individual requires a criminal history record check under subparagraph (C), the individual may be employed as a screener until the check is completed if the individual is subject to supervision.”.

(b) **APPLICABILITY.**—The amendment made by subsection (a)(3) shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act; except that the Administrator of the Federal Aviation Administration may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of the enactment of this Act.

SEC. 305. INTERIM DEPLOYMENT OF COMMERCIALY AVAILABLE EXPLOSIVE DETECTION EQUIPMENT.

(a) **IN GENERAL.**—Section 44913(a) is amended—

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

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

“(3) Until such time as the Administrator determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Administrator shall facilitate the deployment of such approved commercially available explosive detection devices as the Administrator determines will enhance aviation security significantly. The Administrator shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Administrator is authorized, based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security. The Administrator may permit the requirements of this paragraph to be met at airports by the deployment of dogs or other appropriate animals to supplement equipment for screening passengers, baggage, mail, or cargo for explosives or weapons.”.

(b) **AGREEMENTS.**—The Administrator is authorized to use non-competitive or cooperative agreements with air carriers and airport authorities that provide for the Administrator to purchase and assist in installing advanced security equipment for the use of such entities.

SEC. 306. AUDIT OF PERFORMANCE OF BACKGROUND CHECKS FOR CERTAIN PERSONNEL.

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

“(3) *The Administrator shall provide for the periodic audit of the effectiveness of criminal history record checks conducted under paragraph (1) of this subsection.*”

SEC. 307. PASSENGER PROFILING.

The Administrator of the Federal Aviation Administration, the Secretary of Transportation, the intelligence community, and the law enforcement community should continue to assist air carriers in developing computer-assisted passenger profiling programs and other appropriate passenger profiling programs which should be used in conjunction with other security measures and technologies.

SEC. 308. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES.

(a) *IN GENERAL.*—*Notwithstanding any other provision of law, funds referred to in subsection (b) may be used for the improvement of facilities and the purchase and deployment of equipment to enhance and ensure the safety and security of passengers and other persons involved in air travel.*

(b) *COVERED FUNDS.*—*The following funds may be used under subsection (a):*

(1) *Project grants made under subchapter 1 of chapter 471 of title 49, United States Code.*

(2) *Passenger facility fees collected under section 40117 of title 49, United States Code.*

SEC. 309. DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT.

The Secretary of Transportation and the Attorney General, acting through the Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation, shall enter into an interagency agreement providing for the establishment of an aviation security liaison at existing appropriate Federal agencies' field offices in or near cities served by a designated high-risk airport.

SEC. 310. REGULAR JOINT THREAT ASSESSMENTS.

The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall carry out joint threat and vulnerability assessments on security every 3 years, or more frequently, as necessary, at each airport determined to be high risk.

SEC. 311. BAGGAGE MATCH REPORT.

(a) *REPORT.*—*If a bag match pilot program is carried out as recommended by the White House Conference on Aviation Safety and Security, not later than the 30th day following the date of completion of the pilot program, the Administrator of the Federal Aviation Administration shall submit to Congress a report on the safety, effectiveness, and operational effectiveness of the pilot program. The report shall also assess the extent to which implementation of baggage match requirements (coupled with the best available technologies and methodologies, such as passenger profiling) enhance domestic aviation security.*

(b) *SENSE OF THE SENATE.*—*It is the sense of the Senate that the Administrator should work with airports and air carriers to de-*

velop, to the extent feasible, effective domestic bag matching proposals.

SEC. 312. ENHANCED SECURITY PROGRAMS.

(a) *IN GENERAL.*—Chapter 449 is amended by adding at the end of subchapter I the following:

“§ 44916. Assessments and evaluations

“(a) *PERIODIC ASSESSMENTS.*—The Administrator shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each airport) that provides for intrastate, interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Administration shall perform periodic audits of such assessments.

“(b) *INVESTIGATIONS.*—The Administrator shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Administrator may provide for anonymous tests of those security systems.”.

(b) *CLERICAL AMENDMENT.*—The table of sections for such chapter is amended by inserting after the item relating to section 44915 the following:

“44916. Assessments and evaluations.”.

SEC. 313. REPORT ON AIR CARGO.

(a) *REPORT.*—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any changes recommended and implemented as a result of the White House Commission on Aviation Safety and Security to enhance and supplement screening and inspection of cargo, mail, and company-shipped materials transported in air commerce.

(b) *CONTENTS.*—The report shall include—

(1) an assessment of the effectiveness of the changes referred to in subsection (a);

(2) an assessment of the oversight by the Federal Aviation Administration of inspections of shipments of mail and cargo by domestic and foreign air carriers;

(3) an assessment of the need for additional security measures with respect to such inspections;

(4) an assessment of the adequacy of inspection and screening of cargo on passenger air carriers; and

(5) any additional recommendations, and if necessary any legislative proposals, necessary to carry out additional changes.

(c) *SENSE OF THE SENATE.*—It is the sense of the Senate that the inspection of cargo, mail, and company-shipped materials can be enhanced.

SEC. 314. SENSE OF THE SENATE REGARDING ACTS OF INTERNATIONAL TERRORISM.

(a) *FINDINGS.*—The Senate finds that—

(1) there has been an intensification in the oppression and disregard for human life among nations that are willing to export terrorism;

(2) *there has been an increase in attempts by criminal terrorists to murder airline passengers through the destruction of civilian airliners and the deliberate fear and death inflicted through bombings of buildings and the kidnapping of tourists and Americans residing abroad; and*

(3) *information widely available demonstrates that a significant portion of international terrorist activity is state-sponsored, -organized, -condoned, or -directed.*

(b) *SENSE OF THE SENATE.—It is the sense of the Senate that if evidence establishes beyond a clear and reasonable doubt that any act of hostility towards any United States citizen was an act of international terrorism sponsored, organized, condoned, or directed by any nation, a state of war should be considered to exist or to have existed between the United States and that nation, beginning as of the moment that the act of aggression occurs.*

TITLE IV—AVIATION SAFETY

SEC. 401. ELIMINATION OF DUAL MANDATE.

(a) *SAFETY CONSIDERATIONS IN PUBLIC INTEREST.—*

(1) *SAFETY AS HIGHEST PRIORITY.—Section 40101(d) is amended—*

(A) *by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and*

(B) *by inserting before paragraph (2), as so redesignated, the following:*

“(1) assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce.”.

(2) *ELIMINATION OF PROMOTION.—Section 40101(d) is further amended—*

(A) *in paragraph (2), as redesignated by paragraph (1)(A) of this subsection, by striking “its development and” and*

(B) in paragraph (3), as so redesignated—

(i) by striking “promoting, encouraging,” and inserting “encouraging”; and

(ii) by inserting before the period at the end “, including new aviation technology”.

(b) *FAA SAFETY MISSION.—*

(1) *IN GENERAL.—Section 40104 is amended—*

(A) *by inserting “**safety of**” before “**air commerce**” in the section heading;*

(B) *by inserting “SAFETY OF” before “AIR COMMERCE” in the heading of subsection (a); and*

(C) *by inserting “safety of” before “air commerce” in subsection (a).*

(2) *CLERICAL AMENDMENT.—The table of sections for chapter 401 is amended by striking the item relating to section 40104 and inserting the following:*

“40104. Promotion of civil aeronautics and safety of air commerce.”.

SEC. 402. PROTECTION OF VOLUNTARILY SUBMITTED INFORMATION.

(a) *IN GENERAL.—Chapter 401, as amended by section 253 of this Act, is further amended by adding at the end the following:*

“§ 40123. Protection of voluntarily submitted information

“(a) *IN GENERAL.*—Notwithstanding any other provision of law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

“(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of information aids in fulfilling the Administrator’s safety and security responsibilities; and

“(2) withholding such information from disclosure would be consistent with the Administrator’s safety and security responsibilities.

“(b) *REGULATIONS.*—The Administrator shall issue regulations to carry out this section.”.

(b) *CONFORMING AMENDMENT.*—The table of sections for such chapter is amended by adding at the end the following:

“40123. Protection of voluntarily submitted information.”.

SEC. 403. SUPPLEMENTAL TYPE CERTIFICATES.

Section 44704 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

“(b) *SUPPLEMENTAL TYPE CERTIFICATES.*—

“(1) *ISSUANCE.*—The Administrator may issue a type certificate designated as a supplemental type certificate for a change to an aircraft, aircraft engine, propeller, or appliance.

“(2) *CONTENTS.*—A supplemental type certificate issued under paragraph (1) shall consist of the change to the aircraft, aircraft engine, propeller, or appliance with respect to the previously issued type certificate for the aircraft, aircraft engine, propeller, or appliance.

“(3) *REQUIREMENT.*—If the holder of a supplemental type certificate agrees to permit another person to use the certificate to modify an aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. A person may change an aircraft, aircraft engine, propeller, or appliance based on a supplemental type certificate only if the person requesting the change is the holder of the supplemental type certificate or has permission from the holder to make the change.”.

SEC. 404. CERTIFICATION OF SMALL AIRPORTS.

(a) *IN GENERAL.*—Section 44706(a) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following:

“(2) that is not located in the State of Alaska and serves any scheduled passenger operation of an air carrier operating aircraft designed for more than 9 passenger seats but less than 31 passenger seats; and”;

(3) by striking “and” at the end of paragraph (3), as redesignated by paragraph (1) of this subsection;

(4) by striking “(3) when” and inserting “if”; and

(5) by moving the matter following paragraph (3), as redesignated by paragraph (1) of this subsection, to the left flush full measure.

(b) **COMMUTER AIRPORTS.**—Section 44706 is amended by adding at the end the following:

“(d) **COMMUTER AIRPORTS.**—In developing the terms required by subsection (b) for airports covered by subsection (a)(2), the Administrator shall identify and consider a reasonable number of regulatory alternatives and select from such alternatives the least costly, most cost-effective or the least burdensome alternative that will provide comparable safety at airports described in subsections (a)(1) and (a)(2).”.

(c) **EFFECTIVE DATE.**—Section 44706 is further amended by adding at the end the following:

“(e) **EFFECTIVE DATE.**—Any regulation establishing the terms required by subsection (b) for airports covered by subsection (a)(2) shall not take effect until such regulation, and a report on the economic impact of the regulation on air service to the airports covered by the rule, has been submitted to Congress and 120 days have elapsed following the date of such submission.”.

(d) **LIMITATION ON STATUTORY CONSTRUCTION.**—Section 44706 is further amended by adding at the end the following:

“(f) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this title may be construed as requiring a person to obtain an airport operating certificate if such person does not desire to operate an airport described in subsection (a).”.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS FOR STATE-SPECIFIC SAFETY MEASURES.

There are authorized to be appropriated to the Federal Aviation Administration not more than \$10,000,000 for fiscal year 1997 for the purpose of addressing State-specific aviation safety problems identified by the National Transportation Safety Board.

SEC. 406. AIRCRAFT ENGINE STANDARDS.

(a) **STANDARDS AND REGULATIONS.**—Subsection (a)(1) of section 44715 is amended to read as follows:

“(a) **STANDARDS AND REGULATIONS.**—(1)(A) To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration, as he deems necessary, shall prescribe—

“(i) standards to measure aircraft noise and sonic boom; and

“(ii) regulations to control and abate aircraft noise and sonic boom.

“(B) The Administrator, as the Administrator deems appropriate, shall provide for the participation of a representative of the Environmental Protection Agency on such advisory committees or associated working groups that advise the Administrator on matters related to the environmental effects of aircraft and aircraft engines.”.

(b) **INTERAGENCY COOPERATION.**—Section 231(a)(2) of the Clean Air Act (42 U.S.C. 7571(a)(2)) is amended—

- (1) by inserting “(A)” before “The Administrator”; and
- (2) by adding at the end the following:

“(B)(i) *The Administrator shall consult with the Administrator of the Federal Aviation Administration on aircraft engine emission standards.*

“(ii) *The Administrator shall not change the aircraft engine emission standards if such change would significantly increase noise and adversely affect safety.*”

SEC. 407. ACCIDENT AND SAFETY DATA CLASSIFICATION; REPORT ON EFFECTS OF PUBLICATION AND AUTOMATED SURVEILLANCE TARGETING SYSTEMS.

(a) **ACCIDENT AND SAFETY DATA CLASSIFICATION.**—

(1) **IN GENERAL.**—*Subchapter II of chapter 11 of title 49, United States Code, is amended by adding at the end the following:*

“§ 1119. Accident and safety data classification and publication

“(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this section, the National Transportation Safety Board shall, in consultation and coordination with the Administrator of the Federal Aviation Administration, develop a system for classifying air carrier accident data maintained by the Board.

“(b) REQUIREMENTS FOR CLASSIFICATION SYSTEM.—

“(1) IN GENERAL.—The system developed under this section shall provide for the classification of accident and safety data in a manner that, in comparison to the system in effect on the date of the enactment of this section, provides for safety-related categories that provide clearer descriptions of accidents associated with air transportation, including a more refined classification of accidents which involve fatalities, injuries, or substantial damage and which are only related to the operation of an aircraft.

“(2) PUBLIC COMMENT.—In developing a system of classification under paragraph (1), the Board shall provide adequate opportunity for public review and comment.

“(3) FINAL CLASSIFICATION.—After providing for public review and comment, and after consulting with the Administrator, the Board shall issue final classifications. The Board shall ensure that air travel accident covered under this section is classified in accordance with the final classifications issued under this section for data for calendar year 1997, and for each subsequent calendar year.

“(4) PUBLICATION.—The Board shall publish on a periodic basis accident and safety data in accordance with the final classifications issued under paragraph (3).

“(5) RECOMMENDATIONS OF THE ADMINISTRATOR.—The Administrator may, from time to time, request the Board to consider revisions (including additions to the classification system developed under this section). The Board shall respond to any request made by the Administrator under this section not later than 90 days after receiving that request.”

(2) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

“1119. Accident and safety data classification and publication.”

(b) *AUTOMATED SURVEILLANCE TARGETING SYSTEMS.*—Section 44713 is amended by adding at the end the following:

“(e) *AUTOMATED SURVEILLANCE TARGETING SYSTEMS.*—

“(1) *IN GENERAL.*—The Administrator shall give high priority to developing and deploying a fully enhanced safety performance analysis system that includes automated surveillance to assist the Administrator in prioritizing and targeting surveillance and inspection activities of the Federal Aviation Administration.

“(2) *DEADLINES FOR DEPLOYMENT.*—

“(A) *INITIAL PHASE.*—The initial phase of the operational deployment of the system developed under this subsection shall begin not later than December 31, 1997.

“(B) *FINAL PHASE.*—The final phase of field deployment of the system developed under this subsection shall begin not later than December 31, 1999. By that date, all principal operations and maintenance inspectors of the Administration, and appropriate supervisors and analysts of the Administration shall have been provided access to the necessary information and resources to carry out the system.

“(3) *INTEGRATION OF INFORMATION.*—In developing the system under this section, the Administration shall consider the near-term integration of accident and incident data into the safety performance analysis system under this subsection.”.

TITLE V—PILOT RECORD SHARING

SEC. 501. SHORT TITLE.

This title may be cited as the “Pilot Records Improvement Act of 1996”.

SEC. 502. EMPLOYMENT INVESTIGATIONS OF PILOT APPLICANTS.

(a) *IN GENERAL.*—Section 44936 is amended by adding at the end the following:

“(f) *RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.*—

“(1) *IN GENERAL.*—Before hiring an individual as a pilot, an air carrier shall request and receive the following information:

“(A) *FAA RECORDS.*—From the Administrator of the Federal Aviation Administration, records pertaining to the individual that are maintained by the Administrator concerning—

“(i) current airman certificates (including airman medical certificates) and associated type ratings, including any limitations to those certificates and ratings; and

“(ii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

“(B) *AIR CARRIER AND OTHER RECORDS.*—From any air carrier or other person that has employed the individual at any time during the 5-year period preceding the date of the

employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

“(i) records pertaining to the individual that are maintained by an air carrier (other than records relating to flight time, duty time, or rest time) under regulations set forth in—

“(I) section 121.683 of title 14, Code of Federal Regulations;

“(II) paragraph (A) of section VI, appendix I, part 121 of such title;

“(III) paragraph (A) of section IV, appendix J, part 121 of such title;

“(IV) section 125.401 of such title; and

“(V) section 135.63(a)(4) of such title; and

“(ii) other records pertaining to the individual that are maintained by the air carrier or person concerning—

“(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

“(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

“(III) any release from employment or resignation, termination, or disqualification with respect to employment.

“(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(7), from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

“(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

“(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

“(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

“(3) 5-YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

“(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator shall maintain pilot records described in paragraph (1)(A) for a period of at least 5 years.

“(5) RECEIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a record in response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested. A person who receives a request for records under this paragraph shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

“(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

“(A) on or before the 20th day following the date of receipt of the request, written notice of the request and of the individual’s right to receive a copy of such records; and

“(B) in accordance with paragraph (10), a copy of such records, if requested by the individual.

“(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

“(8) STANDARD FORMS.—The Administrator shall promulgate—

“(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

“(B) standard forms that may be used by an air carrier to—

“(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

“(ii) inform the individual of—

“(I) the request; and

“(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

“(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

“(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot employed by such carrier, make available, within a reasonable time of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B) (i) or (ii) pertaining to the employment of the pilot.

“(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect

the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

“(12) *PERIODIC REVIEW.*—Not later than 18 months after the date of the enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

“(A) *recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or*

“(B) *reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).*

“(13) *REGULATIONS.*—The Administrator may prescribe such regulations as may be necessary—

“(A) *to protect—*

“(i) *the personal privacy of any individual whose records are requested under paragraph (1); and*

“(ii) *the confidentiality of those records;*

“(B) *to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and*

“(C) *to ensure prompt compliance with any request made under paragraph (1).*

“(g) *LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.*—

“(1) *LIMITATION ON LIABILITY.*—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under paragraph (2), against—

“(A) *the air carrier requesting the records of that individual under subsection (f)(1);*

“(B) *a person who has complied with such request;*

“(C) *a person who has entered information contained in the individual’s records; or*

“(D) *an agent or employee of a person described in subparagraph (A) or (B);*

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (f).

“(2) *PREEMPTION.*—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using records in accordance with subsection (f).

“(3) *PROVISION OF KNOWINGLY FALSE INFORMATION.*—Paragraphs (1) and (2) shall not apply with respect to a person who

furnishes information in response to a request made under subsection (f)(1), that—

“(A) the person knows is false; and

“(B) was maintained in violation of a criminal statute of the United States.

“(h) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in subsection (f) shall be construed as precluding the availability of the records of a pilot in an investigation or other proceeding concerning an accident or incident conducted by the Administrator, the National Transportation Safety Board, or a court.”.

(b) **CONFORMING AMENDMENTS.**—Section 30305(b) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following:

“(7) An individual who is seeking employment by an air carrier as a pilot may request the chief driver licensing official of a State to provide information about the individual under paragraph (2) to the prospective employer of the individual or to the Secretary of Transportation. Information may not be obtained from the National Driver Register under this subsection if the information was entered in the Register more than 5 years before the request unless the information is about a revocation or suspension still in effect on the date of the request.”.

(c) **CIVIL PENALTIES.**—Section 46301, as amended by section 1220(b) of this Act, is further amended—

(1) in each of subsections (a)(1)(A), (d)(2), and (f)(1)(A)(i) by inserting “44724,” after “44718(d),”; and

(2) in subsection (a)(2)(A) by inserting “44724,” after “44716,”.

(d) **APPLICABILITY.**—The amendments made by this section shall apply to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following the date of the enactment of this Act.

SEC. 503. STUDIES OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS AND OF PAY FOR TRAINING.

(a) **STUDY.**—The Administrator of the Federal Aviation Administration shall appoint a task force consisting of appropriate representatives of the aviation industry to conduct—

(1) a study directed toward the development of—

(A) standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of an applicant for employment as a pilot by an air carrier; and

(B) standards and criteria for pilot training facilities to be licensed by the Administrator and which will assure that pilots trained at such facilities meet the preemployment screening standards and criteria described in subparagraph (A); and

(2) a study to determine if the practice of some air carriers to require employees or prospective employees to pay for the training or experience that is needed to perform flight check duties for an air carrier is in the public interest.

(b) *REPORT.*—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under subsection (a)(2).

SEC. 504. STUDY OF MINIMUM FLIGHT TIME.

(a) *STUDY.*—The Administrator of the Federal Aviation Administration shall conduct a study to determine whether current minimum flight time requirements applicable to individuals seeking employment as a pilot with an air carrier are sufficient to ensure public safety.

(b) *REPORT.*—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study.

TITLE VI—CHILD PILOT SAFETY

SEC. 601. SHORT TITLE.

This title may be cited as the “Child Pilot Safety Act”.

SEC. 602. CHILD PILOT SAFETY.

(a) **MANIPULATION OF FLIGHT CONTROLS.**—

(1) **IN GENERAL.**—Chapter 447 is amended by adding at the end the following:

“§ 44724. Manipulation of flight controls

“(a) PROHIBITION.—No pilot in command of an aircraft may allow an individual who does not hold—

“(1) a valid private pilots certificate issued by the Administrator of the Federal Aviation Administration under part 61 of title 14, Code of Federal Regulations; and

“(2) the appropriate medical certificate issued by the Administrator under part 67 of such title,
to manipulate the controls of an aircraft if the pilot knows or should have known that the individual is attempting to set a record or engage in an aeronautical competition or aeronautical feat, as defined by the Administrator.

“(b) REVOCATION OF AIRMEN CERTIFICATES.—The Administrator shall issue an order revoking a certificate issued to an airman under section 44703 of this title if the Administrator finds that while acting as a pilot in command of an aircraft, the airman has permitted another individual to manipulate the controls of the aircraft in violation of subsection (a).

“(c) PILOT IN COMMAND DEFINED.—In this section, the term ‘pilot in command’ has the meaning given such term by section 1.1 of title 14, Code of Federal Regulations.”.

(2) **CONFORMING AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following:

“44724. Manipulation of flight controls.”.

(b) **CHILDREN FLYING AIRCRAFT.**—

(1) **STUDY.**—The Administrator of the Federal Aviation Administration shall conduct a study of the impacts of children flying aircraft.

(2) *CONSIDERATIONS.*—In conducting the study, the Administrator shall consider the effects of imposing any restrictions on children flying aircraft on safety and on the future of general aviation in the United States.

(3) *REPORT.*—Not later than 6 months after the date of the enactment of this Act, the Administrator shall issue a report containing the results of the study, together with recommendations on—

(A) whether the restrictions established by the amendment made by subsection (a)(1) should be modified or repealed; and

(B) whether certain individuals or groups should be exempt from any age, altitude, or other restrictions that the Administrator may impose by regulation.

(4) *REGULATIONS.*—As a result of the findings of the study, the Administrator may issue regulations imposing age, altitude, or other restrictions on children flying aircraft.

TITLE VII—FAMILY ASSISTANCE

SEC. 701. SHORT TITLE.

This title may be cited as the “Aviation Disaster Family Assistance Act of 1996”.

SEC. 702. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) *AUTHORITY TO PROVIDE ASSISTANCE.*—

(1) *IN GENERAL.*—Subchapter III of chapter 11 is amended by adding at the end the following:

“§ 1136. Assistance to families of passengers involved in aircraft accidents

“(a) *IN GENERAL.*—As soon as practicable after being notified of an aircraft accident within the United States involving an air carrier or foreign air carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

“(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the air carrier or foreign air carrier and the families; and

“(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

“(b) *RESPONSIBILITIES OF THE BOARD.*—The Board shall have primary Federal responsibility for facilitating the recovery and identification of fatally-injured passengers involved in an accident described in subsection (a).

“(c) *RESPONSIBILITIES OF DESIGNATED ORGANIZATION.*—The organization designated for an accident under subsection (a)(2) shall

have the following responsibilities with respect to the families of passengers involved in the accident:

“(1) To provide mental health and counseling services, in coordination with the disaster response team of the air carrier or foreign air carrier involved.

“(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

“(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

“(4) To communicate with the families as to the roles of the organization, government agencies, and the air carrier or foreign air carrier involved with respect to the accident and the post-accident activities.

“(5) To arrange a suitable memorial service, in consultation with the families.

“(d) PASSENGER LISTS.—

“(1) REQUESTS FOR PASSENGER LISTS.—

“(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the air carrier or foreign air carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the aircraft involved in the accident.

“(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the air carrier or foreign air carrier involved in the accident a list described in subparagraph (A).

“(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

“(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

“(1) are briefed, prior to any public briefing, about the accident, its causes, and any other findings from the investigation; and

“(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

“(f) USE OF AIR CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the air carrier or foreign air carrier involved in the accident so that the resources of

the carrier can be used to the greatest extent possible to carry out the organization's responsibilities under this section.

“(g) **PROHIBITED ACTIONS.**—

“(1) **ACTIONS TO IMPEDE THE BOARD.**—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

“(2) **UNSOLICITED COMMUNICATIONS.**—In the event of an accident involving an air carrier providing interstate or foreign air transportation, no unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney or any potential party to the litigation to an individual injured in the accident, or to a relative of an individual involved in the accident, before the 30th day following the date of the accident.

“(h) **DEFINITIONS.**—In this section, the following definitions apply:

“(1) **AIRCRAFT ACCIDENT.**—The term ‘aircraft accident’ means any aviation disaster regardless of its cause or suspected cause.

“(2) **PASSENGER.**—The term ‘passenger’ includes an employee of an air carrier aboard an aircraft.”.

(2) **CONFORMING AMENDMENT.**—The table of sections for such chapter is amended by inserting after the item relating to section 1135 the following:

“1136. Assistance to families of passengers involved in aircraft accidents.”.

(b) **PENALTIES.**—Section 1155(a)(1) of such title is amended—

(1) by striking “or 1134(b) or (f)(1)” and inserting “, section 1134(b), section 1134(f)(1), or section 1136(g)”; and

(2) by striking “either of” and inserting “any of”.

SEC. 703. AIR CARRIER PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) **IN GENERAL.**—Chapter 411 is amended by adding at the end the following:

“§41113. Plans to address needs of families of passengers involved in aircraft accidents

“(a) **SUBMISSION OF PLANS.**—Not later than 6 months after the date of the enactment of this section, each air carrier holding a certificate of public convenience and necessity under section 41102 of this title shall submit to the Secretary and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any aircraft accident involving an aircraft of the air carrier and resulting in a major loss of life.

“(b) **CONTENTS OF PLANS.**—A plan to be submitted by an air carrier under subsection (a) shall include, at a minimum, the following:

“(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

“(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1136(a)(2) of this title or the services of other suitably trained individuals.

“(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the air carrier has verified that the passenger was aboard the aircraft (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

“(4) An assurance that the air carrier will provide to the director of family support services designated for the accident under section 1136(a)(1) of this title, and to the organization designated for the accident under section 1136(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), and will periodically update the list.

“(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the air carrier.

“(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the air carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

“(7) An assurance that any unclaimed possession of a passenger within the control of the air carrier will be retained by the air carrier for at least 18 months.

“(8) An assurance that the family of each passenger will be consulted about construction by the air carrier of any monument to the passengers, including any inscription on the monument.

“(9) An assurance that the treatment of the families of non-revenue passengers (and any other victim of the accident) will be the same as the treatment of the families of revenue passengers.

“(10) An assurance that the air carrier will work with any organization designated under section 1136(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

“(11) An assurance that the air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) of this title for services provided by the organization.

“(12) An assurance that the air carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

“(13) An assurance that the air carrier will commit sufficient resources to carry out the plan.

“(c) **CERTIFICATE REQUIREMENT.**—After the date that is 6 months after the date of the enactment of this section, the Secretary may not approve an application for a certificate of public convenience and necessity under section 41102 of this title unless the applicant has included as part of such application a plan that meets the requirements of subsection (b).

“(d) **LIMITATION ON LIABILITY.**—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in preparing or providing a passenger list pursuant to a plan submitted by the air carrier under subsection (b), unless such liability was caused by conduct of the air carrier which was grossly negligent or which constituted intentional misconduct.

“(e) **AIRCRAFT ACCIDENT AND PASSENGER DEFINED.**—In this section, the terms ‘aircraft accident’ and ‘passenger’ have the meanings such terms have in section 1136 of this title.”

(b) **CONFORMING AMENDMENT.**—The table of sections for such chapter is amended by adding at the end the following:

“41113. Plans to address needs of families of passengers involved in aircraft accidents.”

SEC. 704. ESTABLISHMENT OF TASK FORCE.

(a) **ESTABLISHMENT.**—The Secretary of Transportation, in cooperation with the National Transportation Safety Board, the Federal Emergency Management Agency, the American Red Cross, air carriers, and families which have been involved in aircraft accidents shall establish a task force consisting of representatives of such entities and families, representatives of air carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) **GUIDELINES AND RECOMMENDATIONS.**—The task force established pursuant to subsection (a) shall develop—

(1) guidelines to assist air carriers in responding to aircraft accidents;

(2) recommendations on methods to ensure that attorneys and representatives of media organizations do not intrude on the privacy of families of passengers involved in an aircraft accident;

(3) recommendations on methods to ensure that the families of passengers involved in an aircraft accident who are not citizens of the United States receive appropriate assistance;

(4) recommendations on methods to ensure that State mental health licensing laws do not act to prevent out-of-state mental health workers from working at the site of an aircraft accident or other related sites;

(5) recommendations on the extent to which military experts and facilities can be used to aid in the identification of the remains of passengers involved in an aircraft accident; and

(6) recommendations on methods to improve the timeliness of the notification provided by air carriers to the families of passengers involved in an aircraft accident, including—

(A) an analysis of the steps that air carriers would have to take to ensure that an accurate list of passengers on board the aircraft would be available within 1 hour of

the accident and an analysis of such steps to ensure that such list would be available within 3 hours of the accident;

(B) an analysis of the added costs to air carriers and travel agents that would result if air carriers were required to take the steps described in subparagraph (A);

(C) an analysis of any inconvenience to passengers, including flight delays, that would result if air carriers were required to take the steps described in subparagraph (A); and

(D) an analysis of the implications for personal privacy that would result if air carriers were required to take the steps described in subparagraph (A).

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).

SEC. 705. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title or any amendment made by this title may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.

TITLE VIII—AIRPORT REVENUE PROTECTION

SEC. 801. SHORT TITLE.

This title may be cited as the “Airport Revenue Protection Act of 1996”.

SEC. 802. FINDINGS; PURPOSE.

(a) IN GENERAL.—Congress finds that—

(1) section 47107 of title 49, United States Code, prohibits the diversion of certain revenue generated by a public airport as a condition of receiving a project grant;

(2) a grant recipient that uses airport revenue for purposes that are not airport related in a manner inconsistent with chapter 471 of title 49, United States Code, illegally diverts airport revenues;

(3) any diversion of airport revenues in violation of the condition referred to in paragraph (1) undermines the interest of the United States in promoting a strong national air transportation system that is responsive to the needs of airport users;

(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

(5) sponsors who have been found to have illegally diverted airport revenues—

(A) have not reimbursed or made restitution to airports in a timely manner; and

(B) must be encouraged to do so.

(b) PURPOSE.—The purpose of this title is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

(1) *eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;*

(2) *imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);*

(3) *establishing a statute of limitations for airport revenue diversion actions;*

(4) *clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code;* and

(5) *establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.*

SEC. 803. DEFINITIONS.

For purposes of this title, the following definitions apply:

(1) **ADMINISTRATOR.**—*The term “Administrator” means the Administrator of the Federal Aviation Administration.*

(2) **AIRPORT.**—*The term “airport” has the meaning provided that term in section 47102(2) of title 49, United States Code.*

(3) **PROJECT GRANT.**—*The term “project grant” has the meaning provided that term in section 47102(14) of title 49, United States Code.*

(4) **SECRETARY.**—*The term “Secretary” means the Secretary of Transportation.*

(5) **SPONSOR.**—*The term “sponsor” has the meaning provided that term in section 47102(19) of title 49, United States Code.*

SEC. 804. RESTRICTION ON USE OF AIRPORT REVENUES.

(a) **IN GENERAL.**—*Subchapter I of chapter 471, as amended by section 142 of this Act, is further amended by adding after section 47132 the following:*

“§47133. Restriction on use of revenues

“(a) PROHIBITION.—Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

“(1) the airport;

“(2) the local airport system; or

“(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

“(b) EXCEPTIONS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

“(c) *RULE OF CONSTRUCTION.*—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.”.

(b) *PENALTIES.*—Section 46301(a)(5) is amended to read as follows:

“(5) *PENALTY FOR DIVERSION OF AVIATION REVENUES.*—The amount of a civil penalty assessed under this section for a violation of section 47107(b) of this title (or any assurance made under such section) or section 47133 of this title may be increased above the otherwise applicable maximum amount under this section to an amount not to exceed 3 times the amount of revenues that are used in violation of such section.”.

(c) *CONFORMING AMENDMENT.*—The table of sections for such subchapter is amended by inserting after the item relating to section 47132, as added by section 142 of this Act, the following:

“47133. Restriction on use of revenues.”.

SEC. 805. REGULATIONS; AUDITS AND ACCOUNTABILITY.

(a) *IN GENERAL.*—Section 47107 is amended by adding at the end the following:

“(m) *AUDIT CERTIFICATION.*—

“(1) *IN GENERAL.*—The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall promulgate regulations that require a recipient of a project grant (or any other recipient of Federal financial assistance that is provided for an airport) to include as part of an annual audit conducted under sections 7501 through 7505 of title 31, a review and opinion of the review concerning the funding activities with respect to an airport that is the subject of the project grant (or other Federal financial assistance) and the sponsors, owners, or operators (or other recipients) involved.

“(2) *CONTENT OF REVIEW.*—A review conducted under paragraph (1) shall provide reasonable assurances that funds paid or transferred to sponsors are paid or transferred in a manner consistent with the applicable requirements of this chapter and any other applicable provision of law (including regulations promulgated by the Secretary or the Administrator).

“(3) *REQUIREMENTS FOR AUDIT REPORT.*—The report submitted to the Secretary under this subsection shall include a specific determination and opinion regarding the appropriateness of the disposition of airport funds paid or transferred to a sponsor.

“(n) *RECOVERY OF ILLEGALLY DIVERTED FUNDS.*—

“(1) *IN GENERAL.*—Not later than 180 days after the issuance of an audit or any other report that identifies an illegal diversion of airport revenues (as determined under subsections (b) and (l) and section 47133), the Secretary, acting through the Administrator, shall—

“(A) review the audit or report;

“(B) perform appropriate factfinding; and

“(C) conduct a hearing and render a final determination concerning whether the illegal diversion of airport revenues asserted in the audit or report occurred.

“(2) NOTIFICATION.—Upon making such a finding, the Secretary, acting through the Administrator, shall provide written notification to the sponsor and the airport of—

“(A) the finding; and

“(B) the obligations of the sponsor to reimburse the airport involved under this paragraph.

“(3) ADMINISTRATIVE ACTION.—The Secretary may withhold any amount from funds that would otherwise be made available to the sponsor, including funds that would otherwise be made available to a State, municipality, or political subdivision thereof (including any multimodal transportation agency or transit authority of which the sponsor is a member entity) as part of an apportionment or grant made available pursuant to this title, if the sponsor—

“(A) receives notification that the sponsor is required to reimburse an airport; and

“(B) has had an opportunity to reimburse the airport, but has failed to do so.

“(4) CIVIL ACTION.—If a sponsor fails to pay an amount specified under paragraph (3) during the 180-day period beginning on the date of notification and the Secretary is unable to withhold a sufficient amount under paragraph (3), the Secretary, acting through the Administrator, may initiate a civil action under which the sponsor shall be liable for civil penalty in an amount equal to the illegal diversion in question plus interest (as determined under subsection (o)).

“(5) DISPOSITION OF PENALTIES.—

“(A) AMOUNTS WITHHELD.—The Secretary or the Administrator shall transfer any amounts withheld under paragraph (3) to the Airport and Airway Trust Fund.

“(B) CIVIL PENALTIES.—With respect to any amount collected by a court in a civil action under paragraph (4), the court shall cause to be transferred to the Airport and Airway Trust Fund any amount collected as a civil penalty under paragraph (4).

“(6) REIMBURSEMENT.—The Secretary, acting through the Administrator, shall, as soon as practicable after any amount is collected from a sponsor under paragraph (4), cause to be transferred from the Airport and Airway Trust Fund to an airport affected by a diversion that is the subject of a civil action under paragraph (4), reimbursement in an amount equal to the amount that has been collected from the sponsor under paragraph (4) (including any amount of interest calculated under subsection (o)).

“(7) STATUTE OF LIMITATIONS.—No person may bring an action for the recovery of funds illegally diverted in violation of this section (as determined under subsections (b) and (l)) or section 47133 after the date that is 6 years after the date on which the diversion occurred.

“(o) INTEREST.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary, acting through the Administrator, shall charge a minimum annual rate of interest on the amount of any illegal diversion of revenues referred to in subsection (n) in an amount

equal to the average investment interest rate for tax and loan accounts of the Department of the Treasury (as determined by the Secretary of the Treasury) for the applicable calendar year, rounded to the nearest whole percentage point.

“(2) *ADJUSTMENT OF INTEREST RATES.*—If, with respect to a calendar quarter, the average investment interest rate for tax and loan accounts of the Department of the Treasury exceeds the average investment interest rate for the immediately preceding calendar quarter, rounded to the nearest whole percentage point, the Secretary of the Treasury may adjust the interest rate charged under this subsection in a manner that reflects that change.

“(3) *ACCRUAL.*—Interest assessed under subsection (n) shall accrue from the date of the actual illegal diversion of revenues referred to in subsection (n).

“(4) *DETERMINATION OF APPLICABLE RATE.*—The applicable rate of interest charged under paragraph (1) shall—

“(A) be the rate in effect on the date on which interest begins to accrue under paragraph (3); and

“(B) remain at a rate fixed under subparagraph (A) during the duration of the indebtedness.

“(p) *PAYMENT BY AIRPORT TO SPONSOR.*—If, in the course of an audit or other review conducted under this section, the Secretary or the Administrator determines that an airport owes a sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport, interest on that amount shall be determined in the same manner as provided in paragraphs (1) through (4) of subsection (o), except that the amount of any interest assessed under this subsection shall be determined from the date on which the Secretary or the Administrator makes that determination.”.

(b) *REVISION OF POLICIES AND PROCEDURES; DEADLINES.*—

(1) *IN GENERAL.*—Not later than 90 days after the date of the enactment of this Act, the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(l) of title 49, United States Code, to take into account the amendments made to that section by this title.

(2) *STATUTE OF LIMITATIONS.*—Section 47107(l) is amended by adding at the end the following:

“(5) *STATUTE OF LIMITATIONS.*—In addition to the statute of limitations specified in subsection (n)(7), with respect to project grants made under this chapter—

“(A) any request by a sponsor to any airport for additional payments for services conducted off of the airport or for reimbursement for capital contributions or operating expenses shall be filed not later than 6 years after the date on which the expense is incurred; and

“(B) any amount of airport funds that are used to make a payment or reimbursement as described in subparagraph (A) after the date specified in that subparagraph shall be considered to be an illegal diversion of airport revenues that is subject to subsection (n).”.

SEC. 806. CONFORMING AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Section 9502 of the Internal Revenue Code of 1986 is amended—

- (1) by striking “and” at the end of subsection (b)(3);
- (2) by striking the period at the end of subsection (b)(4) and inserting “, and”; and
- (3) by adding at the end of subsection (b) the following:

“(5) amounts determined by the Secretary of the Treasury to be equivalent to the amounts of civil penalties collected under section 47107(n) of title 49, United States Code.”; and
- (4) by adding at the end of subsection (d) the following:

“(5) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN AIRPORTS.—The Secretary of the Treasury may transfer from the Airport and Airway Trust Fund to the Secretary of Transportation or the Administrator of the Federal Aviation Administration an amount to make a payment to an airport affected by a diversion that is the subject of an administrative action under paragraph (3) or a civil action under paragraph (4) of section 47107(n) of title 49, United States Code.”.

TITLE IX—METROPOLITAN WASHINGTON AIRPORTS

SEC. 901. SHORT TITLE.

This title may be cited as the “Metropolitan Washington Airports Amendments Act of 1996”.

SEC. 902. USE OF LEASED PROPERTY.

Section 6005(c)(2) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2454(c)(2)) is amended by inserting before the period at the end of the second sentence the following: “which are not inconsistent with the needs of aviation”.

SEC. 903. BOARD OF DIRECTORS.

(a) **APPOINTMENT OF ADDITIONAL MEMBERS.**—Section 6007(e)(1) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(1)) is amended—

- (1) in the matter preceding subparagraph (A) by striking “11” and inserting “13”;
- (2) in subparagraph (D) by striking “one member” and inserting “three members”.

(b) **RESTRICTIONS.**—Section 6007(e)(2) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(2)) is amended by striking “except that” and all that follows through the period and inserting “except that the members appointed by the President shall be registered voters of States other than Maryland, Virginia, or the District of Columbia.”.

(c) **TERMS.**—Section 6007(e)(3) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(3)) is amended—

- (1) in subparagraph (B) by striking “and” at the end;
- (2) in subparagraph (C) by striking the period at the end and inserting “, and”; and

(3) by adding at the end the following:

“(D) by the President after the date of the enactment of this subparagraph, 1 shall be appointed for 4 years. A member may serve after the expiration of that member’s term until a successor has taken office.”.

(d) VACANCIES.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by redesignating paragraphs (4) and (5) as paragraphs (8) and (9), respectively, and by inserting after paragraph (3) the following:

“(4) VACANCIES.—A vacancy in the board of directors shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of such term.”.

(e) POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by inserting after paragraph (4), as inserted by subsection (d) of this section, the following:

“(5) POLITICAL PARTIES OF PRESIDENTIAL APPOINTEES.—Not more than 2 of the members of the board appointed by the President may be of the same political party.”.

(f) DUTIES OF PRESIDENTIAL APPOINTEES.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by inserting after paragraph (5), as inserted by subsection (e) of this section, the following:

“(6) DUTIES OF PRESIDENTIAL APPOINTEES.—In carrying out their duties on the board, members of the board appointed by the President shall ensure that adequate consideration is given to the national interest.”.

(g) DEADLINE FOR PRESIDENTIAL APPOINTMENTS.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)) is amended by inserting after paragraph (6), as inserted by subsection (f) of this section, the following:

“(7) DEADLINE FOR PRESIDENTIAL APPOINTMENTS.—

“(A) DEADLINE.—The members to be appointed to the board by the President under section 6007(e)(1)(D) shall be appointed on or before September 30, 1997.

“(B) APPLICABILITY OF LIMITATIONS.—If the deadline of subparagraph (A) is not met, the Secretary and the Airports Authority shall be subject to the limitations described in subsection (i) for the period beginning on October 1, 1997, and ending on the first day on which all of the members referred to in subparagraph (A) have been appointed.”.

(h) REQUIRED NUMBER OF VOTES.—Section 6007(e)(9) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(e)(9)), as redesignated by subsection (d) of this section, is amended by striking “Seven” and inserting “Eight”.

SEC. 904. TERMINATION OF BOARD OF REVIEW.

(a) IN GENERAL.—Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is amended by striking subsections (f) and (h) and redesignating subsections (g) and (i) as subsections (f) and (g), respectively.

(b) *STAFF.*—Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is amended—

(1) by inserting paragraph (8) of subsection (f), as in effect before the amendment made by subsection (a) of this section, after subsection (g), as redesignated by such subsection (a);

(2) by moving such paragraph 2 ems to the left and redesignating such paragraph as subsection (h); and

(3) in subsection (h), as so redesignated—

(A) in the first sentence by striking “The Board of Review” and inserting “To assist the Secretary in carrying out this Act, the Secretary”; and

(B) in the second sentence by striking “Board” and inserting “Secretary”.

(c) *CONFORMING AMENDMENTS.*—The Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451 et seq.) is amended—

(1) in section 6009(b) by striking “or by reason” and all that follows before the period; and

(2) in section 6011 by striking “Except as provided in section 6007(h), if” and inserting “If”.

(d) *PROTECTION OF CERTAIN ACTIONS.*—Actions taken by the Metropolitan Washington Airports Authority and required to be submitted to the Board of Review pursuant to section 6007(f)(4) of the Metropolitan Washington Airports Act of 1986 before the date of the enactment of this Act shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board of Review.

SEC. 905. LIMITATIONS.

Section 6007 of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456) is further amended by adding at the end the following:

“(i) *LIMITATIONS.*—After October 1, 2001—

“(1) the Secretary may not approve an application of the Airports Authority for an airport development project grant under subchapter I of chapter 471 of title 49, United States Code; and

“(2) the Secretary may not approve an application of the Airports Authority to impose a passenger facility fee under section 40117 of such title.”.

SEC. 906. USE OF DULLES AIRPORT ACCESS HIGHWAY.

The Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451 et seq.) is further amended by adding at the end the following:

“SEC. 6013. USE OF DULLES AIRPORT ACCESS HIGHWAY.

“(a) *RESTRICTIONS.*—Except as provided by subsection (b), the Airports Authority shall continue in effect and enforce paragraphs (1) and (2) of section 4.2 of the Metropolitan Washington Airports Regulations, as in effect on February 1, 1995.

“(b) *ENFORCEMENT.*—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the requirements of this section. An action may be brought on behalf of the United States by the Attorney General or by any aggrieved party.”.

SEC. 907. EFFECT OF JUDICIAL ORDER.

The Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2451 et seq.) is further amended by adding at the end the following:

“SEC. 6014. EFFECT OF JUDICIAL ORDER.

“If any provision of the Metropolitan Washington Airports Amendments Act of 1996 or the amendments made by such Act (or the application of that provision to any person, circumstance, or venue) is held invalid by a judicial order, on the day after the date of the issuance of such order, and thereafter, the Secretary of Transportation and the Metropolitan Washington Airports Authority shall be subject to the limitations described in section 6007(i) of this Act.”.

SEC. 908. AMENDMENT OF LEASE.

The Secretary of Transportation shall amend the lease entered into with the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Authority Act of 1986 to secure the Airports Authority’s consent to the amendments made to such Act by this title.

SEC. 909. SENSE OF THE SENATE.

It is the sense of the Senate that the Metropolitan Washington Airports Authority—

(1) should not provide any reserved parking areas free of charge to Members of Congress, other Government officials, or diplomats at Washington National Airport or Washington Dulles International Airport; and

(2) should establish a parking policy for such airports that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, or diplomats.

TITLE X—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURES

SEC. 1001. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURES.

(a) EXTENSION OF EXPENDITURE AUTHORITY.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 is amended by striking “October 1, 1996” and inserting “October 1, 1998”.

(b) EXTENSION OF TRUST FUND PURPOSES.—Subparagraph (A) of section 9502(d)(1) of such Code is amended by inserting before the semicolon at the end “or the Federal Aviation Reauthorization Act of 1996”.

TITLE XI—FAA RESEARCH, ENGINEERING, AND DEVELOPMENT

SEC. 1101. SHORT TITLE.

This title may be cited as the “FAA Research, Engineering, and Development Management Reform Act of 1996”.

SEC. 1102. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) is amended—

- (1) by striking “and” at the end of paragraph (1)(J);*
- (2) by striking the period at the end of paragraph (2)(J) and inserting in lieu thereof “; and”; and*
- (3) by adding at the end the following:*
 - “(3) for fiscal year 1997—*
 - “(A) \$13,660,000 for system development and infrastructure projects and activities;*
 - “(B) \$34,889,000 for capacity and air traffic management technology projects and activities;*
 - “(C) \$19,000,000 for communications, navigation, and surveillance projects and activities;*
 - “(D) \$13,000,000 for weather projects and activities;*
 - “(E) \$5,200,000 for airport technology projects and activities;*
 - “(F) \$36,504,000 for aircraft safety technology projects and activities;*
 - “(G) \$57,055,000 for system security technology projects and activities;*
 - “(H) \$23,504,000 for human factors and aviation medicine projects and activities;*
 - “(I) \$3,600,000 for environment and energy projects and activities; and*
 - “(J) \$2,000,000 for innovative/cooperative research projects and activities.”.*

SEC. 1103. RESEARCH PRIORITIES.

Section 48102(b) is amended—

- (1) by redesignating paragraph (2) as paragraph (3); and*
 - (2) by striking “AVAILABILITY FOR RESEARCH.—(1)” and inserting in lieu thereof “RESEARCH PRIORITIES.—(1) The Administrator shall consider the advice and recommendations of the research advisory committee established by section 44508 of this title in establishing priorities among major categories of research and development activities carried out by the Federal Aviation Administration.*
- “(2)”.*

SEC. 1104. RESEARCH ADVISORY COMMITTEE.

Section 44508(a)(1) is amended—

- (1) by striking “and” at the end of subparagraph (B);*
- (2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof “; and”; and*
- (3) by inserting after subparagraph (C) the following:*
 - “(D) annually review the allocation made by the Administrator of the amounts authorized by section 48102(a) of this title among the major categories of research and development activities carried out by the Administration and provide advice and recommendations to the Administrator on whether such allocation is appropriate to meet the needs and objectives identified under subparagraph (A).”.*

SEC. 1105. NATIONAL AVIATION RESEARCH PLAN.

Section 44501(c) is amended—

(1) in paragraph (2)(A) by striking “15-year” and inserting in lieu thereof “5-year”;

(2) by amending subparagraph (B) to read as follows:
“(B) The plan shall—

“(i) provide estimates by year of the schedule, cost, and work force levels for each active and planned major research and development project under sections 40119, 44504, 44505, 44507, 44509, 44511–44513, and 44912 of this title, including activities carried out under cooperative agreements with other Federal departments and agencies;

“(ii) specify the goals and the priorities for allocation of resources among the major categories of research and development activities, including the rationale for the priorities identified;

“(iii) identify the allocation of resources among long-term research, near-term research, and development activities; and

“(iv) highlight the research and development activities that address specific recommendations of the research advisory committee established under section 44508 of this title, and document the recommendations of the committee that are not accepted, specifying the reasons for nonacceptance.”; and

(3) in paragraph (3) by inserting “, including a description of the dissemination to the private sector of research results and a description of any new technologies developed” after “during the prior fiscal year”.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. PURCHASE OF HOUSING UNITS.

Section 40110 is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b) **PURCHASE OF HOUSING UNITS.**—

“(1) **AUTHORITY.**—In carrying out this part, the Administrator may purchase a housing unit (including a condominium or a housing unit in a building owned by a cooperative) that is located outside the contiguous United States if the cost of the unit is \$300,000 or less.

“(2) **ADJUSTMENTS FOR INFLATION.**—For fiscal years beginning after September 30, 1997, the Administrator may adjust the dollar amount specified in paragraph (1) to take into account increases in local housing costs.

“(3) **CONTINUING OBLIGATIONS.**—Notwithstanding section 1341 of title 31, the Administrator may purchase a housing unit under paragraph (1) even if there is an obligation thereafter to pay necessary and reasonable fees duly assessed upon such unit, including fees related to operation, maintenance, taxes, and insurance.

“(4) **CERTIFICATION TO CONGRESS.**—The Administrator may purchase a housing unit under paragraph (1) only if, at least 30 days before completing the purchase, the Administrator transmits to the Committee on Transportation and Infrastruc-

ture of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

“(A) a description of the housing unit and its price;

“(B) a certification that the price does not exceed the median price of housing units in the area; and

“(C) a certification that purchasing the housing unit is the most cost-beneficial means of providing necessary accommodations in carrying out this part.

“(5) PAYMENT OF FEES.—The Administrator may pay, when due, fees resulting from the purchase of a housing unit under this subsection from any amounts made available to the Administrator.”.

SEC. 1202. CLARIFICATION OF PASSENGER FACILITY REVENUES AS CONSTITUTING TRUST FUNDS.

Section 40117(g) is amended by adding at the end the following:

“(4) Passenger facility revenues that are held by an air carrier or an agent of the carrier after collection of a passenger facility fee constitute a trust fund that is held by the air carrier or agent for the beneficial interest of the eligible agency imposing the fee. Such carrier or agent holds neither legal nor equitable interest in the passenger facility revenues except for any handling fee or retention of interest collected on unremitted proceeds as may be allowed by the Secretary.”.

SEC. 1203. AUTHORITY TO CLOSE AIRPORT LOCATED NEAR CLOSED OR REALIGNED MILITARY BASE.

Notwithstanding any other provision of a law, rule, or grant assurance, an airport that is not a commercial service airport may be closed by its sponsor without any obligation to repay grants made under chapter 471 of title 49, United States Code, the Airport and Airway Improvement Act of 1982, or any other law if the airport is located within 2 miles of a United States Army depot which has been closed or realigned; except that in the case of disposal of the land associated with the airport, the part of the proceeds from the disposal that is proportional to the Government's share of the cost of acquiring the land shall be paid to the Secretary of Transportation for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502).

SEC. 1204. GADSDEN AIR DEPOT, ALABAMA.

(a) **AUTHORITY TO GRANT WAIVERS.**—Notwithstanding section 16 of the Federal Airport Act (as in effect on May 4, 1949), the Secretary is authorized, subject to the provisions of section 47153 of title 49, United States Code, and the provisions of subsection (b) of this section, to waive any of the terms contained in the deed of conveyance dated May 4, 1949, under which the United States conveyed certain property to the city of Gadsden, Alabama, for airport purposes.

(b) **CONDITIONS.**—Any waiver granted under subsection (a) shall be subject to the following conditions:

(1) The city of Gadsden, Alabama, shall agree that, in conveying any interest in the property which the United States con-

veyed to the city by a deed described in subsection (a), the city will receive an amount for such interest which is equal to the fair market value of such interest (as determined pursuant to regulations issued by the Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport, lands (including any improvements thereto) which produce revenues that are used for airport development purposes, or both.

SEC. 1205. REGULATIONS AFFECTING INTRASTATE AVIATION IN ALASKA.

In modifying regulations contained in title 14, Code of Federal Regulations, in a manner affecting intrastate aviation in Alaska, the Administrator of the Federal Aviation Administration shall consider the extent to which Alaska is not served by transportation modes other than aviation, and shall establish such regulatory distinctions as the Administrator considers appropriate.

SEC. 1206. WESTCHESTER COUNTY AIRPORT, NEW YORK.

Notwithstanding sections 47107(b) and 47133 of title 49, United States Code, and any other law, regulation, or grant assurance, all fees received by Westchester County Airport in the State of New York may be paid into the treasury of Westchester County pursuant to section 119.31 of the Westchester County Charter if the Secretary finds that the expenditures from such treasury for the capital and operating costs of the Airport after December 31, 1990, have been and will be equal to or greater than the fees that such treasury receives from the Airport.

SEC. 1207. BEDFORD AIRPORT, PENNSYLVANIA.

If the Administrator of the Federal Aviation Administration de-commissions an instrument landing system in Pennsylvania, the Administrator may transfer and install the system at Bedford Airport, Pennsylvania.

SEC. 1208. WORCESTER MUNICIPAL AIRPORT, MASSACHUSETTS.

The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve the safety of aircraft landing at Worcester Municipal Airport, Massachusetts, including, if appropriate, providing air traffic radar service to such airport from the Providence Approach Radar Control in Coventry, Rhode Island.

SEC. 1209. CENTRAL FLORIDA AIRPORT, SANFORD, FLORIDA.

The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve the safety of aircraft landing at Central Florida Airport, Sanford, Florida, including, if appropriate, providing a new instrument landing system on Runway 27R.

SEC. 1210. AIRCRAFT NOISE OMBUDSMAN.

Section 106, as amended by section 230 of this Act, is further amended by adding at the end the following:

“(q) AIRCRAFT NOISE OMBUDSMAN.—

“(1) ESTABLISHMENT.—There shall be in the Administration an Aircraft Noise Ombudsman.

“(2) *GENERAL DUTIES AND RESPONSIBILITIES.*—The Ombudsman shall—

“(A) be appointed by the Administrator;

“(B) serve as a liaison with the public on issues regarding aircraft noise; and

“(C) be consulted when the Administration proposes changes in aircraft routes so as to minimize any increases in aircraft noise over populated areas.

“(3) *NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES.*—The appointment of an Ombudsman under this subsection shall not result in an increase in the number of full-time equivalent employees in the Administration.”.

SEC. 1211. SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.

Section 47109 is amended by adding at the end the following:

“(c) *SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.*—If a privately owned reliever airport contributes any lands, easements, or rights-of-way to carry out a project under this subchapter, the current fair market value of such lands, easements, or rights-of-way shall be credited toward the non-Federal share of allowable project costs.”.

SEC. 1212. SENSE OF THE SENATE REGARDING THE FUNDING OF THE FEDERAL AVIATION ADMINISTRATION.

(a) *FINDINGS.*—The Senate finds that—

(1) Congress is responsible for ensuring that the financial needs of the Federal Aviation Administration, the agency that performs the critical function of overseeing the Nation’s air traffic control system and ensuring the safety of air travelers in the United States, are met;

(2) aviation excise taxes that constitute the Airport and Airway Trust Fund, which provides most of the funding for the Federal Aviation Administration, have expired;

(3) the surplus in the Airport and Airway Trust Fund will be spent by the Federal Aviation Administration by December 1996;

(4) the existing system of funding the Federal Aviation Administration will not provide the agency with sufficient short-term or long-term funding;

(5) this Act creates a sound process to review Federal Aviation Administration funding and develop a funding system to meet the Federal Aviation Administration’s long-term funding needs; and

(6) without immediate action by Congress to ensure that the Federal Aviation Administration’s financial needs are met, air travelers’ confidence in the system could be undermined.

(b) *SENSE OF THE SENATE.*—It is the sense of the Senate that there should be an immediate enactment of an 18-month reinstatement of the aviation excise taxes to provide short-term funding for the Federal Aviation Administration.

SEC. 1213. RURAL AIR FARE STUDY.

(a) *IN GENERAL.*—The Secretary shall conduct a study to—

(1) compare air fares paid (calculated as both actual and adjusted air fares) for air transportation on flights conducted by commercial air carriers—

(A) between—

(i) nonhub airports located in small communities;

and

(ii) large hub airports; and

(B) between large hub airports;

(2) analyze—

(A) the extent to which passenger service that is provided from nonhub airports is provided on—

(i) regional commuter commercial air carriers; or

(ii) major air carriers;

(B) the type of aircraft employed in providing passenger service at nonhub airports; and

(C) whether there is competition among commercial air carriers with respect to the provision of air service to passengers from nonhub airports.

(b) FINDINGS.—The Secretary shall include in the report of the study conducted under subsection (a) findings concerning—

(1) whether passengers who use commercial air carriers to and from rural areas (as defined by the Secretary) pay a disproportionately greater price for that transportation than passengers who use commercial air carriers between urban areas (as defined by the Secretary);

(2) the nature of competition, if any, in rural markets (as defined by the Secretary) for commercial air carriers;

(3) whether a relationship exists between higher air fares and competition among commercial air carriers for passengers traveling on jet aircraft from small communities (as defined by the Secretary) and, if such a relation exists, the nature of that relationship;

(4) the number of small communities that have lost air service as a result of the deregulation of commercial air carriers with respect to air fares;

(5) the number of small communities served by airports with respect to which, after commercial air carrier fares were deregulated, jet aircraft service was replaced by turboprop aircraft service; and

(6) where such replacement occurred, any corresponding decreases in available seat capacity for consumers at the airports referred to in that subparagraph.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit a final report on the study carried out under subsection (a) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) ADJUSTED AIR FARE.—The term “adjusted air fare” means an actual air fare that is adjusted for distance traveled by a passenger.

(2) *AIR CARRIER.*—The term “air carrier” is defined in section 40102(a)(2) of title 49, United States Code.

(3) *AIRPORT.*—The term “airport” is defined in section 40102(9) of such title.

(4) *COMMERCIAL AIR CARRIER.*—The term “commercial air carrier” means an air carrier that provides air transportation for commercial purposes (as determined by the Secretary).

(5) *HUB AIRPORT.*—The term “hub airport” is defined in section 41731(a)(2) of such title.

(6) *LARGE HUB AIRPORT.*—The term “large hub airport” shall be defined by the Secretary but the definition may not include a small hub airport, as that term is defined in section 41731(a)(5) of such title.

(7) *MAJOR AIR CARRIER.*—The term “major air carrier” shall be defined by the Secretary.

(8) *NONHUB AIRPORT.*—The term “nonhub airport” is defined in section 41731(a)(4) of such title.

(9) *REGIONAL COMMUTER AIR CARRIER.*—The term “regional commuter air carrier” shall be defined by the Secretary.

SEC. 1214. CARRIAGE OF CANDIDATES IN STATE AND LOCAL ELECTIONS.

The Administrator of the Federal Aviation Administration shall revise section 91.321 of the Administration’s regulations (14 C.F.R. 91.321), relating to the carriage of candidates in Federal elections, to make the same or similar rules applicable to the carriage of candidates for election to public office in State and local government elections.

SEC. 1215. SPECIAL FLIGHT RULES IN THE VICINITY OF GRAND CANYON NATIONAL PARK.

The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration, shall take such action as may be necessary to provide 45 additional days for comment by interested persons on the special flight rules in the vicinity of Grand Canyon National Park and the Draft Environmental Assessment described in the notice of proposed rulemaking issued on July 31, 1996, at 61 Fed. Reg. 40120 et seq.

SEC. 1216. TRANSFER OF AIR TRAFFIC CONTROL TOWER; CLOSING OF FLIGHT SERVICE STATIONS.

(a) *HICKORY, NORTH CAROLINA TOWER.*—

(1) *TRANSFER.*—The Administrator of the Federal Aviation Administration may transfer any title, right, or interest the United States has in the air traffic control tower located at the Hickory Regional Airport to the City of Hickory, North Carolina, for the purpose of enabling the city to provide air traffic control services to operators of aircraft.

(2) *STUDY.*—The Administrator shall conduct a study to determine whether the number of operations at Hickory Regional Airport meet the criteria for contract towers and shall certify in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce and Infrastructure of the House of Representatives whether that airport meets those criteria.

(b) *NEW BERN-CRAVEN COUNTY STATION.*—The Administrator shall not close the New Bern-Craven County flight services station or the Hickory Regional Airport flight service station unless the Administrator certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that such closure will not result in a degradation of air safety and that it will reduce costs to taxpayers.

(c) *PIERRE, SOUTH DAKOTA STATION.*—The Administrator shall not close the Pierre, South Dakota Regional Airport flight service station unless following the 180th day after the date of the enactment of this Act the Administrator certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that such closure will not result in a degradation of air safety, air service, or the loss of meteorological services or data that cannot otherwise be obtained in a more cost-effective manner, and that it will reduce costs to taxpayers.

SEC. 1217. LOCATION OF DOPPLER RADAR STATIONS, NEW YORK.

(a) *STUDY.*—The Administrator of the Federal Aviation Administration shall conduct a study of the feasibility of constructing 2 offshore platforms to serve as sites for the location of Doppler radar stations for John F. Kennedy International Airport and LaGuardia Airport in New York City, New York.

(b) *REPORT.*—Not later than 90 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under subsection (a), including proposed locations for the offshore platforms. Such locations shall be as far as possible from populated areas while providing appropriate safety measures for John F. Kennedy International Airport and LaGuardia Airport.

SEC. 1218. TRAIN WHISTLE REQUIREMENTS.

(a) *IN GENERAL.*—Section 20153 is amended by adding at the end the following:

“(i) *REGULATIONS.*—In issuing regulations under this section, the Secretary—

“(1) shall take into account the interest of communities that—

“(A) have in effect restrictions on the sounding of a locomotive horn at highway-rail grade crossings; or

“(B) have not been subject to the routine (as defined by the Secretary) sounding of a locomotive horn at highway-rail grade crossings;

“(2) shall work in partnership with affected communities to provide technical assistance and shall provide a reasonable amount of time for local communities to install supplementary safety measures, taking into account local safety initiatives (such as public awareness initiatives and highway-rail grade crossing traffic law enforcement programs) subject to such terms and condition as the Secretary deems necessary, to protect public safety; and

“(3) may waive (in whole or in part) any requirement of this section (other than a requirement of this subsection or sub-

section (j) that the Secretary determines is not likely to contribute significantly to public safety.

“(j) **EFFECTIVE DATE OF REGULATIONS.**—Any regulations under this section shall not take effect before the 365th day following the date of publication of the final rule.”.

SEC. 1219. INCREASED FEES.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Surface Transportation Board shall not increase fees for services to be collected from small shippers in connection with rail maximum rate complaints pursuant to part 1002 of title 49, Code of Federal Regulations, *Ex Parte* No. 542.

(b) **APPLICABILITY.**—Subsection (a) shall no longer be effective after September 30, 1998.

SEC. 1220. STRUCTURES INTERFERING WITH AIR COMMERCE.

(a) **LANDFILLS.**—Section 44718 is amended by adding at the end the following:

“(d) **LANDFILLS.**—For the purposes of enhancing aviation safety, in a case in which 2 landfills have been proposed to be constructed or established within 6 miles of a commercial service airport with fewer than 50,000 enplanements per year, no person shall construct or establish either landfill if an official of the Federal Aviation Administration has stated in writing within the 3-year period ending on the date of the enactment of this subsection that 1 of the landfills would be incompatible with aircraft operations at the airport, unless the landfill is already active on such date of enactment or the airport operator agrees to the construction or establishment of the landfill.”.

(b) **CIVIL PENALTIES.**—Section 46301 is amended by inserting “44718(d),” after “44716,” in each of subsections (a)(1)(A), (d)(2), and (f)(1)(A)(i).

SEC. 1221. HAWAII CARGO.

Notwithstanding any other provision of law, and for a period that shall not extend beyond September 30, 1998, an air carrier which commenced all-cargo turnaround service during November 1995 with Stage 2 aircraft with a maximum weight of more than 75,000 pounds may operate no more than one Stage 2 aircraft in all-cargo turnaround service and may also maintain a second such aircraft in reserve. The reserve aircraft may only be used as a replacement aircraft when the first aircraft is not airworthy or is unavailable due to closure of an airport at which the first aircraft is located in the State of Hawaii.

SEC. 1222. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

Subsection (b)(2) of section 5 of the Act of January 2, 1951 (commonly referred to as the “Johnson Act”) (64 Stat. 1135, chapter 1194; 15 U.S.C. 1175), is amended by adding at the end the following:

“(C) **EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.**—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if such voyage or segment includes or consists of a segment—

“(i) that begins that ends in the same State;
 “(ii) that is part of a voyage to another State or to
 a foreign country; and
 “(iii) in which the vessel reaches the other State or
 foreign country within 3 days after leaving the State in
 which such segment begins.”.

SEC. 1223. CLARIFYING AMENDMENT.

Section 1 of the Railway Labor Act (45 U.S.C. 151) is amended by inserting “, any express company that would have been subject to subtitle IV of title 49, United States Code, as of December 31, 1995,” after “Board” the first place it appears in the first paragraph.

And the Senate agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the House bill (except section 501) and the Senate amendment (except section 1001), and modifications committed to conference:

BUD SHUSTER,
 BILL CLINGER,
 JOHN J. DUNCAN, Jr.,

From the Committee on Transportation and Infrastructure, for consideration of section 501 of the House bill and section 1001 of the Senate amendment, and modifications committed to conference:

BUD SHUSTER,
 BILL CLINGER,

As additional conferees from the Committee on Rules, for consideration of section 675 of the Senate bill, and modifications committed to conference:

DAVID DREIER,
 JOHN LINDER,

As additional conferees from the Committee on Science, for consideration of sections 601–05 of the House bill, and section 103 of the Senate amendment, and modifications committed to conference:

ROBERT S. WALKER,
 CONNIE MORELLA,

As additional conferees from the Committee on Science, for consideration of section 501 of the Senate amendment and modifications committed to conference:

ROBERT S. WALKER,
 F. JAMES SENSENBRENNER, Jr.,

As additional conferees from the Committee on Ways and Means, for the consideration of section 501 of the House bill, and sections 417, 906, and 1001 of the Senate amendment and modifications committed to conference:

BILL ARCHER,
 PHIL CRANE,
 SAM M. GIBBONS,

Managers on the Part of the House.

LARRY PRESSLER,
TED STEVENS,
JOHN MCCAIN,
FRITZ HOLLINGS,
WENDELL H. FORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF
CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3539) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

1. SHORT TITLE

House bill

Section 1: "Federal Aviation Authorization Act of 1996".

Senate amendment

Section 1: "Federal Aviation Reauthorization Act of 1996".

Conference substitute

Section 1: Senate provision.

2. AMENDMENTS TO TITLE 49

House bill

Section 2: States that Amendments in this Act are to Title 49.

Senate amendment

Section 2: Same provision.

Conference substitute

Section 2: Same provision.

3. APPLICABILITY

House bill

Section 3: This bill applies only after September 30, 1996.

Senate amendment

No provision.

Conference substitute

Section 3: House provision.

4. AIP AUTHORIZATION

House bill

Section 101:
 FY 97—\$2.28 billion.
 FY 98—\$2.347 billion.
 FY 99—\$2.412 billion.
 Removes cumulative totals.

Senate amendment

Section 104: FY 97—\$2.28 billion.

Conference substitute

Section 101: House provision, but only for 2 years. The AIP formula changes discussed below also expire after two years.

5. F&E AUTHORIZATION

House bill

Section 102:
 FY 97—\$2.068 billion.
 FY 98—\$2.129 billion.
 FY 99—\$2.191 billion.
 Changes heading for section.

Senate amendment

Section 102: FY 97—\$1.8 billion.

Conference substitute

Section 102: House provision, but only for 2 years.

The Managers note that the Laser Visual Guidance Systems (LVGS) is a laser based guidance system that has been tested extensively by the Navy and suggest that FAA consider this system for utilization in the National Airspace System (NAS). The Conferees further suggest that the FAA work with the manufacturer to evaluate the fitness of the system for possible certification under 14 FAR Part 171.

The Secretary of Transportation should take such actions as may be necessary to replace the FAA Control Tower at Syracuse Hancock International Airport in Syracuse, New York. All design and engineering work on the Replacement Control Tower has been completed and the Managers understand that this project is the top priority of the FAA's Eastern Region.

6. OPERATIONS AUTHORIZATION

House bill

Section 103:
 FY 97—\$5.158 billion.

FY 98—\$5.344 billion.

FY 99—\$5.538 billion.

Extends for 3 years the limit on spending Trust Fund money for operations. Changes heading of section. No change in Trust Fund share.

Senate amendment

Section 101:

FY 97—\$5 billion.

Removes limit on spending Trust Fund money on operations. Raises Trust Fund share from 70% to 75%.

Conference substitute

Section 103: House, except for 2 years and the Trust Fund share is raised to 72.5%.

7. INTERACCOUNT FLEXIBILITY

House bill

No provision.

Senate amendment

Section 105: Permits the Administrator to transfer budget authority among the Operations, F&E, and RE&D appropriations accounts. Transfers of budget authority could not be made if outlays would exceed the aggregate estimated outlays. A transfer also could not result in a net decrease of more than 5 percent, or a net increase of more than 10 percent, in budget authority available under any appropriation involved in that transfer. Any transfer would be treated as a reprogramming of funds and could only occur after the FAA submitted a report to the appropriate authorizing and appropriating committees of Congress. Each committee would have 30 days to object to any transfer.

Conference substitute

House.

8. PASSENGER ENTITLEMENT

House bill

Section 201(a)(1): Same as current law except that airports receive 50 cents per passenger for each passenger over a million.

Senate amendment

No provision.

Conference substitute

Section 121(a): House provision.

9. CARGO ENTITLEMENT

House bill

Section 210(a)(2): Entitlement changed to 2.5%. Airports that do not meet landed-weight minimum can still get grant under this

entitlement if the Secretary finds that airport will be served primarily by cargo aircraft.

Senate amendment

No change.

Conference substitute

Section 121(a)(2): House provision.

10. ENTITLEMENT CAPS

House bill

Section 201(a)(3): Caps eliminated

Senate amendment

No change.

Conference substitute

House provision: Section 121(a)(3).

11. STATE ENTITLEMENT

House bill

Section 201(b): Raised to 18.5%. Relievers and small commercial service airports added.

Senate amendment

No change.

Conference substitute

House provision: Section 121(b).

12. DISCRETIONARY FUND

House bill

Section 202: Must be at least \$50 million plus amount needed to cover letters of intent issued prior to 1/1/96. Entitlement and set-asides reduced accordingly if necessary to meet this minimum. Amount in fund above what is needed to cover letters of intent is distributed 15% to planning & general aviation airports and 30% to small hubs and non-hubs.

Senate amendment

Section 203: FAA must fulfill letter of intent (LOI) commitments.

Conference substitute

Section 122: House except that \$50 million is changed to \$148 million and the 15% guarantee to general aviation airports and the 30% guarantee to small airports is eliminated. In FY 97, this should result in a remaining discretionary fund of \$300 million. The Managers would expect this to be distributed in accordance with FAA's historical discretionary fund distribution practices. If the formula results in a discretionary fund of more than \$300 million, the portion that exceeds \$300 million should be distributed

one-third to general aviation airports, one-third to noise projects, and one-third to the military airport program.

13. CAP ON GRANTS TO LARGE AIRPORTS

House bill

No provision.

Senate amendments

Section 202: Establishes a sliding cap on the level of total AIP funds going to large and medium hubs. The percentage limit would vary depending upon the level of funds appropriated to AIP. The percentage of total AIP funds going to projects at large and medium hub airports would be: 44.3 percent at funding of \$1.45–1.55 billion; 44.8 percent at funding of \$1.35–1.45 billion; 45.4 percent at funding of \$1.25–1.35 billion; 46 percent at funding of \$1.15–1.25 billion; and 47 percent at funding below \$1.15 billion.

Conference substitute

House.

14. CARRYOVER ENTITLEMENTS

House bill

Section 203(a): Non-hubs can carry over their entitlements for 3 years.

Senate amendment

No provision.

Conference substitute

House provision: Section 123(a).

15. SET-ASIDES

House bill

Section 203(b): Eliminates reliever, small commercial, and planning set-asides. Set-aside for noise is 31% of discretionary fund. This includes what an airport spends on noise from its entitlement. Set-aside for military airports is 4% of the discretionary fund. This can be used for operational and maintenance at general aviation airports adversely affected by a military base closure.

Senate amendment

No provision.

Conference substitute

House provision: Section 123(b).

16. MILITARY AIRPORT PROGRAM

House bill

Section 204:
Reduces number of airports to 10.

Changes criteria so that airports could be included if they would increase capacity in major metropolitan areas and reduce delays.

Extends indefinitely eligibility of parking lots, fuel farms, and utilities.

Adds hangars to eligible items.

Also, Section 203(b) extends program indefinitely.

Senate amendment

Section 204:

Reduces number of airports to 12.

Criteria changed so that except for airports included before August 24, 1994, the only ones that could be included would be closed or realigned military airports or those that would reduce delays at an airport with 20,000 annual delays or would increase capacity in metropolitan areas or reduce delays.

A military airport may be designated for additional 5-year period.

Extends indefinitely eligibility of parking lots, fuel farms, and utilities.

Extends program for 1 year.

Conference substitute

Section 124:

Senate provision but add eligibility for hangars from House bill.

Extend program length for 2 years.

17. INNOVATIVE FINANCING

House bill

Section 206: Authorizes 10 innovative financing projects over next 3 years limited to payment of interest, bond insurance, and flexible local match. Phased funding is not included.

Senate amendment

No provision.

Conference substitute

Section 148: House provision.

18. INTERMODAL PLANNING

House bill

Section 301: This section encourages coordination between aviation planning and other transportation planning in the metropolitan area and encourages Metropolitan Planning Organizations (MPOs) to include airport operators as members. Subsection (b) requires the sponsor of a new airport to give the MPO a chance to review plans for the new airport and include in the AIP grant application its response to any comments made by the MPO.

Senate amendment

No provision.

Conference substitute

Section 141: House provision but drop subsection (b).

19. FEDERAL MANDATES

House bill

Section 302: This section broadens the ability of AIP and PFC funds to be used to pay for Federal mandates.

Senate amendment

Section 201(b): Similar provision.

Conference substitute

Section 142(b): Senate provision.

20. RUNWAY MAINTENANCE

House bill

Section 303: Permits AIP grants for up to 10 runway maintenance projects per year at general aviation airports.

Senate amendment

Section 201: Similar but requires issuance of regulations. Two projects must be in states without a medium or large hub. In designating projects, FAA must take into account geographical, climatological, and soil diversity.

Conference substitute

Section 142(a): Senate provision, but the Administration will issue guidelines instead of regulations.

21. INTERCITY BUSES

House bill

Section 304: A new grant assurance directing airports to try to provide access to intercity buses.

Senate amendment

Section 206: Similar grant assurance except it applies to other modes of transportation and explicitly states that the airport does not have to fund any special facilities as a result of this provision.

Conference substitute

Section 143: Senate provision.

22. COST REIMBURSEMENT

House bill

Section 305:

This section allows AIP grants to be used to reimburse an airport for a project already underway. This reimbursement must be from the airport's entitlement funds and the grant can be made only if:

- (i) The project is begun after September 30, 1996;
- (ii) A grant agreement is executed for the project; and

(iii) The project is in accordance with the airport's approved layout plan and complies with all laws, rules, and assurances that usually apply to AIP grants.

Subsection (b) states that an airport will not receive any priority for discretionary funds if its entitlement turns out to be insufficient to cover reimbursement for the project.

Senate amendment

No provision.

Conference substitute

Section 144: House provision.

23. LETTER OF INTENT

House bill

Section 306: This section requires the Secretary to issue rules requiring a cost-benefit analysis for new letters of intent (LOI) for projects at medium and large hub airports. No letters of intent can be issued for projects not yet under construction until these rules take effect even if the airport has already applied for the LOI. A request for a letter of intent must include specific details of the proposed financing plan for the project. The Secretary must consider the effect of the project on overall national air transportation policy when deciding whether to issue a letter for a project.

Senate amendment

No provision.

Conference substitute

Senate provision: The Managers understand that concerns have been voiced regarding previous management by the Federal Aviation Administration (FAA) for Letters of Intent (LOI) under the Airport Improvement Program. As outlined in GAO/RCED-94-100, the FAA has been criticized for not "establish[ing] goals and performance measures for the [LOI] program, including a goal for improving systemwide capacity." Recognizing the need for a clear set of selection criteria to review all new LOI applications, the FAA promulgated a new review policy, as printed in the Federal Register on October 31, 1994, which evaluates three components of an application: a project's effect on overall national air transportation system capacity; a project's benefit and cost, and; the financing commitment, including project timing, in terms of the airport capital improvement plan by the airport sponsor. The Managers applaud the FAA's efforts on this matter and direct FAA officials to consider each of the three requirements prior to issuance of any Letters of Intent.

24. SELECTION CRITERIA FOR AWARD OF DISCRETIONARY GRANTS

House bill

Section 307: This section adds three additional criteria to be considered in the award of discretionary grants. They are the priority that a State gives to the project, the projected growth in passengers at the airport, and whether the number of passengers has

increased by more than 20 percent over the previous 12-month period.

Senate amendment

Section 203: Adds two additional criteria. They are (1) at a reliever airport, the number of operations projected to be diverted to the reliever airport as a result of the project and the cost savings to be realized by the users and (2) the priorities of the States and FAA regional offices to the extent they are not in conflict with the other criteria of this section.

Conference substitute

Section 145: Both House bill and Senate amendment.

25. SMALL AIRPORT FUND

House bill

Section 308: This section states that in making grants to non-hub airports from the small airport fund, the Secretary shall give priority to multi-year projects for construction of new runways that are cost beneficial and would increase capacity in a region of the U.S.

Senate amendment

No provision.

Conference substitute

Section 146: House provision.

26. STATE BLOCK GRANT

House bill

Section 309: This section changes the state block grant program by increasing the number of participating states from 7 to 10, directing FAA to permit States to use their own priority system when not inconsistent with the national priority system, and making the program permanent.

Senate amendment

Section 205:

Directs FAA to permit States to use their own priority system when not inconsistent with the national priority system.

Extends program for one year.

Conference substitute

Section 147:

House provision, except the number of states is increased to 8 in 1997 and 9 in 1998. Many airport sponsors own and operate more than one airport. For instance, an entity may serve as the sponsor of a primary airport, and it may also own and operate one or more reliever airports. The sponsor in essence maintains an integrated airport system.

In a State Block Grant Program state, the state has been designated the responsibility for distributing federal grant funds to the state's reliever airports. The Managers are aware, however, of in-

stances in which a State Block Grant state has entered into an agreement with the Federal Aviation Administration, under which the appropriate FAA regional office continues to determine and distribute grant funds to particular reliever airports that are owned and operated by a sponsor that also owns and operates a primary airport.

The Managers support continuation of this type of arrangement. It would be inefficient and unnecessarily duplicative for an airport sponsor that owns and operates a primary airport and one or more reliever airports as an integrated system to be subject to two different sets of grant procedures and standards (both federal and state) in the execution and administration of federal AIP grants. The Managers encourage the continuation of this arrangement between the FAA and the state, even when the law provides that states shall hold the authority to administer reliever airport funds.

27. AIRPORT PRIVATIZATION

House bill

Section 310:

Creates a pilot program permitting, subject to DOT approval, the sale or long-term lease of 6 airports. The sponsor and the potential purchaser must file an application. DOT may grant the application by issuing three exemptions. The first exemption would waive the revenue diversion prohibitions to permit the public owner to make money from the sale but only an amount agreed to by 60 percent of the airlines serving that airport with 60 percent of the landed weight. The second exemption would waive the requirements in law and FAA policy guidance that AIP grants be repaid and land received from the Federal government be returned. The third exemption would permit the new owner to receive compensation from operating the airport.

Subsection (c) of new section 47133 lists the conditions that must be met by an airport sale or lease agreement. These conditions are provisions to ensure that; (1) the airport will be available to the public on reasonable terms and without discrimination; (2) the airport will continue in operation without interruption in the event the new owner goes bankrupt; (3) the new owner will maintain and improve the airport and include a plan for doing so; (4) airline fees will not increase faster than inflation unless more than 60 percent of the airlines with 60 percent of the landed weight agree to higher rates; (5) safety at the airport will be maintained; (6) noise from the airport will be mitigated; (7) environment impacts will be mitigated; and (8) collective bargaining agreements of airport employees will not be abrogated.

At least one of the privatized airports is to be a general aviation airport. The private airports under this section are authorized to charge a PFC, receive AIP entitlement grants, and charge users reasonable rates, fees, and charges like other airports. The new owner is required to continue to use the facility as an airport. The exemptions issued under this section may be revoked if, after notice and hearing, DOT finds that the purchaser or lessee has know-

ingly violated any of the commitments that it made in the purchase or lease agreement.

Subsection (h) of new section 47133 clarifies that the power of airlines over use of revenue and fees in this section applies only to the airports purchased or leased under this section and not to other airports.

Subsection (b) of this section makes private airports subject to the same prohibition on head taxes as public airports.

Subsection (c) requires DOT to consider whether the private airport has complied with the requirement that airline fees not increase faster than the rate of inflation in deciding a rates and charges complaint against that airport.

Senate amendment

No provision.

Conference substitute

Section 149:

House provision with following changes or clarifications:

Reduce number of participating airports from 6 to 5
1 large, 3 medium, small, or non-hubs, and 1 general aviation airports are eligible for this pilot program

65% of airlines must agree to transactions and to rate hikes. If 1 carrier represents 65% of landed weight then 2 airlines must approve for transactions and rate hikes.

Discretionary AIP grants allowed but only if sanctioned by FAA Administrator with 60% private money match to 40% Federal

2-year study of the pilot program with a report to appropriate Congressional committees

DOT Secretary must validate that any airport privatized would not be anti-competitive requirement that airport operator has to improve and modernize airport through capital investments

Secretary has authority to audit airport anytime.

Rate hikes on general aviation shall rise no faster than those of commercial carriers.

Secretary shall consider needs of general aviation when approving privatization

Commercial service airports limited to long-term leases.

Lease or sale permitted for general aviation airports.

The Managers have agreed to a limited pilot program to determine if new investment and capital from the private sector can be attracted through innovative financial arrangements. The managers spent a great deal of time discussing and debating a series of conditions and limitations. The managers are aware that Allegheny County Airport, a general aviation facility in Pennsylvania, and Stewart Airport in New York State are interested in pursuing these innovative arrangements. The managers anticipate that all airport applications should be appropriately considered and that the Secretary should select airports for this pilot program based on the best qualified candidates.

28. USE OF NOISE ABATEMENT FUNDS BY NON-AIRPORT LOCAL
GOVERNMENTS

House bill

Section 311: This section permits noise abatement grants to be made to State or local government that is not the airport's owner if that government has land use and zoning control in the area and if the airport agrees that the State or local government's noise abatement plan or project is consistent with airport operations and plans.

Senate amendment

No provision.

Conference substitute

Senate.

29. DUAL MANDATE

House bill

Section 401: Amends sections 40101(d) to make safety and security FAA's highest priority and to strike promotion language in two other paragraphs. Amends 40104(a) to strike promotion language.

Senate amendment

Section 407: Amends section 40104 to require FAA to encourage the safety of air commerce in addition to the development of civil aeronautics.

Conference substitute

Section 401: House changes to section 40101(d) and Senate changes to section 40104(a). The Managers have adopted provisions from both the House and Senate bills to clarify that the FAA's highest priority is safety and security. The managers do not intend for enactment of this provision to require any changes in the FAA's current organization or functions. Instead, the provision is intended to address any public perceptions that might exist that the promotion of air commerce by the FAA could create a conflict with its safety regulatory mandate.

30. PURCHASE OF HOUSING UNITS

House bill

Section 402: This section permits FAA to purchase housing outside the 48 States if the unit does not cost more than \$200,000 and the FAA files a report with Congress 30 days before the closing certifying that the price of the units does not exceed the median price in the area and that buying the housing is the most cost beneficial way to provide housing for its employees.

Senate amendment

Section 401: Similar provision except no \$200,000 cap and no certification that price does not exceed the median price.

Conference substitute

Section 1201: House except the cap is raised to \$300,000 plus inflation in the local area.

31. TECHNICAL CORRECTION RELATING TO STATE TAXATION

House bill

Section 403: This section corrects a mistake that was made when section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. 1513) was recodified as section 40116 of Title 49.

Senate amendment

No provision.

Conference substitute

No provision. The managers recognize that this technical correction has created confusion. In order to provide more time for review, the provision has not been included in this bill. However, the managers continue to believe that the recodification of section 1113 was done incorrectly and would expect that the new section 40116 would continue to be interpreted in the same way as former section 1113.

32. USE OF PFC FOR DEBT FINANCING PROJECT

House bill

Section 404: This section permits revenue from an airport's passenger facility charge (PFC) to be spent on debt financing on terminal development projects at non-hub airports where construction began between November 5, 1988 and November 5, 1990 and the airport certifies that no safety, security, or capacity project will be deferred by spending PFC money in this way.

Senate amendment

No provision.

Conference substitute

Senate.

33. CLARIFICATION OF PFC REVENUE AS CONSTITUTING TRUST FUNDS

House bill

Section 405: States that PFC money collected by airlines is held in trust by them and that they hold neither a legal or equitable interest in it except for the handling fee or interest permitted by DOT.

Senate amendment

No provision.

Conference substitute

Section 1202: House provision.

This provision clarifies Congress' intent in authorizing the Passenger Facility Charge program in 1990 that PFCs collected by airlines and their agents are held in trust for the local agencies im-

posing those fees. FAA's current regulations implementing the PFC statute accurately reflects the trust fund nature of the airlines' collection and remittance of PFC funds from their passengers. In certain recent and current airline bankruptcy cases, courts have appeared erroneously not to accept the trust fund nature of the collection process; PFC proceeds should not be treated as other funds of the bankrupt carrier.

34. VOLUNTARILY SUBMITTED SAFETY INFORMATION

House bill

Section 406:

This section permits FAA to withhold voluntarily provided safety and security information if disclosure would discourage people from providing it, the information helps FAA improve safety and security, and withholding the information would not be inconsistent with the FAA's safety and security responsibilities.

The FAA should issue rules to establish the process by which protection from disclosure will be afforded to voluntarily submitted information.

Senate amendment

Section 402: Same provision with slight wording differences.

Conference substitute

Section 402: Senate provision.

35. SUPPLEMENTAL TYPE CERTIFICATES

House bill

Section 407: This section states that FAA may issue supplemental type certificates (STCs) for modifications to aircraft parts. It requires anyone installing the modification to have the permission of the holder of the STC to use it.

Senate amendment

No provision.

Conference substitute

Section 403: House provision.

Nothing in this provision is intended to alter or modify the continuing obligation of an STC design holder under existing Federal Aviation Regulations to notify the operator of an STC modified aircraft of changes necessary to ensure continued airworthiness of the product.

36. REVENUE DIVERSION

House bill

Section 408: This section imposes the existing prohibition against revenue diversion on all airports certificated by FAA even if they are not receiving AIP grants. This provision does not apply to heliports. Airports that have not received grants in the last 10 years can get waivers from the FAA. Subsection (b) imposes treble damages on anyone caught illegally diverting airport revenue.

Senate amendment

Section 904:

Prohibits using local taxes (except taxes effective on December 30, 1987) or revenues generated by an airport that is subject to Federal assistance, for anything but capital and operating costs of the airport, the local airport system, or other facilities owned or operated by the airport that are directly related to air transportation.

Exemption for airports who had a statute passed before September 2, 1982 allowing revenue to support the general debt obligations or other facilities of the owner or operator.

State tax on aviation may still support aviation noise mitigation purposes.

Section 905:

Requires the annual audit required in Sections 7501–7505 of Title 31 of airport grant recipients include an audit of funding activities. If the airport is found to inappropriately handle airport funds, the Administrator must review the audit, collect appropriate information, and hold a hearing to render a final determination if the airport illegally diverted revenues. The Airport sponsor is then notified. The Secretary may withhold transportation funds if the sponsor is found to owe the airport revenue. Sponsor has 180 days to pay or may be charged civil penalties which would go to the aviation trust fund. Actions to recover illegally diverted funds have a 6 year statute of limitations.

The Secretary shall charge a minimum interest rate of illegally diverted revenue. In 90 days, DOT shall revise the policies and procedures under 47107(i) of Title 49. If an airport pays for services conducted off the airport for capitol or operating expenses later than 6 years after the expense was incurred, it is considered revenue diversion.

Section 906: This is a conforming amendment to the Internal Revenue Code of 1986.

Conference substitute

Title VIII:

Senate, but add treble damages from the House bill.

The conferees want to clarify that if a local fuel tax was enacted or adopted before December 30, 1987, but for which collections were not made until some significant period of time after December 30, 1987, it shall not be grandfathered pursuant to this section and all proceeds of such a tax must be used for the capital or operating costs of the airport, the local airport system, or pursuant to paragraph (3) of subsection (a).

37. CERTIFICATION OF SMALL AIRPORTS

House bill

Section 409:

This section authorizes FAA to certificate airports served by commuter aircraft with between 10 and 30 seats. In establishing the standards with which these small airports must comply, the FAA should adopt the least burdensome alternative that will provide a comparable level of safety with the larger airports. Any rule imposing standards on these small airports cannot go into effect

until 120 days after the rule, and a report on the impact of the rule on air service to the airports involved, is submitted to Congress.

An airport cannot be required to seek a certificate if it does not desire commuter air service.

Senate amendment

No provision.

Conference substitute

House provision: Section 404.

38. PILOT RECORD SHARING

House bill

Section 410. This is based on H.R. 3536 (Report 104-684) that passed the House on July 22, 1996.

Adds a new section 44723 to the chapter on air safety regulation.

Subsection (a) of section 44723 deals with pilot records. This subsection would require an airline, before hiring a pilot, to request the pilot's records. The hiring airline would be required to request from the FAA, the pilot's license, medical certificate, type rating, and any enforcement actions that resulted in a finding against the pilot that has not been overturned.

In addition, it requires the airline to request records from the pilot's previous airline employer. These records include proficiency and route checks, airplane and route qualifications, training, physical exams, physical or professional disqualifications, drug tests and alcohol tests.

Airlines would be required to request the motor vehicle driving records of the pilot from the National Driver Register.

Similar items would be required at contract carriers and at commuter airlines.

Records that must be furnished are limited to those entered within 5 years of the date of the request unless the record involves a license revocation that is still in effect.

The FAA and the airlines would be required to maintain the relevant records for 5 years. Before any records are released, the FAA and the airlines must obtain written consent from the pilot. These records must be provided within 30 days.

The pilot must also be informed within 20 days that his or her records have been requested and that the pilot has a right to receive a copy of those records. A reasonable charge may be imposed by those providing the requested records.

An airline receiving the records must give the pilot a chance to submit written comments correcting any inaccuracies in those records. The pilot is also afforded the right to review his or her records at the current employer.

The privacy of the pilot is protected by limiting the use of the records received under this section to those involved in the hiring decision and by requiring that the records be destroyed or returned when they are no longer needed.

The FAA would be permitted to provide standard forms to request records, obtain the written consent from pilots, and inform

the pilot of the record request. In addition, this section would permit the FAA to promulgate rules protecting the privacy of pilots and ensuring the prompt compliance with a request for records.

Subsection (b) of section 44723 limits liability and preempts States and local law. Paragraph (1) prohibits lawsuits against an airline or its employees for requesting a pilot's record, complying with such a request, or entering information into the pilot's record. Paragraph (2) preempts any State or local government from passing any law which would undermine this prohibition. However, paragraph (3) provides a limited exception to the prohibition in paragraph (1) by permitting a lawsuit or State action if the airline knowingly provided false information about the pilot.

Subsection (c) of section 44723 makes clear that the privacy protections and other limits in this bill are not meant to hinder the FAA, NTSB, or a court in their ability to obtain records in the course of an investigation of an accident. This section also makes conforming changes to the current law governing the National Driver Register.

Subsection (d) makes violations of the record-sharing and privacy provisions subject to civil penalties.

Subsection (e) makes the above changes applicable to any airline hiring a pilot 30 days after the date of enactment.

Requires the FAA to issue a proposed rule within 18 months establishing minimum standards for pilot qualifications.

Requires the FAA, together with the Defense Department, to report within one year on whether military pilot records should be made available to civilian airlines seeking to hire that pilot.

Requires the FAA to conduct a study to determine whether current minimum flight time requirements for an individual seeking employment as a pilot with an air carrier are sufficient. The results of this study must be submitted to Congress not later than 1 year after the date of enactment.

Senate amendment

Sections 701–703: Same as House except:

Different short title.

Uses phrase “hiring an individual as a pilot” rather than “allowing individual to begin service as a pilot”.

No exception for records on flight, duty, and rest time.

No requirement that FAA obtain written consent from the pilot before releasing records (b)(2).

Permits airlines to obtain a release from liability (f)(2)(B).

No requirement that air carrier or trustee maintain records for 5 years. (f)(4).

30 day deadline for furnishing records runs from receipt of request rather than from receipt of pilot's consent. (f)(5).

No deadline for providing record to pilots. (f)(6).

Promulgation of standard forms is mandatory rather than discretionary. (f)(8).

No requirement to destroy or return records if the pilot is not hired.

Adds a periodic review.

No protection from liability for person writing the records.

Exception from liability for knowingly providing false information applies only if record was maintained in violation of a criminal statute.

No assurance that DOT, NTSB, and courts will have access to pilot records.

No civil penalties.

No deadline on study of minimum standards for pilots.

No study of military records.

No study of minimum flight times.

Conference substitute

Title V:

Senate with the following provisions from the House bill—

Air carrier records to be shared with prospective employers should not include records relating to flight time, duty time, or rest time.

Provide written consent for release of records.

Records must be furnished to a pilot in 20 days of receipt of request

Protection from liability for person entering information into the records

Assurance that FAA, NTSB, and the courts will have access to the records.

A study of minimum flight times.

A study of pay for training is also added.

39. CHILD PILOT SAFETY

House bill

Section 411. This is based on H.R. 3267 (Report 104-683) that passed the House on July 22, 1996.

States that a pilot in command of an aircraft may not allow an individual who does not hold a valid private pilots certificate and the appropriate medical certificate to manipulate the controls of an aircraft if the pilot knows or should have known that the individual is attempting to set a record or engage in an aeronautical competition or feat. The Administrator is given the power to revoke an airman's certificate if the Administrator finds that a pilot has allowed a non-pilot to manipulate the controls while attempting to set a record or engage in an aeronautical competition or feat.

Requires the FAA Administrator to conduct a study of the impacts of children flying aircraft. The Administrator must consider the effects of imposing any restrictions on children flying aircraft on safety and on the future of general aviation. The report is due 6 months after enactment, and should include recommendations on: (1) whether the restrictions established by the bill should be amended or repealed; and (2) whether certain individuals or groups should be exempt from any age, altitude, or other restrictions that the Administrator may impose by regulation. Finally, the bill allows the Administrator to issue regulations imposing age, altitude, or other restrictions on children flying aircraft as a result of the findings of the study.

Senate amendment

No provision.

Conference substitute

House provision: Title VI.

40. BACKGROUND CHECKS ON SCREENERS

House bill

Section 412: This section permits FAA to require airlines to do background checks before hiring someone to screen passengers, their baggage, or cargo. This could include criminal history record checks only where the background investigation revealed a gap in employment of a year or more that is not satisfactorily explained. This applies only to screeners hired on or after the date of enactment. A screener may be hired while undergoing a background check if properly supervised.

Senate amendment

Section 305: Require background checks for screeners and others associated with baggage or cargo. Lists situations where, at a minimum, criminal checks required.

Conference substitute

Section 304: Senate provision but delete the phrase “at a minimum” and add special rule from House bill allowing a screener needing a background check to continue working if properly supervised.

41. AIRPORTS NEAR CLOSED MILITARY BASES

House bill

Section 414: Permits general aviation airports near closed or realigned military bases to be closed.

Senate amendment

No provision.

Conference substitute

Section 1203: House provision but limited to airports near Army depots. Also, adds a provision that if the sale of the land generates enough money to pay off remaining the value of the grant, that remaining value must be repaid. The substitute reduces the distance between the airport and the depot from 3 miles to 2 miles.

42. CONSTRUCTION OF RUNWAYS

House bill

Section 415: Permits AIP grants for constructing a new runway at an international airport notwithstanding any other provision of law.

Senate amendment

No provision.

Conference substitute
Senate.

43. GADSDEN AIR DEPOT

House bill

Section 416: Waives deed restrictions at Gadsden Air Depot.

Senate amendment

No provision.

Conference substitute

Section 1204: House provision.

44. REGULATIONS AFFECTING INTRASTATE AVIATION IN ALASKA

House bill

Section 417: Requires FAA to consider Alaska's unique reliance on aviation and to make the appropriate regulatory distinctions when taking actions that could affect Alaska.

Senate amendment

Section 403:
Same provision.
Slight differences in wording.

Conference substitute

House provision: Section 1205.

45. WESTCHESTER COUNTY

House bill

Section 418: Permits fees collected by Westchester County Airport to be paid into the county treasury as long as expenditures from the county treasury for the airport at least equal the amount of money it collects from the airport.

Senate amendment

No provision.

Conference substitute

Section 1206: House provision.

The Managers want to clarify that the funds generated by the airport should be spent on capital and operating costs of the airport. The assumption is that the expenditures from the treasury of Westchester County for the Westchester County Airport will be equal to or greater than the fees being deposited into the treasury by the airport, otherwise it should be considered revenue diversion.

46. BEDFORD AIRPORT

House bill

Section 419: States that any instrument landing system in Pennsylvania that is decommissioned should, if feasible, be transferred and installed at the Bedford, Pennsylvania Airport.

Senate amendment

No provision.

Conference substitute

Section 1207: House but change “shall” to “may” and drop the phrase “if feasible”.

47. DOPPLER RADAR IN NEW YORK

House bill

Section 420: Prohibits the construction of a Doppler radar at the Coast Guard station in Brooklyn, New York. Also requires a study and report within one year of the feasibility of placing the radar on off-shore platforms. The report must include proposed locations that are as far as possible from populated areas while providing appropriate safety measures. The FAA may not begin construction of a Doppler radar for Kennedy or LaGuardia Airports until this study is completed.

Senate amendment

No provision.

Conference substitute

Section 1217:

House provision but limited to a study and report.

The Managers believe that when the final Environmental Impact Statement (EIS) on the siting of a Terminal Doppler Weather Radar is issued it should include an analysis of all sites mentioned in the final scoping paper for the EIS.

48. WORCESTER AIRPORT

House bill

Section 421: Directs FAA to provide radar coverage for Worcester Airport from a radar in Rhode Island if that would be appropriate.

Senate amendment

No provision.

Conference substitute

House provision: Section 1208.

49. SANFORD AIRPORT

House bill

Section 422: Directs FAA to provide a new ILS for this airport if that would be appropriate.

Senate provision

No provision.

Conference substitute

Section 1209: House provision.

50. AIRCRAFT NOISE OMBUDSMAN

House bill

Section 423: Requires FAA to hire a noise ombudsman to serve as a liaison with the public on issues regarding aircraft noise and to be consulted when the FAA changes aircraft routes.

Senate amendment

No provision.

Conference substitute

Section 1210: House provision, except that the provision is revised to make clear that the FAA need not increase the total number of FTEs.

51. PRIVATE RELIEVERS

House bill

Section 424: Allows private relievers to donate property as their local share for an AIP grant. FAA shall value any such donation at its fair market value, not at its original purchase price.

Senate amendment

No provision.

Conference substitute

Section 1211: House provision.

52. TRUST FUND AUTHORIZATION

House bill

Section 501: Allows grants and expenditures out of the Trust Fund for 3 years.

Senate amendment

Section 301: Similar provision except limited to 1 year.

Conference substitute

Title X: Allows grants and expenditures out of the Trust Fund for 2 years.

53. RESEARCH

House bill

Title VI:

Funds FAA Research, Engineering, and Development Account at \$186 million for 1997.

Adds research priorities for the Administration.

Adds to the duties of the Research Advisory Committee by requiring an annual review of the RED funding level.

The National Aviation Research Plan is reduced from a 15-year plan to a 5-year plan. It also requires additional information in the Plan.

Senate amendment

Section 103: FY 97—\$206 million.

Conference substitute

Title XI: House provision but adds \$21 million for security programs consistent with the President's emergency request for additional funds for security.

54. WASHINGTON METROPOLITAN AIRPORTS

House bill

H.R. 1036, Report 104-596:

Eliminates the Board of Review.

Adds four Presidential appointees to the airport board.

Replaces the Board of Review with a nine member Federal Advisory Commission appointed by the Secretary of Transportation.

Subjects to periodic congressional reauthorization, the eight airport actions, including the issuance of bonds, that were formerly subject to review by the Board of Review.

Freezes current airport regulations governing the Dulles access road which now limit use of that road to vehicles going to or from Dulles Airport.

Liberalizes the slot rules so that FAA could permit additional flights at National but only for new entrants; essential air service; or foreign air transportation as long as those additional flights would not adversely affect safety.

Senate bill

Eliminates Board of Review.

Adds Two Presidential appointees.

Sense of the Senate on parking.

Conference substitute

Title IX:

Increases the Board of Directors from 11 to 13 by increasing Presidentially appointed members from 1 to 3. The members appointed by the President should be registered voters of states other than Maryland, Virginia, or the District of Columbia and not more than 2 from the same political party. These members shall represent the national interest and be appointed by September 30, 1997.

The Board of Review is terminated.

Former staff of the Board of Review may be hired by the Secretary of Transportation and paid by the Airport Authority.

After October 1, 2001, DOT may not approve any airport grants or new PFC applications. This is intended only to provide a mechanism for periodic Congressional review of airport actions.

Assures Dulles Airport Access Highway remains dedicated to airport users.

Sense of the Senate that MWAA not provide reserved, free or preferential parking to Members of Congress, other government officials, or diplomats.

55. SENSE OF THE SENATE REGARDING THE FUNDING OF THE FEDERAL AVIATION ADMINISTRATION

House bill

No provision.

Senate amendment

Section 404: Sense of the Senate provision stating that the aviation excise taxes should be reinstated for 18 months while long-term funding options for the FAA are developed.

Conference substitute

Section 1212: Senate provision.

56. AUTHORIZATION FOR STATE-SPECIFIC SAFETY MEASURES

House bill

No provision.

Senate amendment

Section 405: Authorizes appropriations of up to \$10 million to the FAA in FY 1997 to address aviation safety problems identified by the National Transportation Safety Board (NTSB) in specific states.

Conference substitute

Section 405: Senate provision.

57. AIR AMBULANCE TAX EXEMPTION

House bill

No provision.

Senate amendment

Section 406: Sense of the Senate provision stating that if the aviation excise taxes are reinstated, the exemption from these taxes (i.e., from the passenger ticket tax) for helicopter air ambulance transportation should be broadened to include transportation by fixed-wing air ambulances.

Conference substitute

House provision: This was addressed in other legislation.

58. COMMERCIAL SPACE

House bill

No provision.

Senate amendment

Title V: Amends Commercial Space Launch Act.

Conference substitute

House provision.

House bill

No provision although the House passed a FAA reform measure (H.R. 2276, Report 104-475) in March 1996.

Senate amendment

Title VI:

Section 601 cites the short title of title VI as the "Air Traffic Management System Performance Improvement Act of 1996".

Section 602 defines the terms "Administration", "Administrator", and "Secretary" for the purposes of this title of the bill.

Section 603 establishes that the provisions of title VI will take effect 30 days after enactment of the legislation.

Section 621 sets forth a series of findings establishing the general basis for enactment of the provisions contained in title VI. The findings recognize, for example, the unique character of the FAA's activities and the need for funding reform.

Section 622 sets forth four critical purposes underpinning title VI.

Section 623 amends section 106 of title 49, United States Code, to provide the FAA Administrator express autonomy and authority with regard to the internal functioning of the agency. As the current law provides, the FAA Administrator would be appointed by the President, with the advice and consent of the Senate, for a fixed, 5-year term.

Some authority previously transferred to the DOT under the Department of Transportation Act (P.L. 89-670) would be recommitted to the FAA under this section. The Administrator would be the final authority for: the promulgation of all FAA rules and regulations (except as otherwise specifically provided in the bill); and for any obligation, authority, function, or power addressed in the bill.

This section enables the Administrator to delegate his or her functions, power, or duties to other FAA employees. Further, the Administrator would not need to seek the approval or advice of the DOT on any matter within the authority of the Administrator.

Nevertheless, the FAA remains within the DOT, which would continue to provide general oversight of the agency as well as cooperate with the more autonomous FAA.

This section also gives the Administrator some voice in the selection of the eight political appointees who serve under him or her. The President would consult closely with the Administrator when considering FAA appointments to ensure harmony and stability within the FAA's leadership.

This section adds a definition of "political appointee" to the statute. This section also preserves all authority vested in the Administrator (by delegation or by statute) prior to enactment of the bill. Nothing in this bill is meant to take anything away from any of the current powers, duties, or authority resting with the FAA or its Administrator.

Section 624 affirms the Administrator's authority to issue, rescind and revise such regulations as necessary to carry out the functions of the FAA. The Administrator would be required to act

upon a petition for rulemaking within six months by dismissing the petition, by informing the petitioner of an intention to dismiss, or by issuing a notice of proposed rulemaking (NPRM) or advance notice of proposed rulemaking (ANPRM).

This section also requires the Administrator to issue a final regulation, or take other final actions, on an NPRM within 18 months of the date it is published in the Federal Register (or within 24 months in the case of an ANPRM).

Under this section, the DOT's authority to review FAA rules is limited. In specified, limited circumstances, the FAA could not issue certain regulations without the prior approval by the DOT. The DOT Secretary would have 45 days to review, for approval or disapproval, any FAA regulation likely to result in an annual, aggregate cost of \$50 million or more to state, local, and tribal governments, or to the private sector. The DOT Secretary would also have 45 days to review "significant" regulations, which are rules that, in the judgment of the Administrator (in consultation with the Secretary, as appropriate), are likely to: have an annual effect on the economy of \$100 million or adversely affect in a material way other parts of the society; be inconsistent or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates.

This section also provides that in an emergency, the Administrator may issue regulations that require DOT approval without obtaining such prior approval. Such regulations, however, are subject to DOT ratification, and would be rescinded within 5 business days without such ratification. Under this section, the Administrator also would issue non-significant regulations or other actions that are routine, frequent or procedural in nature, without review or approval by the DOT. Examples of routine or frequent actions that are non-significant include standard instrument approach procedure regulations, en route altitude regulations, most airspace actions, and airworthiness directives. The DOT also would not be authorized to review "rules of particular applicability," such as exemptions, operations specifications, and special conditions, all of which apply to one individual or entity, unless such exemptions met the definition of significant in this section.

Finally, this section requires the FAA (three years after the bill is enacted) to review "unusually burdensome" regulations that are at least three years old. "Unusually burdensome" regulations are defined as those that result in the annual, aggregate expenditure of \$25 million or more by State, local, and tribal governments, or by the private sector. Such regulations are to be reviewed to determine: the accuracy of the original cost assumptions; the overall benefit of the regulations; and the need to continue such regulations in their present form. This section also provides that the Administrator may review immediately any three-year-old regulation in force prior to enactment of the bill.

Section 625: Provides that the Administrator may appoint and fix the compensation of necessary employees and officers of FAA. This section also provides that, in fixing the compensation and benefits of employees, the Administrator may not engage in any type

of bargaining, except as provided for under section 653 of the bill. Further, this section provides that the Administrator shall not be bound by any requirement to establish compensation or benefits at particular levels. This section also provides other personnel authority to the Administrator, including, for example, the authority to hire experts and consultants and to use the services of personnel from any other Federal agency.

This section also provides that officers and employees shall be appointed in accordance with civil service laws and compensated in accordance with title 5, United States Code, except as otherwise provided by law.

Section 626: Provides broad, general authority for the Administrator to enter into contracts, leases, cooperative agreements, and other transactions, as necessary to carry out the functions of the FAA.

Section 627: Provides the Administrator with authority to use or accept, with or without reimbursement, services, equipment, personnel, and facilities of any other Federal agency or public or private entity. Such acceptance would not constitute an augmentation of the Administration's budget. Heads of other Federal agencies would be asked to cooperate with the Administrator.

Section 628: Provides broad authority to the Administrator to acquire, construct, improve, repair, operate, and maintain air traffic control and research facilities and equipment, as well as other real and personal property to others.

Section 629: Permits the Administrator to accept the transfer of unobligated balances and unexpended funds from other agencies to carry out functions assigned to FAA by this or other Acts.

Section 630: Establishes a 15-member Federal Aviation Management Advisory Council (MAC) to provide the Administrator with input from the aviation industry and community. The MAC would be comprised of one designee each of the Secretaries of Transportation and Defense and representatives from various segments of the aviation community who would be appointed by the President with the advice and consent of the Senate. Members of the MAC should be selected from among individuals who are experts in disciplines relevant to the aviation community and who are collectively able to represent a balanced view of the issues before the FAA. The MAC members also should not be selected based on political or partisan considerations.

This section would subject MAC members to criminal penalties for unauthorized disclosure of commercial or other proprietary information.

Conference substitute

Senate provision: The managers recognize that to provide reform of the FAA, additional autonomy in decision-making in a number of areas is needed. For this reason, the managers agreed to give the FAA authority in the regulatory, personnel, and procurement areas. This change should result in a new way of doing business for the FAA, with less oversight by DOT.

60. AIRCRAFT ENGINE STANDARDS

House bill

No provision.

Senate amendment

Section 631: Requires the Environmental Protection Agency (EPA) to consult with FAA on aircraft emission standards. Also, EPA shall not change the emission standards if it would significantly increase noise and adversely affect safety. FAA should allow EPA to participate in advisory committees when appropriate.

Conference substitute

Section 406: Senate provision.

61. RURAL AIR FARE STUDY

House bill

No provision.

Senate amendment

Section 632: Requires DOT to conduct a study of rural air fares, and to provide a report to the Commerce Committee within 60 days after enactment of this bill. The study would encompass an analysis of the types of air service provided to rural communities as well as competitive aspects of such air service.

Conference substitute

Section 1213: Senate, but Transportation and Infrastructure Committee added as a recipient of the report.

62. PROCUREMENT

House bill

No provision.

Senate amendment

Sections 651, 652:

Not later than April 1, 1999 the FAA must employ outside experts to provide an independent evaluation of the effectiveness of its acquisition system. The FY 1996 DOT Appropriations bill (P.L. 104-50) gave the FAA authority to implement new procurement and personnel systems as of April 1, 1996.

Section 652 establishes a safeguard, built into the procurement system, that would require the FAA to terminate facilities and equipment programs that are 50 percent or more: (1) over cost, (2) below performance goals, or (3) behind schedule. The Administrator could waive the termination requirement if a termination would be inconsistent with the safe and efficient operation of the national air transportation system. Also, the FAA would be required to consider terminating any program that is 10 percent or more: (1) over cost, (2) below performance goals, or (3) behind schedule.

Specific exceptions to termination are allowed.

Conference substitute

Senate provision.

63. PERSONNEL

House bill

No provision.

Senate amendment

Section 653:

Directs the Administrator, in developing and making changes to the new personnel system, to consult with FAA employees and negotiate with the exclusive bargaining representatives of employees. If the Administrator fails to reach agreement with such bargaining units, the parties will engage the services of the Federal Mediation and Conciliation Service. If agreement is not reached following such mediation, proposed changes to the personnel system shall not take effect until 60 days have elapsed after the Administrator has submitted the proposed change, any objections of the exclusive bargaining representatives, and the reasons for such objections, to the Congress. In negotiating changes to the personnel system, the Administrator and the exclusive bargaining representatives would be required to use every reasonable effort to find cost savings and to increase productivity within each of the affected bargaining units, as well as within the FAA as a whole. Nothing in this bill, therefore, prohibits the exclusive bargaining representatives from assisting in identifying cost savings in the procurement system as well as the new personnel system.

Three years after the personnel management system is implemented, outside experts should be employed by the Administration to evaluate the program's effectiveness.

Until July 1, 1999, basic wages should not be involuntarily adversely affected by this section, except for unacceptable performance, or by a reduction in force, or by a reorganization.

Except as otherwise provided by Section 653, all labor-management agreements that are in effect at the time of passage shall remain in effect until their normal expiration, unless otherwise agreed to.

Conference substitute

Senate provision.

64. FAA FUNDING

House bill

No provision.

Senate amendment

Sections 671, 672:

Section 671 sets forth fourteen findings establishing the general basis for the provisions related to FAA funding. These findings concern the important services provided by the FAA in a variety of critical areas that benefit the users of the air transportation system.

Section 672 sets forth seven critical purposes underlying the enactment of Title VI of the bill. Those purposes include providing a financial structure for the FAA that would enable it to support the future growth in the national aviation, ATC, and airport system. The third purpose, which is to ensure that any funding would be dedicated solely for the use of the FAA, is in reference to the user fees authorized under section 673.

Conference substitute

Senate provision.

65. FEES

House bill

Section 413: This section authorizes FAA to impose fees, up to \$30 million per year, on aircraft that overfly the U.S. but do not land here. The aggregate annual amount of these fees should not exceed the aggregate annual direct costs incurred by the FAA in providing air traffic services to such flights. Further, the user fee imposed on any flight should be based on the FAA's actual cost of service.

Senate amendment

Section 673: Directs FAA to impose fees, up to \$100 million per year, on (1) aircraft that overfly the U.S. but do not land, (2) services provided to foreign governments (other than air traffic control services). The fees shall be based on the direct total cost of providing the service. FAA shall publish an initial fee schedule subject to public comment. Nongovernmental experts may be used to develop fees. Repeals section 70118. S. 1194 permitted the FAA to base its fee system on total costs or value. Value was deleted during debate on the bill.

Conference substitute

Section 273: Senate provision except the repeal of section 70118 is deleted and clarification is provided as to the method of setting user fees. The user fee imposed on any flight must be based on the FAA's actual cost of service and not on any non-cost based determination of the "value" of the service provided. Further, assuming similar costs of serving different carrier and aircraft types, the user fee may not vary based on factors such as aircraft seating capacity or revenues derived from passenger fares.

66. STUDY COMMISSION

House bill

Section 205: Establishes National Civil Aviation Review Commission to study safety, airport capital needs and ways to meet those needs, and FAA operational needs and ways to meet those needs. Appointments made by DOT and relevant Congressional Committees. DOT cannot appoint current aviation employees. Independent audit of FAA financial requirements. GAO assessment of airport needs. Final report due in 1 year.

Senate amendment

Section 674:

This section requires the DOT to contract with an outside entity to conduct a comprehensive FAA needs and cost allocation assessment of the financial requirements of the FAA through 2002. The assessment must be completed within 90 days of the contract being awarded. The DOT should establish an 11-member task force within 30 days with people who have expertise in aviation, represent a balanced view of different aviation interests and include one member who knows the Congressional budget process. The task force submits a report to DOT based on the assessment by the outside entity. DOT submits a report to Congress within one year.

This section also requires that, within 120 days, GAO must conduct an assessment of the manner in which costs for ATC services are allocated between the FAA and the DOD.

Conference substitute

Section 274:

Senate provision except that the Senate's 11 member task force is renamed the Commission in the House bill and expanded to 21 members, 13 appointed by the Secretary, 2 appointed by the House Republican leadership, 2 appointed by the House Democrat leadership, and 2 by the Senate majority leader and 2 by the minority leader of the Senate. The Commission is divided into 2 task forces, one dealing with the safety issues in the House bill and the other with the funding issues in the Senate bill. It also includes the GAO assessment of airport needs from the House bill.

The purpose of this assessment is to determine independently what the financial needs of the FAA will be in the short- and long-term. The assessment also must include a cost allocation analysis detailing which segments of the aviation community are driving the various costs imposed on the FAA. Costs attributed to users should reflect the full range of FAA expenditures and activities associated directly or indirectly with a particular aviation segment, including, for example, costs of airport infrastructure financed in whole or in part by the FAA. This assessment is urgently needed by the task force, Congress, and the aviation community so proper evaluation of the FAA's financial picture can be done using a single, objective set of numbers and assumptions.

The recommendations of the task force may include a variety of possibilities, such as alternate funding proposals, taking the trust fund off budget, user fee system proposals, modifications to the aviation excise tax system, a combination of excise taxes and user fees, and means of meeting airport infrastructure needs. The task force also shall consider a limited, innovative program for airport-related funding mechanisms. For each recommendation, the task force must assess the impact on safety, administrative costs, the Congressional budget process, industry economics, the ability of the FAA to use sums collected, and the needs of the FAA. The report should detail various options, with the benefits and impacts of each.

The conferees believe the assessment must contain an analysis of current and future spending of the entire FAA, including airport capital needs. A major premise of this legislation is that old as-

sumptions and old ways of doing business must be re-evaluated and updated. This includes an independent assessment of the FAA's needs and the nation's airport capital needs to ensure that capacity is able to meet demand. As a result, the task force, Congress and the FAA must be in a position to determine which projects expand capacity and enhance the safety and security of the national air transportation system.

The assessment should provide assistance to Congress as to appropriate reforms, which will allow the FAA and airports to more efficiently utilize and maximize Airport Improvement Program (AIP) dollars for necessary capacity, safety, and security.

The conferees agree that the task force in identifying the needs and associated costs of the FAA task force should use as a baseline not less than the FY 1997 appropriated levels including the supplemental amounts. Following recent accidents and a 90-day review conducted by the FAA that found that additional staffing needs have been identified, the conferees agree that the task force recommendations should fully meet these and any other security and safety requirements or other unmet and underfunded needs.

The conference agreement includes the provisions of the House bill which would establish an aviation safety task force. Under the terms of the conference agreement, this safety task force shall be formed by the membership of the National Civil Aviation Review Commission. The safety task force should submit a report to the FAA which sets forth a comprehensive analysis of aviation safety.

The conferees recognize that at this time, the Vice President is leading a similar study of aviation safety with the White House Commission on Aviation Safety and Security. It should be noted that the safety study required under the bill is not intended to duplicate the Gore Commission. Rather, it is intended and anticipated that the safety study in this bill will build on the experience and recommendations of the Gore Commission.

67. PROCEDURE FOR CONSIDERING FEES

House bill

No provision.

Senate amendment

Section 675 sets forth expedited procedures.

Conference substitute

Section 275: Expedited procedures apply only to the Senate.

68. BUDGETARY TREATMENT OF FEES

House bill

No provision.

Senate amendment

Section 676 creates a separate, dedicated account (established in the Treasury) for all new fees and other receipts (except for those associated with the Aviation Insurance Program) collected by the FAA. The receipts and disbursements of this account would be

awardable immediately for expenditures of Congressionally authorized programs and shall remain available until expended.

Annually, the Administrator shall submit a Report on the fees including a list of fees, the activities supported by fees, and any proposed disposition of surplus fees.

This section also requires the FAA to develop a cost accounting system.

This section also provides that when an air carrier is required by the Administrator, pursuant to this legislation, to collect a fee imposed on a third party by the FAA, the Administrator shall ensure that such air carrier may collect from such third party an additional uniform amount reflecting necessary and reasonable expenses (net of interest) incurred in collecting and handling the fee.

Section 676(a)(7) requires that the Administrator provide to the Congress, prior to the submission of any proposed user fee or excise tax schedule, a report justifying the need for the proposed user fees or taxes and including other specified information such as steps the Administrator has taken to reduce costs and improve efficiency within FAA.

Conference substitute

Section 276: Senate except drop section 676(a)(7) of Senate amendment.

69. ESSENTIAL AIR SERVICE

House bill

No provision.

Senate amendment

Section 678: Authority to administer and operate the EAS program would be transferred from the DOT Secretary to the Administrator. The program would be established at a \$50 million level, with authority of the program to be funded by user fees collected under this legislation, including those specifically derived from overflights. At the end of each fiscal year, if less than \$50 million has been obligated for EAS programs, the Administrator shall make those remaining amounts available under the Airport Improvement Program for grants to rural airports to improve rural air safety. This section also, in effect, repeals a provision in the current law sunseting the EAS program.

Conference substitute

Section 278: Senate provision except the transfer of the EAS program from DOT to FAA is eliminated. EAS funding for '97 is equal to the amount appropriated plus any user fee revenue above \$75 million that is collected pursuant to Section 45301(a)(1).

70. MULTI-YEAR AUTHORIZATION & APPROPRIATION

House bill

Authorizes AIP, F&E, and Operations for 3 years.

Senate amendment

Section 677: Prescribes a 3-year authorization & appropriation cycle for Trust Fund programs.

Conference substitute

Section 277: Senate provision, but starting in 1999.

71. STUDY OF FUNDING FOR SECURITY

House bill

No provision.

Senate amendment

Section 301: 30-day FAA study of transferring security responsibilities from airlines to airports or to the government. Also includes certification of screening companies.

Conference substitute

Sections 301 and 302: Senate provision, but change to a 90-day study done in cooperation with other appropriate officials. Make screening certification a separate section.

72. ASSISTANCE TO FAMILIES INVOLVED IN AIRLINES ACCIDENTS

House bill

H.R. 3923 (Report 104-793) which passed the House on September 18, 1996, directs NTSB to take action to help families including designating a liaison and an independent organization and obtaining passenger lists. Also directs airlines to submit plans, establishes a task force to study further improvements, and prohibits unsolicited lawyer contact.

Senate bill

Requires NTSB to establish a program to provide family advocacy services, work with airlines to procure services of family advocates. Guidelines must be issued in 90 days.

Conference substitute

Title VII:

House bill with the following changes:

The list of parties that are prohibited from making unsolicited communications with family members or injured victims is expanded to include potential adverse parties to the litigation.

“within the control of the air carrier” is added to the requirement that air carriers assure that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger.

The model plan is changed to guidelines to make clear that it is intended to serve as guidance for airlines developing plans and not as a precursor to requiring airlines to revise existing plans that may be perfectly sound.

The Task Force developing the guidelines for air carriers is also asked to study the implications for personal privacy if air carriers were required to notify passengers more quickly.

The concern is that such a requirement may entail an airline requesting more information from passengers than many people may consider appropriate.

73. SAFETY DATA CLASSIFICATION

House bill

No provision.

Senate amendment

Section 303: NTSB must develop system for classifying accidents within 90 days. Provision for public comment, report to Congress, and presentation to ICAO.

Also requires FAA to give high priority to deploying safety performance analysis system.

Conference substitute

Section 407: Senate amendment with revised language.

The Managers are interested in having accurate statistical information available to the public with regard to aviation accidents. Currently, accident information can be misleading in that certain occurrences are categorized as accidents that do not fit the public perception of an aviation accident. It is important that the public understand the aviation accident data it receives so that informed decisions can be made on the basis of that data. This legislation requires the National Transportation Safety Board to amend its categorization of aviation accidents to make the information more user friendly. After public comment, the NTSB is required to publish, on a periodic basis, aviation accident data, as recategorized. The Managers believe the accident data should be published on a timely basis and made widely available to the general public so that informed decisions can be made by the traveling public. Dissemination through the NTSB's web page would be one means of widely distributing the information.

74. WEAPONS AND EXPLOSIVE DETECTION STUDY

House bill

No provision.

Senate amendment

National Academy of Science study of systems to detect weapons and explosives.

Conference substitute

Section 303: Senate provision with the addition of hardened containers as an additional factor to be studied.

75. INTERIM DEPLOYMENT OF COMMERCIALY AVAILABLE EXPLOSIVE DETECTION EQUIPMENT

House bill

Section 101 of H.R. 3953 which passed the House on August 2, 1996, directs FAA to facilitate the deployment of commercially

available explosive detection system while waiting for the certified system.

Senate bill

Section 306: Similar provision but also gives FAA waiver authority.

Conference substitute

Section 305: Senate provision.

76. AUDIT OF BACKGROUND CHECKS

House bill

Section 103 of H.R. 3953 directs FAA to audit the criminal history records checks.

Senate bill

Section 307 directs FAA to audit effectiveness of criminal history record checks.

Conference substitute

Section 306: Senate provision.

77. PASSENGER PROFILING

House bill

Section 105 of H.R. 3953 directs FAA, DOT, intelligence community, and law enforcement community to continue to assist airlines in developing computer-assisted passenger profiling.

Senate bill

Section 308: Sense of Senate directing FAA to assist airlines in developing computer-assisted profiling and other appropriate passenger profiling programs to be used in conjunction with other security measures.

Conference substitute

Section 307: House provision with “other appropriate measures” language from Senate.

78. USE OF AIP AND PFC FOR SECURITY

House bill

Section 106 of H.R. 3953 permits AIP and PFC funds to be used for safety and security programs at airports.

Senate bill

Section 309 is the same.

Conference substitute

Section 308: House and Senate provisions.

79. SECURITY LIAISON AGREEMENT

House bill

No provision.

Senate amendment

Section 310: Directs FAA and FBI to establish liaison near high risk airports.

Conference substitute

Section 309: Senate provision.

80. THREAT ASSESSMENT

House bill

No provision.

Senate amendment

Section 311 directs FAA and FBI to carry out threat assessments at high risk airports.

Conference substitute

Section 310: Senate but insert "each" before "airports".

81. BAGGAGE MATCH

House bill

No provision.

Senate amendment

Section 312: Requires the FAA to report within 30 days on the domestic baggage match program recommended by the Gore Commission. Sense of Senate that FAA should work with airlines & airports on feasible, effective bag match.

Conference substitute

Section 311: Senate provision but require only if baggage match program is actually carried out. This is intended to remove any implication that this provision is designed to mandate such a baggage match program. Includes sense of Senate.

82. ENHANCED SECURITY PROGRAMS

House bill

No provision.

Senate amendment

Section 313: Requires airlines and airports to periodically assess their security. The FAA must periodically audit these assessments and make unannounced and anonymous inspections and tests of security systems.

Conference substitute

Section 312: Senate provision.

83. AIR CARGO

House bill

Section 107 of H.R. 3953 lists 3 items relating to air cargo for FAA to study.

Senate bill

Section 314: Requires DOT to report on changes recommended by the Gore Commission with respect to air cargo.

Sense of the Senate that inspection of cargo, mail, and company shipped material can be enhanced.

Conference substitute

Section 313:

Senate bill except FAA is directed to do study and the 3 items from the House bill are incorporated.

Includes Sense of the Senate.

84. SUPPLEMENTAL SCREENING

House bill

Section 109 of H.R. 3953 directs FAA to consider using bomb sniffing dogs to supplement existing bomb detection systems. Section 110 authorizes Trust Fund spending for training and evaluation of K-9 teams at 50 largest airports.

Senate amendment

No provision.

Conference substitute

Added to section 305 (item 75) above by permitting the requirement to deploy commercially available explosive detection equipment to be met at airports by the deployment of dogs or other appropriate animals to supplement equipment for screening passengers, baggage, mail, or cargo for explosives or weapons.

85. CARRIAGE OF CANDIDATES

House bill

No provision.

Senate amendment

Section 408 states that the same rules must apply to carriage of candidates in Federal and State elections.

Conference substitute

Section 1214: Senate provision.

86. TRAIN WHISTLE REQUIREMENTS

House bill

No provision.

Senate amendment

Section 409: Prohibits implementation of DOT rule requiring train whistles at grade crossings.

Conference substitute

Section 1218: Senate provision with changes.

The conferees, in adopting these changes to Section 20153 of Title 49, United States Code, do not intend to require the Secretary to begin anew the current rulemaking already underway to implement this provision. Instead, the Secretary should incorporate the new additional criteria into his completion of the existing proceeding. Similarly, because the conference language retains the original focus of rules under Section 20153 on categories of crossings, not individual crossings, the implementation of this provision should not be affected by references to individual crossings in the conference report accompanying the recently approved Department of Transportation appropriations legislation. Finally, the conferees urge the Secretary to consider in implementing the regulations, the impact of those regulations on the quality of life in affected communities.

87. GAMBLING ON VESSELS

House bill

No provision.

Senate amendment

Section 410 limits authority of states to regulate gambling on ships.

Conference substitute

Section 1222: Senate provision.

88. GRAND CANYON RULEMAKING

House bill

No provision.

Senate amendment

Section 411 requires FAA to provide 30 additional days for comments.

Conference substitute

Section 1215: Senate provision, but change to 45 days and include environmental assessment comment period.

89. FEES FOR SERVICES IN CONNECTION WITH RAIL MAXIMUM RATE COMPLAINTS

House bill

No provision.

Senate amendment

Section 412 prohibits the Surface Transportation Board from increasing these fees.

Conference substitute

The conferees share the concern, reflected in the Senate provision, that the cost-based fees collected by the Surface Transportation Board pursuant to its existing Title 31 authority should not impose an unfair burden on small shippers seeking redress before the Board through maximum-rate complaints. The protection reflected in the conference provision will prevent any such increases until the Congress has reauthorized the STB, which is required by the end of Fiscal Year 1998.

90. HICKORY, NC

House bill

No provision.

Senate amendment

Section 413: Permits transfer of a control tower to Hickory, directs study of whether tower meets criteria of contract tower program, and prohibits closure of New Bern Flight Service Station unless FAA makes required certification.

Conference substitute

Senate provision.

91. INTERNATIONAL TERRORISM

House bill

No provision.

Senate amendment

Section 414: Sense of Senate that state sponsored terrorism is an act of war.

Conference substitute

Senate provision.

92. PROCUREMENT CONTRACTS

House bill

No provision

Senate amendment

Section 415: Requires each grant recipient that awards a contract using more than \$5 million in Federal funds to report to DOT on the number of bids and the amount by which the winning bid exceeded the lowest bid.

Conference substitute

House.

93. EMPLOYEE RETIREMENT INCOME SECURITY ACT

House bill

No provision.

Senate amendment

Section 416: Relates to limited scope audit.

Conference substitute

House.

94. ADVANCE ELECTRONIC TRANSMISSION OF CARGO AND PASSENGER
INFORMATION

House bill

No provision.

Senate amendment

Section 417: Requires airlines to provide the manifest in advance.

Conference substitute

The Managers have receded to the House position. Senator Graham offered the provision in a desire to improve safety and security. The Managers are aware of the importance of the need for the Customs Service to work with the airlines to provide the highest levels of protection to the traveling public. The decision not to include the specific language should not be read to suggest a lack of agreement with the spirit and intent of the provision.

95. TECHNICAL CORRECTIONS TO THE ICC TERMINATION ACT OF 1995

Conference substitute

This provision corrects a technical error in the ICC Termination Act of 1995 (Public Law 104–88) (“ICCTA”). As part of the abolition of the former Interstate Commerce Commission and the reduction of economic regulation of railroads and trucking, the ICCTA included a number of conforming amendments to other statutes which had referred to the ICC. Among these conforming amendments were changes to the Railway Labor Act. The Railway Labor Act governs labor relations and collective bargaining in the airline and railroad industries; it does not apply to motor carriers.

The ICCTA stated unequivocally that its enactment “did not expand or contract coverage of employers or employees under the Railway Labor Act.” 49 U.S.C. 10501(c)(3)(B). However, because of a drafting error, the ICCTA conforming provision (Section 322) removed the term “express company” from the railroad part of the Railway Labor Act. This could be interpreted as inconsistent with the clear bipartisan intent not to alter the boundaries of the Railway Labor Act in any way. Therefore, the technical amendment made by this section merely restores the exact legal standards for coverage under the Railway Labor Act that existed prior to enactment of the ICCTA. Otherwise, the current text of the law could cause needless confusion and punish both employers and employees who have relied upon the prior text and settled interpretation of the Railway Labor Act.

From the Committee on Transportation and Infrastructure, for consideration of the House bill (except section

501) and the Senate amendment (except section 1001), and modifications committed to conference:

BUD SHUSTER,
BILL CLINGER,
JOHN J. DUNCAN, Jr.,

From the Committee on Transportation and Infrastructure, for consideration of section 501 of the House bill and section 1001 of the Senate amendment, and modifications committed to conference:

BUD SHUSTER,
BILL CLINGER,

As additional conferees from the Committee on Rules, for consideration of section 675 of the Senate bill, and modifications committed to conference:

DAVID DREIER,
JOHN LINDER,

As additional conferees from the Committee on Science, for consideration of sections 601–05 of the House bill, and section 103 of the Senate amendment, and modifications committed to conference:

ROBERT S. WALKER,
CONNIE MORELLA,

As additional conferees from the Committee on Science, for consideration of section 501 of the Senate amendment and modifications committed to conference:

ROBERT S. WALKER,
F. JAMES SENSENBRENNER, Jr.,

As additional conferees from the Committee on Ways and Means, for consideration of section 501 of the House bill, and sections 417, 906, and 1001 of the Senate amendment and modifications committed to conference:

BILL ARCHER,
PHIL CRANE,
SAM M. GIBBONS,

Managers on the Part of the House.

LARRY PRESSLER,
TED STEVENS,
JOHN MCCAIN,
FRITZ HOLLINGS,
WENDELL H. FORD,

Managers on the Part of the Senate.