

105TH CONGRESS
2D SESSION

S. 2279

To amend title 49, United States Code, to authorize the programs of the Federal Aviation Administration for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 9, 1998

Mr. McCAIN (for himself and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 49, United States Code, to authorize the programs of the Federal Aviation Administration for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF SECTIONS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Air Transportation System Improvement Act of
6 1998”.

7 (b) TABLE OF SECTIONS.—The table of sections for
8 this Act is as follows:

- Sec. 1. Short title; table of sections.
- Sec. 2. Amendments to title 49, United States Code.

TITLE I—AUTHORIZATIONS

- Sec. 101. Federal Aviation Administration operations.
- Sec. 102. Air navigation facilities and equipment.
- Sec. 103. Airport planning and development and noise compatibility planning and programs.
- Sec. 104. Reprogramming notification requirement.

TITLE II—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

- Sec. 201. Removal of the cap on discretionary fund.
- Sec. 202. Innovative use of airport grant funds.
- Sec. 203. Matching share.
- Sec. 204. Increase in apportionment for noise compatibility planning and programs.
- Sec. 205. Technical amendments.
- Sec. 206. Repeal of period of applicability.
- Sec. 207. Report on efforts to implement capacity enhancements.
- Sec. 208. Prioritization of discretionary projects.
- Sec. 209. Public notice before grant assurance requirement waived.
- Sec. 210. Definition of public aircraft.
- Sec. 211. Terminal development costs.

TITLE III—AMENDMENTS TO AVIATION LAW

- Sec. 301. Severable services contracts for periods crossing fiscal years.
- Sec. 302. Foreign carriers eligible for waiver under airport noise and capacity act.
- Sec. 303. Government and industry consortia.
- Sec. 304. Implementation of Article 83 Bis of the Chicago Convention.
- Sec. 305. Foreign aviation services authority.
- Sec. 306. Flexibility to perform criminal history record checks; technical amendments to Pilot Records Improvement Act.
- Sec. 307. Aviation insurance program amendments.
- Sec. 308. Technical corrections to civil penalty provisions.

TITLE IV—TITLE 49 TECHNICAL CORRECTIONS

- Sec. 401. Restatement of 49 U.S.C. 106(g).
- Sec. 402. Restatement of 49 U.S.C. 44909.
- Sec. 403. Typographical errors.

TITLE V—MISCELLANEOUS

- Sec. 501. Oversight of FAA response to year 2000 problem as it affects the aviation industry.
- Sec. 502. Cargo collision avoidance systems deadline.
- Sec. 503. Runway safety areas.
- Sec. 504. Airplane emergency locators.
- Sec. 505. Counterfeit aircraft parts.
- Sec. 506. FAA may fine unruly passengers.
- Sec. 507. Higher international standards for handicapped access.
- Sec. 508. Conveyances of United States Government land.
- Sec. 509. Flight operations quality assurance rules.

- Sec. 510. Wide area augmentation system.
- Sec. 511. Regulation of Alaska air guides.
- Sec. 512. Application of FAA regulations.
- Sec. 513. Advanced qualification program.
- Sec. 514. Independent validation of FAA costs and allocations.
- Sec. 515. Whistleblower protection for FAA employees.
- Sec. 516. Report on modernization of oceanic ATC system.
- Sec. 517. Report on air transportation oversight system.

TITLE VI—AVIATION COMPETITION PROMOTION

- Sec. 601. Purpose.
- Sec. 602. Establishment of small community aviation development program.
- Sec. 603. Community-carrier air service program.
- Sec. 604. Funding authority.
- Sec. 605. Marketing practices.
- Sec. 606. Slot exemptions for nonstop regional jet service.
- Sec. 607. Secretary shall grant exemptions to perimeter rule.
- Sec. 608. Additional slots at Chicago's O'hare Airport.
- Sec. 609. Consumer notification of e-ticket expiration dates.

TITLE VII—PARK OVERFLIGHTS

- Sec. 701. Findings.
- Sec. 702. Air tour management plans for national parks.
- Sec. 703. Advisory group.
- Sec. 704. Exemption.
- Sec. 705. Overflight fee report.

TITLE VIII—AVIATION TRUST FUND AMENDMENTS

- Sec. 801. Amendments to the Airport and Airway Trust Fund.

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

2 Except as otherwise expressly provided, whenever in
 3 this Act an amendment or repeal is expressed in terms
 4 of an amendment to, or a repeal of, a section or other
 5 provision, the reference shall be considered to be made to
 6 a section or other provision of title 49, United States
 7 Code.

8 **TITLE I—AUTHORIZATIONS**

9 **SEC. 101. FEDERAL AVIATION ADMINISTRATION OPER-** 10 **ATIONS.**

11 Section 106(k) is amended to read as follows:

1 “(k) AUTHORIZATION OF APPROPRIATIONS FOR OP-
2 ERATIONS.—

3 “(1) IN GENERAL.—There are authorized to be
4 appropriated to the Secretary of Transportation for
5 operations of the Administration \$5,631,000,000 for
6 fiscal year 1999, \$5,784,000,000 for fiscal year
7 2000, \$5,946,000,000 for fiscal year 2001, and
8 \$6,112,000,000 for fiscal year 2002. Of the amounts
9 authorized to be appropriated for fiscal year 1999,
10 not more than \$9,100,000 shall be used to support
11 air safety efforts through payment of United States
12 membership obligations, to be paid as soon as prac-
13 ticable.

14 “(2) AUTHORIZED EXPENDITURES.—Of the
15 amounts appropriated under paragraph (1)
16 \$450,000 may be used for wildlife hazard mitigation
17 measures and management of the wildlife strike
18 database of the Federal Aviation Administration.

19 “(3) UNIVERSITY CONSORTIUM.—There are au-
20 thorized to be appropriated not more than
21 \$9,100,000 for the 3 fiscal year period beginning
22 with fiscal year 1999 to support a university consor-
23 tium established to provide an air safety and secu-
24 rity management certificate program, working coop-
25 eratively with the Federal Aviation Administration

1 and United States air carriers. Funds authorized
2 under this paragraph—

3 “(A) may not be used for the construction
4 of a building or other facility; and

5 “(B) shall be awarded on the basis of open
6 competition.”.

7 **SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.**

8 (a) IN GENERAL.—Section 48101(a) is amended by
9 striking paragraphs (1) and (2) and inserting the follow-
10 ing:

11 “(1) for fiscal year 1999—

12 “(A) \$222,800,000 for engineering, devel-
13 opment, test, and evaluation: en route pro-
14 grams;

15 “(B) \$74,700,000 for engineering, develop-
16 ment, test, and evaluation: terminal programs;

17 “(C) \$108,000,000 for engineering, devel-
18 opment, test, and evaluation: landing and navi-
19 gational aids;

20 “(D) \$17,790,000 for engineering, develop-
21 ment, test, and evaluation: research, test, and
22 evaluation equipment and facilities programs;

23 “(E) \$391,358,300 for air traffic control
24 facilities and equipment: en route programs;

1 “(F) \$492,315,500 for air traffic control
2 facilities and equipment: terminal programs;

3 “(G) \$38,764,400 for air traffic control fa-
4 cilities and equipment: flight services programs;

5 “(H) \$50,500,000 for air traffic control fa-
6 cilities and equipment: other ATC facilities pro-
7 grams;

8 “(I) \$162,400,000 for non-ATC facilities
9 and equipment programs;

10 “(J) \$14,500,000 for training and equip-
11 ment facilities programs;

12 “(K) \$280,800,000 for mission support
13 programs;

14 “(L) \$235,210,000 for personnel and re-
15 lated expenses;

16 “(2) \$2,189,000,000 for fiscal year 2000;

17 “(3) \$2,250,000,000 for fiscal year 2001; and

18 “(4) \$2,313,000,000 for fiscal year 2002.”.

19 (b) CONTINUATION OF ILS INVENTORY PROGRAM.—
20 Section 44502(a)(4)(B) is amended—

21 (1) by striking “fiscal years 1995 and 1996”
22 and inserting “fiscal year 1999”; and

23 (2) by inserting “under new or existing con-
24 tracts” after “including acquisition”.

1 (c) LIFE-CYCLE COST ESTIMATES.—The Adminis-
2 trator of the Federal Aviation Administration shall estab-
3 lish life-cycle cost estimates for any air traffic control
4 modernization project the total life-cycle costs of which
5 equal or exceed \$50,000,000.

6 **SEC. 103. AIRPORT PLANNING AND DEVELOPMENT AND**
7 **NOISE COMPATIBILITY PLANNING AND PRO-**
8 **GRAMS.**

9 (a) EXTENSION AND AUTHORIZATION.—Section
10 48103 is amended by—

11 (1) striking “September 30, 1996,” and insert-
12 ing “September 30, 1998,”;

13 (2) striking “and \$4,627,000,000” and insert-
14 ing “\$3,415,000,000”; and

15 (3) striking “October 1, 1998.” and inserting
16 “October 1, 1998, \$5,825,000,000 for fiscal years
17 ending before October 1, 1999, \$8,300,000,000 for
18 fiscal years ending before October 1, 2000,
19 \$10,842,000,000 for fiscal years ending before Octo-
20 ber 1, 2001, and \$13,453,000,000 for fiscal years
21 ending before October 1, 2002.”.

22 (b) PROJECT GRANT AUTHORITY.—Section 47104(c)
23 is amended by striking “1998,” and inserting “2002,”.

1 **SEC. 104. REPROGRAMMING NOTIFICATION REQUIREMENT.**

2 Before reprogramming any amounts appropriated
 3 under section 106(k), 48101(a), or 48103 of title 49,
 4 United States Code, the Secretary of Transportation shall
 5 submit a written explanation of the proposed reprogram-
 6 ming to the Committee on Commerce, Science, and Trans-
 7 portation of the Senate and the Committee on Transpor-
 8 tation and Infrastructure of the House of Representatives.

9 **TITLE II—AIRPORT IMPROVE-**
 10 **MENT PROGRAM AMEND-**
 11 **MENTS**

12 **SEC. 201. REMOVAL OF THE CAP ON DISCRETIONARY FUND.**

13 Section 47115(g) is amended by striking paragraph
 14 (4).

15 **SEC. 202. INNOVATIVE USE OF AIRPORT GRANT FUNDS.**

16 (a) CODIFICATION AND IMPROVEMENT OF 1996 PRO-
 17 GRAM.—Subchapter I of chapter 471 is amended by add-
 18 ing at the end thereof the following:

19 **“§ 47135. Innovative financing techniques**

20 “(a) IN GENERAL.—The Secretary of Transportation
 21 is authorized to carry out a demonstration program under
 22 which the Secretary may approve applications under this
 23 subchapter for not more than 20 projects for which grants
 24 received under the subchapter may be used to implement
 25 innovative financing techniques.

1 “(b) PURPOSE.—The purpose of the demonstration
2 program shall be to provide information on the use of in-
3 novative financing techniques for airport development
4 projects.

5 “(c) LIMITATION—In no case shall the implementa-
6 tion of an innovative financing technique under the dem-
7 onstration program result in a direct or indirect guarantee
8 of any airport debt instrument by the United States Gov-
9 ernment.

10 “(d) INNOVATIVE FINANCING TECHNIQUE DE-
11 FINED.—In this section, the term ‘innovative financing
12 technique’ includes methods of financing projects that the
13 Secretary determines may be beneficial to airport develop-
14 ment, including—

15 “(1) payment of interest;

16 “(2) commercial bond insurance and other cred-
17 it enhancement associated with airport bonds for eli-
18 gible airport development; and

19 “(3) flexible non-Federal matching require-
20 ments.”.

21 (b) CONFORMING AMENDMENT.—The chapter analy-
22 sis for chapter 471 is amended by inserting after the item
23 relating to section 47134 the following:

“47135. Innovative financing techniques”.

1 **SEC. 203. MATCHING SHARE.**

2 Section 47109(a)(2) is amended by inserting “not
3 more than” before “90 percent”.

4 **SEC. 204. INCREASE IN APPORTIONMENT FOR NOISE COM-
5 PATIBILITY PLANNING AND PROGRAMS.**

6 Section 47117(e)(1)(A) is amended by striking “31”
7 each time it appears and substituting “35”.

8 **SEC. 205. TECHNICAL AMENDMENTS.**

9 (a) USE OF APPORTIONMENTS FOR ALASKA, PUERTO
10 RICO, AND HAWAII.—Section 47114(d)(3) is amended to
11 read as follows:

12 “(3) An amount apportioned under paragraph
13 (2) of this subsection for airports in Alaska, Hawaii,
14 or Puerto Rico may be made available by the Sec-
15 retary for any public airport in those respective ju-
16 risdictions.”.

17 (b) SUPPLEMENTAL APPORTIONMENT FOR ALAS-
18 KA.—Section 47114(e) is amended—

19 (1) by striking “ALTERNATIVE” in the sub-
20 section caption and inserting “SUPPLEMENTAL”;

21 (2) in paragraph (1) by—

22 (A) striking “Instead of apportioning
23 amounts for airports in Alaska under” and in-
24 serting “Notwithstanding”; and

25 (B) striking “those airports” and inserting
26 “airports in Alaska”; and

1 (3) striking paragraph (3) and inserting the fol-
2 lowing:

3 “(3) An amount apportioned under this sub-
4 section may be used for any public airport in Alas-
5 ka.”.

6 (c) REPEAL OF APPORTIONMENT LIMITATION ON
7 COMMERCIAL SERVICE AIRPORTS IN ALASKA.—Section
8 47117 is amended by striking subsection (f) and redesi-
9 gnating subsections (g) and (h) as subsections (f) and (g),
10 respectively.

11 (d) DISCRETIONARY FUND DEFINITION.—

12 (1) Section 47115 is amended—

13 (A) by striking “25” in subsection (a) and
14 inserting “12.5”; and

15 (B) by striking the second sentence in sub-
16 section (b).

17 (2) Section 47116 is amended—

18 (A) by striking “75” in subsection (a) and
19 inserting “87.5”;

20 (B) by redesignating paragraphs (1) and
21 (2) in subsection (b) as subparagraphs (A) and
22 (B), respectively, and inserting before subpara-
23 graph (A), as so redesignated, the following:

1 “(1) one-seventh for grants for projects at small
2 hub airports (as defined in section 41731 of this
3 title); and

4 “(2) the remaining amounts based on the fol-
5 lowing:”.

6 (e) CONTINUATION OF PROJECT FUNDING.—Section
7 47108 is amended by adding at the end thereof the follow-
8 ing:

9 “(e) CHANGE IN AIRPORT STATUS.—If the status of
10 a primary airport changes to a non-primary airport at a
11 time when a development project under a multiyear agree-
12 ment under subsection (a) is not yet completed, the project
13 shall remain eligible for funding from discretionary funds
14 under section 47115 of this title at the funding level and
15 under the terms provided by the agreement, subject to the
16 availability of funds.”.

17 (f) GRANT ELIGIBILITY FOR PRIVATE RELIEVER
18 AIRPORTS.—Section 47102(17)(B) is amended by—

19 (1) striking “or” at the end of clause (i) and
20 redesignating clause (ii) as clause (iii); and

21 (2) inserting after clause (i) the following:

22 “(ii) a privately-owned airport that, as a
23 reliever airport, received Federal aid for airport
24 development prior to October 9, 1996, but only
25 if the Administrator issues revised administra-

1 tive guidance after July 1, 1998, for the des-
2 ignation of reliever airports; or”.

3 (g) RELIEVER AIRPORTS NOT ELIGIBLE FOR LET-
4 TERS OF INTENT.—Section 47110(e)(1) is amended by
5 striking “or reliever”.

6 (h) PASSENGER FACILITY FEE WAIVER FOR CER-
7 TAIN CLASS OF CARRIERS OR FOR SERVICE TO AIRPORTS
8 IN ISOLATED COMMUNITIES.—Section 40117(i) is amend-
9 ed—

10 (1) by striking “and” at the end of paragraph
11 (1);

12 (2) by striking “transportation.” in paragraph
13 (2)(D) and inserting “transportation; and”; and

14 (3) by adding at the end thereof the following:

15 “(3) may permit a public agency to request that
16 collection of a passenger facility fee be waived for—

17 “(A) passengers enplaned by any class of
18 air carrier or foreign air carrier if the number
19 of passengers enplaned by the carriers in the
20 class constitutes not more than one percent of
21 the total number of passengers enplaned annu-
22 ally at the airport at which the fee is imposed;
23 or

24 “(B) passengers enplaned on a flight to an
25 airport—

1 “(i) that has fewer than 2,500 pas-
2 senger boardings each year and receives
3 scheduled passenger service; or

4 “(ii) in a community which has a pop-
5 ulation of less than 10,000 and is not con-
6 nected by a land highway or vehicular way
7 to the land-connected National Highway
8 System within a State.”.

9 (i) USE OF THE WORD “GIFT” AND PRIORITY FOR
10 AIRPORTS IN SURPLUS PROPERTY DISPOSAL.—

11 (1) Section 47151 is amended—

12 (A) by striking “give” in subsection (a)
13 and inserting “convey to”;

14 (B) by striking “gift” in subsection (a)(2)
15 and inserting “conveyance”;

16 (C) by striking “gift” in subsection (b) and
17 inserting “conveyance”; and

18 (D) by adding at the end thereof the fol-
19 lowing:

20 “(d) PRIORITY FOR PUBLIC AIRPORTS.—Except for
21 requests from another Federal agency, a department,
22 agency, or instrumentality of the Executive Branch of the
23 United States Government shall give priority to a request
24 by a public agency (as defined in section 47102 of this

1 title) for surplus property described in subsection (a) of
 2 this section for use at a public airport.”.

3 (2) Section 47152 is amended—

4 (A) by striking “**gifts**” in the section cap-
 5 tion and inserting “**conveyances**”; and

6 (B) by striking “gift” in the first sentence
 7 and inserting “conveyance”.

8 (3) The chapter analysis for subchapter 471 is
 9 amended by striking the item relating to section
 10 47152 and inserting the following:

“47152. Terms of conveyances”.

11 (4) Section 47153(a) is amended—

12 (A) by striking “gift” in paragraph (1)
 13 and inserting “conveyance”;

14 (B) by striking “given” in paragraph
 15 (1)(A) and inserting “conveyed”; and

16 (C) by striking “gift” in paragraph (1)(B)
 17 and inserting “conveyance”.

18 (j) FLEXIBILITY IN PAVEMENT DESIGN STAND-
 19 ARDS.—Section 47114(d) is amended by adding at the end
 20 thereof the following:

21 “(4) The Secretary may permit the use of State
 22 highway specifications for airfield pavement con-
 23 struction using funds made available under this sub-
 24 section at non-primary airports with runways of
 25 5,000 feet or shorter serving aircraft that do not ex-

1 ceed 60,000 pounds gross weight, if the Secretary
2 determines that—

3 “(A) safety will not be negatively affected;
4 and

5 “(B) the life of the pavement will not be
6 shorter than it would be if constructed using
7 Administration standards.

8 An airport may not seek funds under this sub-
9 chapter for runway rehabilitation or reconstruction
10 of any such airfield pavement constructed using
11 State highway specifications for a period of 10 years
12 after construction is completed.”.

13 **SEC. 206. REPEAL OF PERIOD OF APPLICABILITY.**

14 Section 125 of the Federal Aviation Reauthorization
15 Act of 1996 (49 U.S.C. 47114 note) is repealed.

16 **SEC. 207. REPORT ON EFFORTS TO IMPLEMENT CAPACITY**
17 **ENHANCEMENTS.**

18 Within 9 months after the date of enactment of this
19 Act, the Secretary of Transportation shall report to the
20 Committee on Commerce, Science, and Transportation of
21 the Senate and the Committee on Transportation and In-
22 frastructure of the House of Representatives on efforts by
23 the Federal Aviation Administration to implement capac-
24 ity enhancements and improvements, such as precision

1 runway monitoring systems and the time frame for imple-
2 mentation of such enhancements and improvements.

3 **SEC. 208. PRIORITIZATION OF DISCRETIONARY PROJECTS.**

4 Section 47120 is amended by—

5 (1) inserting “(a) IN GENERAL.—” before
6 “In”; and

7 (2) adding at the end thereof the following:

8 “(b) DISCRETIONARY FUNDING TO BE USED FOR
9 HIGHER PRIORITY PROJECTS.—The Administrator of the
10 Federal Aviation Administration shall discourage airport
11 sponsors and airports from using discretionary funds for
12 lower priority projects by giving lower priority to discre-
13 tionary projects submitted by airport sponsors and air-
14 ports that have used entitlement funds for projects that
15 have a lower priority than the projects for which discre-
16 tionary funds are being requested.”.

17 **SEC. 209. PUBLIC NOTICE BEFORE GRANT ASSURANCE RE-**
18 **QUIREMENT WAIVED.**

19 Notwithstanding any other provision of law to the
20 contrary, the Secretary of Transportation may not waive
21 any assurance required under section 47107 of title 49,
22 United States Code, unless the Secretary provides notice
23 to the public not less than 30 days before issuing any such
24 waiver. Nothing in this section shall be construed to au-

1 thorize the Secretary to issue a waiver of any assurance
2 required under that section.

3 **SEC. 210. DEFINITION OF PUBLIC AIRCRAFT.**

4 Section 40102(a)(37)(B)(ii) is amended—

5 (1) by striking “or” at the end of subclause (I);

6 (2) by striking the “States.” in subclause (II)

7 and inserting “States; or”; and

8 (3) by adding at the end thereof the following:

9 (III) transporting persons
10 aboard the aircraft if the aircraft is
11 operated for the purpose of prisoner
12 transport.”.

13 **SEC. 211. TERMINAL DEVELOPMENT COSTS.**

14 Section 40117 is amended by adding at the end
15 thereof the following:

16 “(j) SHELL OF TERMINAL BUILDING.—In order to
17 enable additional air service by an air carrier with less
18 than 50 percent of the scheduled passenger traffic at an
19 airport, the Secretary may consider the shell of a terminal
20 building (including heating, ventilation, and air condi-
21 tioning) to be an eligible airport-related project under sub-
22 section (a)(3)(E).”.

1 **TITLE III—AMENDMENTS TO**
 2 **AVIATION LAW**

3 **SEC. 301. SEVERABLE SERVICES CONTRACTS FOR PERIODS**
 4 **CROSSING FISCAL YEARS.**

5 (a) Chapter 401 is amended by adding at the end
 6 thereof the following:

7 **“§ 40125. Severable Services Contracts for Periods**
 8 **Crossing Fiscal Years**

9 “(a) IN GENERAL.—The Administrator of the Fed-
 10 eral Aviation Administration may enter into a contract for
 11 procurement of severable services for a period that begins
 12 in one fiscal year and ends in the next fiscal year if (with-
 13 out regard to any option to extend the period of the con-
 14 tract) the contract period does not exceed one year.

15 “(b) OBLIGATION OF FUNDS.—Funds made available
 16 for a fiscal year may be obligated for the total amount
 17 of a contract entered into under the authority of sub-
 18 section (a) of this section.”.

19 (b) CONFORMING AMENDMENT.—The chapter analy-
 20 sis for chapter 401 is amended by adding at the end there-
 21 of the following:

“40125. Severable services contracts for periods crossing fiscal years”.

1 **SEC. 302. FOREIGN CARRIERS ELIGIBLE FOR WAIVER**
 2 **UNDER AIRPORT NOISE AND CAPACITY ACT.**

3 The first sentence of section 47528(b)(1) is amended
 4 by inserting “or foreign air carrier” after “air carrier”
 5 the first place it appears and after “carrier” the first place
 6 it appears.

7 **SEC. 303. GOVERNMENT AND INDUSTRY CONSORTIA.**

8 Section 44903 is amended by adding at the end
 9 thereof the following:

10 “(f) GOVERNMENT AND INDUSTRY CONSORTIA.—
 11 The Administrator may establish at airports such consor-
 12 tia of government and aviation industry representatives as
 13 the Administrator may designate to provide advice on mat-
 14 ters related to aviation security and safety. Such consortia
 15 shall not be considered federal advisory committees for
 16 purposes of the Federal Advisory Committee Act (5
 17 U.S.C. App.).”.

18 **SEC. 304. IMPLEMENTATION OF ARTICLE 83 BIS OF THE**
 19 **CHICAGO CONVENTION.**

20 Section 44701 is amended—

21 (1) by redesignating subsection (e) as sub-
 22 section (f); and

23 (2) by inserting after subsection (d) the follow-
 24 ing:

25 “(e) BILATERAL EXCHANGES OF SAFETY OVER-
 26 SIGHT RESPONSIBILITIES.—

1 “(1) Notwithstanding the provisions of this
2 chapter, and pursuant to Article 83 bis of the Con-
3 vention on International Civil Aviation, the Adminis-
4 trator may, by a bilateral agreement with the aero-
5 nautical authorities of another country, exchange
6 with that country all or part of their respective func-
7 tions and duties with respect to aircraft described in
8 subparagraphs (A) and (B), under the following ar-
9 ticles of the Convention:

10 “(A) Article 12 (Rules of the Air).

11 “(B) Article 31 (Certificates of Airworthi-
12 ness).

13 “(C) Article 32a (Licenses of Personnel).

14 “(2) The agreement under paragraph (1) may
15 apply to—

16 “(A) aircraft registered in the United
17 States operated pursuant to an agreement for
18 the lease, charter, or interchange of the aircraft
19 or any similar arrangement by an operator that
20 has its principal place of business or, if it has
21 no such place of business, its permanent resi-
22 dence in another country; or

23 “(B) aircraft registered in a foreign coun-
24 try operated under an agreement for the lease,
25 charter, or interchange of the aircraft or any

1 similar arrangement by an operator that has its
2 principal place of business or, if it has no such
3 place of business, its permanent residence in
4 the United States.

5 “(3) The Administrator relinquishes responsibil-
6 ity with respect to the functions and duties trans-
7 ferred by the Administrator as specified in the bilat-
8 eral agreement, under the Articles listed in para-
9 graph (1) of this subsection for United States-reg-
10 istered aircraft transferred abroad as described in
11 subparagraph (A) of that paragraph, and accepts re-
12 sponsibility with respect to the functions and duties
13 under those Articles for aircraft registered abroad
14 that are transferred to the United States as de-
15 scribed in subparagraph (B) of that paragraph.

16 “(4) The Administrator may, in the agreement
17 under paragraph (1), predicate the transfer of these
18 functions and duties on any conditions the Adminis-
19 trator deems necessary and prudent.”.

20 **SEC. 305. FOREIGN AVIATION SERVICES AUTHORITY.**

21 (a) **RECIPROCAL WAIVER OF OVERFLIGHT FEES.—**

22 Section 45301(a)(1) is amended to read as follows:

23 “(1) Air traffic control and related services pro-
24 vided to aircraft that neither take off from, nor land
25 in, the United States, other than military and civil-

1 ian aircraft of the United States Government or of
2 a foreign government, except that such fees shall not
3 be imposed on overflights operated by citizens of a
4 country contiguous to the United States if—

5 “(A) both the origin and destination of
6 such flights are within that other country;

7 “(B) that country exempts similar cat-
8 egories of flights operated by citizens of the
9 United States from such fees; and

10 “(C) that country exchanges responsibility
11 for air traffic control services with the United
12 States.”.

13 (b) TECHNICAL CORRECTIONS.—Section 45301 is
14 amended—

15 (1) by striking “government.” in subsection
16 (a)(2) and inserting “government or to any entity
17 obtaining services outside the United States.”;

18 (2) by striking “directly” in subsection
19 (b)(1)(B); and

20 (3) by striking “rendered.” in subsection
21 (b)(1)(B) and inserting “rendered, including value to
22 the recipient and both direct and indirect costs of
23 overflight-related services, as determined by the Ad-
24 ministrator, using generally accepted accounting

1 principles and internationally accepted principles of
 2 setting fees for overflight-related services.”.

3 **SEC. 306. FLEXIBILITY TO PERFORM CRIMINAL HISTORY**
 4 **RECORD CHECKS; TECHNICAL AMENDMENTS**
 5 **TO PILOT RECORDS IMPROVEMENT ACT.**

6 Section 44936 is amended—

7 (1) by striking “subparagraph (C))” in sub-
 8 section (a)(1)(B) and inserting “subparagraph (C),
 9 or in the case of passenger, baggage, or property
 10 screening at airports, the Administrator decides it is
 11 necessary to ensure air transportation security)”;

12 (2) by striking “individual” in subsection
 13 (f)(1)(B)(ii) and inserting “individual’s performance
 14 as a pilot”; and

15 (3) by inserting “or from a foreign government
 16 or entity that employed the individual” in subsection
 17 (f)(14)(B) after “exists,”.

18 **SEC. 307. AVIATION INSURANCE PROGRAM AMENDMENTS.**

19 (a) REIMBURSEMENT OF INSURED PARTY’S
 20 SUBROGEE.—Subsection (a) of 44309 is amended—

21 (1) by striking the subsection caption and the
 22 first sentence, and inserting the following:

23 “(a) LOSSES.—

24 “(1) A person may bring a civil action in a dis-
 25 trict court of the United States or in the United

1 States Court of Federal Claims against the United
2 States Government when—

3 “(A) a loss insured under this chapter is in
4 dispute; or

5 “(B)(i) the person is subrogated to the
6 rights against the United States Government of
7 a party insured under this chapter (other than
8 under subsection 44305(b) of this title), under
9 a contract between the person and such insured
10 party; and

11 “(ii) the person has paid to such insured
12 party, with the approval of the Secretary of
13 Transportation, an amount for a physical dam-
14 age loss that the Secretary of Transportation
15 has determined is a loss covered under insur-
16 ance issued under this chapter (other than in-
17 surance issued under subsection 44305(b) of
18 this title).”; and

19 (2) by resetting the remainder of the subsection
20 as a new paragraph and inserting “(2)” before “A
21 civil action”.

22 (b) EXTENSION OF AVIATION INSURANCE PRO-
23 GRAM.—Section 44310 is amended by striking “1998.”
24 and inserting “2003.”.

1 **SEC. 308. TECHNICAL CORRECTIONS TO CIVIL PENALTY**
 2 **PROVISIONS.**

3 Section 46301 is amended—

4 (1) by striking “46302, 46303, or” in sub-
 5 section (a)(1)(A);

6 (2) by striking “individual” the first time it ap-
 7 pears in subsection (d)(7)(A) and inserting “per-
 8 son”; and

9 (3) by inserting “or the Administrator” in sub-
 10 section (g) after “Secretary”.

11 **TITLE IV—TITLE 49 TECHNICAL**
 12 **CORRECTIONS**

13 **SEC. 401. RESTATEMENT OF 49 U.S.C. 106(g).**

14 (a) IN GENERAL.—Section 106(g) is amended by
 15 striking “, 40113(a), (c), and (d), 40114(a), 40119,
 16 44501(a) and (c), 44502(a)(1), (b) and (c), 44504, 44505,
 17 44507, 44508, 44511–44513, 44701–44716, 44718(c),
 18 44721(a), 44901, 44902, 44903 (a)–(c) and (e), 44906,
 19 44912, 44935–44937, and 44938 (a) and (b), chapter
 20 451, sections 45302–45304,” and inserting “40113 (a),
 21 (c)–(e), 40114(a), and 40119, and chapter 445 (except
 22 sections 44501(b), 44502 (a) (2)–(4), 44503, 44506,
 23 44509, 44510, 44514, and 44515), chapter 447 (except
 24 sections 44717, 44718 (a) and (b), 44719, 44720,
 25 44721(b), 44722, and 44723), chapter 449 (except sec-
 26 tions 44903(d), 44904, 44905, 44907–44911, 44913,

1 44915, and 44931–44934), chapter 451, chapter 453, sec-
2 tions”.

3 (b) TECHNICAL CORRECTION.—The amendment
4 made by this section may not be construed as making a
5 substantive change in the language replaced.

6 **SEC. 402. RESTATEMENT OF 49 U.S.C. 44909.**

7 Section 44909(a)(2) is amended by striking “shall”
8 and inserting “should”.

9 **SEC. 403. TYPOGRAPHICAL ERRORS.**

10 (a) SECTION 15904.—Section 15904(c)(1) is amend-
11 ed by inserting “section” before “15901(b)”.

12 (b) CHAPTER 491.—Chapter 491 is amended—

13 (1) by striking “1996” in section
14 49106(b)(1)(F) and inserting “1986”;

15 (2) by striking “by the board” in section
16 49106(c)(3) and inserting “to the board”;

17 (3) by striking “subchapter II” in section
18 49107(b) and inserting “subchapter III”; and

19 (4) by striking “retention of” in section
20 49111(b) and inserting “retention by”.

21 (c) SCHEDULE OF REPEALED LAWS.—The Schedule
22 of Laws Repealed in section 5(b) of the Act of November
23 20, 1997 (Public Law 105–102; 111 Stat. 2217), is
24 amended by striking “1996” the first place it appears and
25 inserting “1986”.

1 (d) AMENDMENTS EFFECTIVE AS OF EARLIER DATE
 2 OF ENACTMENT.—The amendments made by subsections
 3 (a), (b), and (c) are effective as of November 20, 1997.

4 (e) CORRECTION OF ERROR IN TECHNICAL CORREC-
 5 TIONS ACT.—Effective October 11, 1996, section 5(45)(A)
 6 of the Act of October 11, 1996 (Public Law 104–287, 110
 7 Stat. 3393), is amended by striking “ENFORCEMENT;”
 8 and inserting “ENFORCEMENT:”.

9 **TITLE V—MISCELLANEOUS**

10 **SEC. 501. OVERSIGHT OF FAA RESPONSE TO YEAR 2000**

11 **PROBLEM AS IT AFFECTS THE AVIATION IN-** 12 **DUSTRY.**

13 The Administrator of the Federal Aviation Adminis-
 14 tration shall report to the Senate Committee on Com-
 15 merce, Science, and Transportation and the House Com-
 16 mittee on Transportation and Infrastructure every 3
 17 months, in oral or written form, on electronic data proc-
 18 essing problems associated with the year 2000 within the
 19 Administration.

20 **SEC. 502. CARGO COLLISION AVOIDANCE SYSTEMS DEAD-** 21 **LINE.**

22 (a) IN GENERAL.—The Administrator of the Federal
 23 Aviation Administration shall require by regulation that,
 24 not later than December 31, 2002, collision avoidance

1 equipment be installed on each cargo aircraft with a pay-
2 load capacity of 15,000 kilograms or more.

3 (b) EXTENSION.—The Administrator may extend the
4 deadline imposed by subsection (a) for not more than 2
5 years if the Administrator finds that the extension is need-
6 ed to promote—

7 (1) a safe and orderly transition to the oper-
8 ation of a fleet of cargo aircraft equipped with colli-
9 sion avoidance equipment; or

10 (2) other safety or public interest objectives.

11 (c) COLLISION AVOIDANCE EQUIPMENT.—For pur-
12 poses of this section, the term “collision avoidance equip-
13 ment” means TCAS II equipment (as defined by the Ad-
14 ministrator), or any other similar system approved by the
15 Administration for collision avoidance purposes.

16 **SEC. 503. RUNWAY SAFETY AREAS.**

17 Within 6 months after the date of enactment of this
18 Act, the Administrator of the Federal Aviation Adminis-
19 tration shall initiate rulemaking to amend the regulations
20 in part 139 of title 14, Code of Federal Regulations—

21 (1) to improve runway safety areas; and

22 (2) to require the installation of precision ap-
23 proach path indicators.

1 **SEC. 504. AIRPLANE EMERGENCY LOCATORS.**

2 (a) REQUIREMENT.—Section 44712(b) is amended to
3 read as follows:

4 “(b) NONAPPLICATION.—Subsection (a) does not
5 apply to aircraft when used in—

6 “(1) flight operations related to the design and
7 testing, manufacture, preparation, and delivery of
8 aircraft; or

9 “(2) the aerial application of a substance for an
10 agricultural purpose.”.

11 (b) EFFECTIVE DATE; REGULATIONS.—

12 (1) REGULATIONS.—The Secretary of Trans-
13 portation shall promulgate regulations under section
14 44712(b) of title 49, United States Code, as amend-
15 ed by subsection (a) not later than January 1, 2002.

16 (2) EFFECTIVE DATE.—The amendment made
17 by subsection (a) shall take effect on January 1,
18 2002.

19 **SEC. 505. COUNTERFEIT AIRCRAFT PARTS.**

20 (a) DENIAL OF CERTIFICATE.—Section 44703 is
21 amended by adding at the end thereof the following:

22 “(g) CERTIFICATE DENIED FOR DEALING IN COUN-
23 TERFEIT PARTS.—The Administrator may not issue an
24 airman certificate or an airframe and powerplant certifi-
25 cate under subpart D of part 65 of title 14, Code of Fed-
26 eral Regulations, to any person convicted of a violation

1 of any Federal or State law relating to the installation,
2 production, repair, or sale of a counterfeit or falsely rep-
3 resented aviation part or material.”.

4 (b) REVOCATION OF CERTIFICATE.—Section 44710
5 is amended by adding at the end thereof the following:

6 “(g) REVOCATION FOR DEALING IN COUNTERFEIT
7 PARTS.—The Administrator shall revoke an airman cer-
8 tificate or an airframe and powerplant certificate under
9 subpart D of part 65 of title 14, Code of Federal Regula-
10 tions, issued to any person convicted of a violation of any
11 Federal or State law relating to the installation, produc-
12 tion, repair, or sale of a counterfeit or falsely represented
13 aviation part or material.”.

14 (c) PROHIBITION ON EMPLOYMENT.—Section 44711
15 is amended by adding at the end thereof the following:

16 “(c) PROHIBITION ON EMPLOYMENT OF CONVICTED
17 COUNTERFEIT PART DEALERS.—No person subject to
18 this chapter may employ an individual to perform a func-
19 tion related to the procurement, sale, production, or repair
20 of a part or material, or the installation of a part into
21 a civil aircraft, who has been convicted of a violation of
22 any Federal or State law relating to the installation, pro-
23 duction, repair, or sale of a counterfeit or falsely rep-
24 resented aviation part or material.”.

1 **SEC. 506. FAA MAY FINE UNRULY PASSENGERS.**

2 (a) IN GENERAL.—Chapter 463 is amended by redес-
3 ignating section 46316 as section 46317, and by inserting
4 after section 46315 the following:

5 **“§ 46316. Interference with cabin or flight crew**

6 “(a) IN GENERAL.—An individual who interferes
7 with the duties or responsibilities of the flight crew or
8 cabin crew of a civil aircraft, or who poses an imminent
9 threat to the safety of the aircraft or other individuals on
10 the aircraft, is liable to the United States Government for
11 a civil penalty of not more than \$10,000, which shall be
12 paid to the Federal Aviation Administration and deposited
13 in the account established by section 45303(c).

14 “(b) COMPROMISE AND SETOFF.—

15 “(1) The Secretary of Transportation may com-
16 promise the amount of a civil penalty imposed under
17 subsection (a).

18 “(2) The Government may deduct the amount
19 of a civil penalty imposed or compromised under this
20 section from amounts it owes the individual liable
21 for the penalty.”.

22 (b) CONFORMING CHANGE.—The chapter analysis
23 for chapter 463 is amended by striking the item relating
24 to section 46316 and inserting after the item relating to
25 section 46315 the following:

“46316. Interference with cabin or flight crew

“46317. General criminal penalty when specific penalty not provided”.

1 **SEC. 507. HIGHER INTERNATIONAL STANDARDS FOR**
 2 **HANDICAPPED ACCESS.**

3 The Secretary of Transportation shall work with ap-
 4 propriate international organizations and the aviation au-
 5 thorities of other nations to bring about their establish-
 6 ment of higher standards for accommodating handicapped
 7 passengers in air transportation, particularly with respect
 8 to foreign air carriers that code-share with domestic air
 9 carriers.

10 **SEC. 508. CONVEYANCES OF UNITED STATES GOVERNMENT**
 11 **LAND.**

12 (a) IN GENERAL.—Section 47125(a) is amended to
 13 read as follows:

14 “(a) CONVEYANCES TO PUBLIC AGENCIES.—Except
 15 as provided in subsection (b) of this section, the Secretary
 16 of Transportation—

17 “(1) shall request the head of the department,
 18 agency, or instrumentality owning or controlling
 19 land or airspace to convey a property interest in the
 20 land or airspace to the public agency sponsoring the
 21 project or owning or controlling the airport when
 22 necessary to carry out a project under this sub-
 23 chapter at a public airport, to operate a public air-
 24 port, or for the future development of an airport

1 under the national plan of integrated airport sys-
2 tems; and

3 “(2) may request the head of such a depart-
4 ment, agency, or instrumentality to convey a prop-
5 erty interest in the land or airspace to a public agen-
6 cy for a use that will complement, facilitate, or aug-
7 ment airport development, including the development
8 of additional revenue from both aviation and non-
9 aviation sources if the Secretary—

10 “(A) determines that the property is no
11 longer needed for aeronautical purposes;

12 “(B) determines that the property will be
13 used to generate revenue for the public airport;

14 “(C) provides preliminary notice to the
15 head of such department, agency, or instrumen-
16 tality at least 30 days before making the re-
17 quest;

18 “(D) provides an opportunity for notice to
19 the public and public comment on the request;
20 and

21 “(E) includes in the request a written jus-
22 tification for the conveyance.”.

23 (b) APPLICATION TO EXISTING CONVEYANCES.—The
24 provisions of section 47125(a)(2), as amended by sub-
25 section (a) apply to property interests conveyed under sec-

1 tion 47125 of that title before, on, or after the date of
 2 enactment of this Act, section 516 of the Airport and Air-
 3 way Improvement Act of 1982, section 23 of the Airport
 4 and Airway Development Act of 1970, or section 16 of
 5 the Federal Airport Act. For purposes of this section, the
 6 Secretary of Transportation (or the predecessor of the
 7 Secretary) shall be deemed to have met the requirements
 8 of subparagraphs (C), (D), and (E) of section 47125(a)(2)
 9 of such title, as so amended, for any such conveyance be-
 10 fore the date of enactment of this Act.

11 **SEC. 509. FLIGHT OPERATIONS QUALITY ASSURANCE**
 12 **RULES.**

13 Not later than 90 days after the date of enactment
 14 of this Act, the Administrator shall issue a notice of pro-
 15 posed rulemaking to develop procedures to protect air car-
 16 riers and their employees from civil enforcement action
 17 under the program known as Flight Operations Quality
 18 Assurance. Not later than 1 year after the last day of the
 19 period for public comment provided for in the notice of
 20 proposed rulemaking, the Administrator shall issue a final
 21 rule establishing those procedures.

22 **SEC. 510. WIDE AREA AUGMENTATION SYSTEM.**

23 (a) PLAN.—The Administrator shall identify or de-
 24 velop a plan to implement WAAS to provide navigation
 25 and landing approach capabilities for civilian use and

1 make a determination as to whether a backup system
2 is necessary. Until the Administrator determines that
3 WAAS is the sole means of navigation, the Administration
4 shall continue to develop and maintain a backup system.”.

5 (b) REPORT.—Within 6 months after the date of en-
6 actment of this Act, the Administrator shall—

7 (1) report to the Senate Committee on Com-
8 merce, Science, and Transportation and the House
9 of Representatives Committee on Transportation
10 and Infrastructure, on the plan developed under sub-
11 section (a);

12 (2) submit a timetable for implementing
13 WAAS; and

14 (3) make a determination as to whether WAAS
15 will ultimately become a primary or sole means of
16 navigation and landing approach capabilities.

17 (c) WAAS DEFINED.—For purposes of this section,
18 the term “WAAS” means wide area augmentation system.

19 (d) FUNDING AUTHORIZATION.—There are author-
20 ized to be appropriated to the Secretary of Transportation
21 such sums as may be necessary to carry out this sub-
22 section.

23 **SEC. 511. REGULATION OF ALASKA AIR GUIDES.**

24 The Administrator shall reissue the notice to opera-
25 tors originally published in the Federal Register on Janu-

1 ary 2, 1998, which advised Alaska guide pilots of the ap-
2 plicability of part 135 of title 14, Code of Federal Regula-
3 tions, to guide pilot operations. In reissuing the notice,
4 the Administrator shall provide for not less than 60 days
5 of public comment on the Federal Aviation Administration
6 action. If, notwithstanding the public comments, the Ad-
7 ministrator decides to proceed with the action, the Admin-
8 istrator shall publish in the Federal Register a notice jus-
9 tifying the Administrator's decision and providing at least
10 90 days for compliance.

11 **SEC. 512. APPLICATION OF FAA REGULATIONS.**

12 Section 40113 is amended by adding at the end
13 thereof the following:

14 “(f) APPLICATION OF CERTAIN REGULATIONS TO
15 ALASKA.—In amending title 14, Code of Federal Regula-
16 tions, in a manner affecting intrastate aviation in Alaska,
17 the Administrator of the Federal Aviation Administration
18 shall consider the extent to which Alaska is not served by
19 transportation modes other than aviation, and shall estab-
20 lish such regulatory distinctions as the Administrator con-
21 siders appropriate.”.

22 **SEC. 513. ADVANCED QUALIFICATION PROGRAM.**

23 (a) IN GENERAL.—Chapter 445 is amended by add-
24 ing at the end thereof the following:

1 **“§ 44516. Human factors program**

2 “(a) OVERSIGHT COMMITTEE.—The Administrator
3 of the Federal Aviation Administration shall establish an
4 advanced qualification program oversight committee to ad-
5 vise the Administrator on the development and execution
6 of Advanced Qualification Programs for air carriers under
7 this section, and to encourage their adoption and imple-
8 mentation.

9 “(b) HUMAN FACTORS TRAINING.—

10 “(1) AIR TRAFFIC CONTROLLERS.—The Admin-
11 istrator shall—

12 “(A) address the problems and concerns
13 raised by the National Research Council in its
14 report “The Future of Air Traffic Control” on
15 air traffic control automation; and

16 “(B) respond to the recommendations
17 made by the National Research Council.

18 “(2) PILOTS AND FLIGHT CREWS.—The Admin-
19 istrator shall work with the aviation industry to de-
20 velop specific training curricula, within 12 months
21 after the date of enactment of the National Air
22 Transportation System Improvement Act of 1998, to
23 address critical safety problems, including problems
24 of pilots—

1 “(A) in recovering from loss of control of
2 the aircraft, including handling unusual atti-
3 tudes and mechanical malfunctions;

4 “(B) in deviating from standard operating
5 procedures, including inappropriate responses to
6 emergencies and hazardous weather;

7 “(C) in awareness of altitude and location
8 relative to terrain to prevent controlled flight
9 into terrain; and

10 “(D) in landing and approaches, including
11 nonprecision approaches and go-around proce-
12 dures.

13 “(c) ACCIDENT INVESTIGATIONS.—The Adminis-
14 trator, working with the National Transportation Safety
15 Board and representatives of the aviation industry, shall
16 establish a process to assess human factors training as
17 part of accident and incident investigations.

18 “(d) TEST PROGRAM.—The Administrator shall es-
19 tablish a test program in cooperation with United States
20 air carriers to use model Jeppesen approach plates or
21 other similar tools to improve nonprecision landing ap-
22 proaches for aircraft.

23 “(e) ADVANCED QUALIFICATION PROGRAM DE-
24 FINED.—For purposes of this section, the term ‘advanced
25 qualification program’ means an alternative method for

1 qualifying, training, certifying, and ensuring the com-
 2 petency of flight crews and other commercial aviation op-
 3 erations personnel subject to the training and evaluation
 4 requirements of Parts 121 and 135 of title 14, Code of
 5 Federal Regulations.”.

6 (b) **AUTOMATION AND ASSOCIATED TRAINING.**—The
 7 Administrator shall complete the Administration’s updat-
 8 ing of training practices for automation and associated
 9 training requirements within 12 months after the date of
 10 enactment of this Act.

11 (c) **CONFORMING AMENDMENT.**—The chapter analy-
 12 sis for chapter 445 is amended by adding at the end there-
 13 of the following:

“44516. Advanced qualification program”.

14 **SEC. 514. INDEPENDENT VALIDATION OF FAA COSTS AND**
 15 **ALLOCATIONS.**

16 (a) **INDEPENDENT ASSESSMENT.**—

17 (1) **INITIATION.**—Not later than 90 days after
 18 the date of enactment of this Act, the Inspector
 19 General of the Department of Transportation shall
 20 initiate the analyses described in paragraph (2). In
 21 conducting the analyses, the Inspector General shall
 22 ensure that the analyses are carried out by 1 or
 23 more entities that are independent of the Federal
 24 Aviation Administration. The Inspector General may
 25 use the staff and resources of the Inspector General

1 or may contract with independent entities to conduct
2 the analyses.

3 (2) ASSESSMENT OF ADEQUACY AND ACCURACY
4 OF FAA COST DATA AND ATTRIBUTIONS.—To ensure
5 that the method for capturing and distributing the
6 overall costs of the Federal Aviation Administration
7 is appropriate and reasonable, the Inspector General
8 shall conduct an assessment that includes the follow-
9 ing:

10 (A)(i) Validation of Federal Aviation Ad-
11 ministration cost input data, including an audit
12 of the reliability of Federal Aviation Adminis-
13 tration source documents and the integrity and
14 reliability of the Federal Aviation Administra-
15 tion’s data collection process.

16 (ii) An assessment of the reliability of the
17 Federal Aviation Administration’s system for
18 tracking assets.

19 (iii) An assessment of the reasonableness
20 of the Federal Aviation Administration’s bases
21 for establishing asset values and depreciation
22 rates.

23 (iv) An assessment of the Federal Aviation
24 Administration’s system of internal controls for
25 ensuring the consistency and reliability of re-

1 ported data to begin immediately after full
2 operational capability of the cost accounting
3 system.

4 (B) A review and validation of the Federal
5 Aviation Administration's definition of the serv-
6 ices to which the Federal Aviation Administra-
7 tion ultimately attributes its costs, and the
8 methods used to identify direct costs associated
9 with the services.

10 (C) An assessment and validation of the
11 general cost pools used by the Federal Aviation
12 Administration, including the rationale for and
13 reliability of the bases on which the Federal
14 Aviation Administration proposes to allocate
15 costs of services to users and the integrity of
16 the cost pools as well as any other factors con-
17 sidered important by the Inspector General. Ap-
18 propriate statistical tests shall be performed to
19 assess relationships between costs in the various
20 cost pools and activities and services to which
21 the costs are attributed by the Federal Aviation
22 Administration.

23 (b) DEADLINE.—The independent analyses described
24 in this section shall be completed no later than 270 days
25 after the contracts are awarded to the outside independent

1 contractors. The Inspector General shall submit a final re-
2 port combining the analyses done by its staff with those
3 of the outside independent contractors to the Secretary of
4 Transportation, the Administrator, the Committee on
5 Commerce, Science, and Transportation of the Senate,
6 and the Committee on Transportation and Infrastructure
7 of the House of Representatives. The final report shall be
8 submitted by the Inspector General not later than 300
9 days after the award of contracts.

10 (c) FUNDING.—There are authorized to be appro-
11 priated such sums as may be necessary for the cost of
12 the contracted audit services authorized by this section.

13 **SEC. 515. WHISTLEBLOWER PROTECTION FOR FAA EM-**
14 **PLOYEES.**

15 Section 347(b)(1) of Public Law 104–50 (49 U.S.C.
16 106, note) is amended by striking “protection;” and in-
17 serting “protection, including the provisions for investiga-
18 tions and enforcement as provided in chapter 12 of title
19 5, United States Code;”.

20 **SEC. 516. REPORT ON MODERNIZATION OF OCEANIC ATC**
21 **SYSTEM.**

22 The Administrator of the Federal Aviation Adminis-
23 tration shall report to the Congress on plan to modernize
24 the oceanic air traffic control system, including a budget
25 for the program, a determination of the requirements for

1 modernization, and, if necessary, a proposal to fund the
2 program.

3 **SEC. 517. REPORT ON AIR TRANSPORTATION OVERSIGHT**
4 **SYSTEM.**

5 Beginning in 1999, the Administrator of the Federal
6 Aviation Administration shall report biannually to the
7 Congress on the air transportation oversight system pro-
8 gram announced by the Administration on May 13, 1998,
9 in detail on the training of inspectors, the number of in-
10 spectors using the system, air carriers subject to the sys-
11 tem, and the budget for the system.

12 **TITLE VI—AVIATION**
13 **COMPETITION PROMOTION**

14 **SEC. 601. PURPOSE.**

15 The purpose of this title is to facilitate, through a
16 5-year pilot program, incentives and projects that will help
17 up to 40 communities or consortia of communities to im-
18 prove their access to the essential airport facilities of the
19 national air transportation system through public-private
20 partnerships and to identify and establish ways to over-
21 come the unique policy, economic, geographic, and market-
22 place factors that may inhibit the availability of quality,
23 affordable air service to small communities.

1 **SEC. 602. ESTABLISHMENT OF SMALL COMMUNITY AVIA-**
2 **TION DEVELOPMENT PROGRAM.**

3 Section 102 is amended by adding at the end thereof
4 the following:

5 “(g) **SMALL COMMUNITY AIR SERVICE DEVELOP-**
6 **MENT PROGRAM.**—

7 “(1) **ESTABLISHMENT.**—The Secretary shall es-
8 tablish a 5-year pilot aviation development program
9 to be administered by a program director designated
10 by the Secretary.

11 “(2) **FUNCTIONS.**—The program director
12 shall—

13 “(A) function as a facilitator between
14 small communities and air carriers;

15 “(B) carry out section 41743 of this title;

16 “(C) carry out the airline service restora-
17 tion program under sections 41744, 41745, and
18 41746 of this title;

19 “(D) ensure that the Bureau of Transpor-
20 tation Statistics collects data on passenger in-
21 formation to assess the service needs of small
22 communities;

23 “(E) work with and coordinate efforts with
24 other Federal, State, and local agencies to in-
25 crease the viability of service to small commu-

1 nities and the creation of aviation development
2 zones; and

3 “(F) provide policy recommendations to
4 the Secretary and the Congress that will ensure
5 that small communities have access to quality,
6 affordable air transportation services.

7 “(3) REPORTS.—The program director shall
8 provide an annual report to the Secretary and the
9 Congress beginning in 1999 that—

10 “(A) analyzes the availability of air trans-
11 portation services in small communities, includ-
12 ing, but not limited to, an assessment of the air
13 fares charged for air transportation services in
14 small communities compared to air fares
15 charged for air transportation services in larger
16 metropolitan areas and an assessment of the
17 levels of service, measured by types of aircraft
18 used, the availability of seats, and scheduling of
19 flights, provided to small communities;

20 “(B) identifies the policy, economic, geo-
21 graphic and marketplace factors that inhibit the
22 availability of quality, affordable air transpor-
23 tation services to small communities; and

24 “(C) provides policy recommendations to
25 address the policy, economic, geographic, and

1 marketplace factors inhibiting the availability of
2 quality, affordable air transportation services to
3 small communities.”.

4 **SEC. 603. COMMUNITY-CARRIER AIR SERVICE PROGRAM.**

5 (a) IN GENERAL.—Subchapter II is amended by add-
6 ing at the end thereof the following:

7 **“§ 41743. Air service program for small communities**

8 “(a) COMMUNITIES PROGRAM.—Under advisory
9 guidelines prescribed by the Secretary of Transportation,
10 a small community or a consortia of small communities
11 or a State may develop an assessment of its air service
12 requirements, in such form as the program director des-
13 igned by the Secretary under section 102(g) may re-
14 quire, and submit the assessment and service proposal to
15 the program director.

16 “(b) SELECTION OF PARTICIPANTS.—In selecting
17 community programs for participation in the communities
18 program under subsection (a), the program director shall
19 apply criteria, including geographical diversity and the
20 presentation of unique circumstances, that will dem-
21 onstrate the feasibility of the program.

22 “(c) CARRIERS PROGRAM.—The program director
23 shall invite part 121 air carriers and regional/commuter
24 carriers (as such terms are defined in section 41715(d)
25 of this title) to offer service proposals in response to, or

1 in conjunction with, community aircraft service assess-
2 ments submitted to the office under subsection (a). A serv-
3 ice proposal under this paragraph shall include—

4 “(1) an assessment of potential daily passenger
5 traffic, revenues, and costs necessary for the carrier
6 to offer the service;

7 “(2) a forecast of the minimum percentage of
8 that traffic the carrier would require the community
9 to garner in order for the carrier to start up and
10 maintain the service; and

11 “(3) the costs and benefits of providing jet serv-
12 ice by regional or other jet aircraft.

13 “(d) PROGRAM SUPPORT FUNCTION.—The program
14 director shall work with small communities and air car-
15 riers, taking into account their proposals and needs, to
16 facilitate the initiation of service. The program director—

17 “(1) may work with communities to develop in-
18 novative means and incentives for the initiation of
19 service;

20 “(2) may obligate funds available to carry out
21 this section;

22 “(3) shall continue to work with both the car-
23 riers and the communities to develop a combination
24 of community incentives and carrier service levels
25 that—

1 “(A) are acceptable to communities and
2 carriers; and

3 “(B) do not conflict with other Federal or
4 State programs to facilitate air transportation
5 to the communities;

6 “(4) designate an airport in the program as an
7 Air Service Development Zone and work with the
8 community on means to attract business to the area
9 surrounding the airport, to develop land use options
10 for the area, and provide data, working with the De-
11 partment of Commerce and other agencies;

12 “(5) take such other action under subchapter
13 III of this chapter as may be appropriate.

14 “(e) LIMITATIONS.—

15 “(1) COMMUNITY SUPPORT.—The program di-
16 rector may not provide financial assistance under
17 subsection (e)(2) to any community unless the pro-
18 gram director determines that—

19 “(A) a public-private partnership exists at
20 the community level to carry out the commu-
21 nity’s proposal;

22 “(B) the community will make a substan-
23 tial financial contribution that is appropriate
24 for that community’s resources, but of not less

1 than 25 percent of the cost of the project in
2 any event;

3 “(C) the community has established an
4 open process for soliciting air service proposals;
5 and

6 “(D) the community will accord similar
7 benefits to air carriers that are similarly situ-
8 ated.

9 “(2) AMOUNT.—The program director may not
10 obligate more than \$20,000,000 over the 5 years of
11 the program.

12 “(3) NUMBER OF PARTICIPANTS.—The pro-
13 gram established under subsection (a) shall not in-
14 volve more than 40 communities or consortia of
15 communities.

16 “(f) REPORT.—The program director shall report
17 through the Secretary to the Congress annually on the
18 progress made under this section during the preceding
19 year in expanding commercial aviation service to smaller
20 communities.

21 **“§ 41744. Pilot program project authority**

22 “(a) IN GENERAL.—The program director designated
23 by the Secretary of Transportation under section
24 102(g)(1) shall establish a 5-year pilot program—

1 “(1) to assist communities and States with in-
2 adequate access to the national transportation sys-
3 tem to improve their access to that system; and

4 “(2) to facilitate better air service link-ups to
5 support the improved access.

6 “(b) PROJECT AUTHORITY.—Under the pilot pro-
7 gram established pursuant to subsection (a), the program
8 director may—

9 “(1) provide financial assistance by way of
10 grants to small communities or consortia of small
11 communities under section 41743 of up to \$500,000
12 per year; and

13 “(2) take such other action as may be appro-
14 priate.

15 “(c) OTHER ACTION.—Under the pilot program es-
16 tablished pursuant to subsection (a), the program director
17 may facilitate service by—

18 “(1) working with airports and air carriers to
19 ensure that appropriate facilities are made available
20 at essential airports;

21 “(2) collecting data on air carrier service to
22 small communities; and

23 “(3) providing policy recommendations to the
24 Secretary to stimulate air service and competition to
25 small communities.

1 **“§ 41745. Assistance to communities for service**

2 “(a) IN GENERAL.—Financial assistance provided
3 under section 41743 during any fiscal year as part of the
4 pilot program established under section 41744(a) shall be
5 implemented for not more than—

6 “(1) 4 communities within any State at any
7 given time; and

8 “(2) 40 communities in the entire program at
9 any time.

10 For purposes of this subsection, a consortium of commu-
11 nities shall be treated as a single community.

12 “(b) ELIGIBILITY.—In order to participate in a pilot
13 project under this subchapter, a State, community, or
14 group of communities shall apply to the Secretary in such
15 form and at such time, and shall supply such information,
16 as the Secretary may require, and shall demonstrate to
17 the satisfaction of the Secretary that—

18 “(1) the applicant has an identifiable need for
19 access, or improved access, to the national air trans-
20 portation system that would benefit the public;

21 “(2) the pilot project will provide material bene-
22 fits to a broad section of the travelling public, busi-
23 nesses, educational institutions, and other enter-
24 prises whose access to the national air transpor-
25 tation system is limited;

1 “(3) the pilot project will not impede competi-
2 tion; and

3 “(4) the applicant has established, or will estab-
4 lish, public-private partnerships in connection with
5 the pilot project to facilitate service to the public.

6 “(c) COORDINATION WITH OTHER PROVISIONS OF
7 SUBCHAPTER.—The Secretary shall carry out the 5-year
8 pilot program authorized by this subchapter in such a
9 manner as to complement action taken under the other
10 provisions of this subchapter. To the extent the Secretary
11 determines to be appropriate, the Secretary may adopt cri-
12 teria for implementation of the 5-year pilot program that
13 are the same as, or similar to, the criteria developed under
14 the preceding sections of this subchapter for determining
15 which airports are eligible under those sections. The Sec-
16 retary shall also, to the extent possible, provide incentives
17 where no direct, viable, and feasible alternative service ex-
18 ists, taking into account geographical diversity and appro-
19 priate market definitions.

20 “(d) MAXIMIZATION OF PARTICIPATION.—The Sec-
21 retary shall structure the program established pursuant
22 to section 41744(a) in a way designed to—

23 “(1) permit the participation of the maximum
24 feasible number of communities and States over a 5-

1 year period by limiting the number of years of par-
2 ticipation or otherwise; and

3 “(2) obtain the greatest possible leverage from
4 the financial resources available to the Secretary and
5 the applicant by—

6 “(A) progressively decreasing, on a project-
7 by-project basis, any Federal financial incen-
8 tives provided under this chapter over the 5-
9 year period; and

10 “(B) terminating as early as feasible Fed-
11 eral financial incentives for any project deter-
12 mined by the Secretary after its implementation
13 to be—

14 “(i) viable without further support
15 under this subchapter; or

16 “(ii) failing to meet the purposes of
17 this chapter or criteria established by the
18 Secretary under the pilot program.

19 “(e) SUCCESS BONUS.—If Federal financial incen-
20 tives to a community are terminated under subsection
21 (d)(2)(B) because of the success of the program in that
22 community, then that community may receive a one-time
23 incentive grant to ensure the continued success of that
24 program.

1 “(f) PROGRAM TO TERMINATE IN 5 YEARS.—No new
2 financial assistance may be provided under this sub-
3 chapter for any fiscal year beginning more than 5 years
4 after the date of enactment of the National Air Transpor-
5 tation System Improvement Act of 1998.

6 “§ 41746. **Additional authority**

7 ““In carrying out this chapter, the Secretary—

8 “(1) may provide assistance to States and com-
9 munities in the design and application phase of any
10 project under this chapter, and oversee the imple-
11 mentation of any such project;

12 “(2) may assist States and communities in put-
13 ting together projects under this chapter to utilize
14 private sector resources, other Federal resources, or
15 a combination of public and private resources;

16 “(3) may accord priority to service by jet air-
17 craft;

18 “(4) take such action as may be necessary to
19 ensure that financial resources, facilities, and admin-
20 istrative arrangements made under this chapter are
21 used to carry out the purposes of the Air Service
22 Restoration Title; and

23 “(5) shall work with the Federal Aviation Ad-
24 ministration on airport and air traffic control needs
25 of communities in program.

1 **“§ 41747. Air traffic control services pilot program**

2 “(a) IN GENERAL.—To further facilitate the use of,
3 and improve the safety at, small airports, the Adminis-
4 trator of the Federal Aviation Administration shall estab-
5 lish a pilot program to contract for Level I air traffic con-
6 trol services at 20 facilities not eligible for participation
7 in the Federal Contract Tower Program.

8 “(b) PROGRAM COMPONENTS.—In carrying out the
9 pilot program established under subsection (a), the Ad-
10 ministrator may—

11 “(1) utilize current, actual, site-specific data,
12 forecast estimates, or airport system plan data pro-
13 vided by a facility owner or operator;

14 “(2) take into consideration unique aviation
15 safety, weather, strategic national interest, disaster
16 relief, medical and other emergency management re-
17 lief services, status of regional airline service, and
18 related factors at the facility;

19 “(3) approve for participation any facility will-
20 ing to fund a pro rata share of the operating costs
21 used by the Federal Aviation Administration to cal-
22 culate, and, as necessary, a 1:1 benefit-to-cost ratio,
23 as required for eligibility under the Federal Contract
24 Tower Program; and

25 “(4) approve for participation no more than 3
26 facilities willing to fund a pro rata share of con-

1 construction costs for an air traffic control tower so as
2 to achieve, at a minimum, a 1:1 benefit-to-cost ratio,
3 as required for eligibility under the Federal Contract
4 Tower Program, and for each of such facilities the
5 Federal share of construction costs does not exceed
6 \$1,000,000.

7 “(c) REPORT.—One year before the pilot program es-
8 tablished under subsection (a) terminates, the Adminis-
9 trator shall report to the Congress on the effectiveness of
10 the program, with particular emphasis on the safety and
11 economic benefits provided to program participants and
12 the national air transportation system.”.

13 (b) CONFORMING AMENDMENT.—The chapter analy-
14 sis for chapter 417 is amended by inserting after the item
15 relating to section 41742 the following:

“41743. Air service program for small communities

“41744. Pilot program project authority

“41745. Assistance to communities for service

“41746. Additional authority

“41747. Air traffic control services pilot program”.

16 (c) WAIVER OF LOCAL CONTRIBUTION.—Section
17 41736(b) is amended by inserting after paragraph (4) the
18 following:

19 “Paragraph (4) does not apply to any community ap-
20 proved for service under this section during the period be-
21 ginning October 1, 1991, and ending December 31,
22 1997.”.

1 **SEC. 604. FUNDING AUTHORITY.**

2 The Secretary of Transportation may obligate not
3 more than \$20,000,000 for the 5 fiscal year period begin-
4 ning with fiscal year 1999 to carry out sections 41743
5 through 41746 of chapter 417 of title 49, United States
6 Code, out of the account established under section 45303.

7 **SEC. 605. MARKETING PRACTICES.**

8 Section 41712 is amended by—

9 (1) inserting “(a) IN GENERAL.—” before
10 “On”; and

11 (2) adding at the end thereof the following:

12 “(b) MARKETING PRACTICES THAT ADVERSELY AF-
13 FECT SERVICE TO SMALL OR MEDIUM COMMUNITIES.—
14 Within 180 days after the date of enactment of the Na-
15 tional Air Transportation System Improvement Act of
16 1998, the Secretary shall review the marketing practices
17 of air carriers that may inhibit the availability of quality,
18 affordable air transportation services to small and me-
19 dium-sized communities, including—

20 “(1) marketing arrangements between airlines
21 and travel agents;

22 “(2) code-sharing partnerships;

23 “(3) computer reservation system displays;

24 “(4) gate arrangements at airports; and

25 “(5) any other marketing practice that may
26 have the same effect.

1 “(c) REGULATIONS.—If the Secretary finds, after
2 conducting the review required by subsection (b), that
3 marketing practices inhibit the availability of such service
4 to such communities, then, after public notice and an op-
5 portunity for comment, the Secretary shall promulgate
6 regulations that address the problem.”.

7 **SEC. 606. SLOT EXEMPTIONS FOR NONSTOP REGIONAL JET**
8 **SERVICE.**

9 (a) IN GENERAL.—Section 41714 is amended—

10 (1) by redesignating subsection (h) as sub-
11 section (i); and

12 (2) by inserting after subsection (g) the follow-
13 ing:

14 “(h) SLOTS FOR NONSTOP JET SERVICE EXEMP-
15 TION.—

16 “(1) IN GENERAL.—Within 90 days after re-
17 ceiving an application for an exemption to provide
18 nonstop regional jet air service between—

19 “(A) a nonhub airport (as defined in sec-
20 tion 41731(a)(4)) or a small hub airport (as de-
21 fined in section 41731(a)(5)); and

22 “(B) a high density airport subject to the
23 exemption authority under subsection (a),

1 the Secretary shall grant or deny the exemption in
2 accordance with established principles of safety and
3 the promotion of competition.

4 “(2) EXISTING SLOTS TAKEN IN ACCOUNT.—In
5 deciding to grant or deny the exemption, the Sec-
6 retary may take into consideration the slots already
7 used by the applicant.

8 “(3) CONDITIONS.—The Secretary may grant
9 an exemption to an air carrier under paragraph
10 (1)—

11 “(A) for a period of not less than 12
12 months;

13 “(B) for a minimum of 2 daily roundtrip
14 flights; and

15 “(C) for a maximum of 3 daily roundtrip
16 flights.

17 “(4) CHANGE OF NONHUB OR SMALL HUB AIR-
18 PORT; JET AIRCRAFT.—The Secretary may, upon ap-
19 plication made by an air carrier operating under an
20 exemption granted under paragraph (1)—

21 “(A) authorize the air carrier to upgrade
22 its service under the exemption to a larger jet
23 aircraft; and

24 “(B) authorize an air carrier operating
25 under such an exemption to change the nonhub

1 airport or small hub airport for which the ex-
2 emption was granted to provide the same serv-
3 ice to a different nonhub or small hub airport
4 if—

5 “(i) the air carrier has been operating
6 under the exemption for a period of not
7 less than 12 months; and

8 “(ii) the air carrier can demonstrate
9 unmitigatable losses.

10 “(5) FOREFEITURE FOR MISUSE.—Any exemp-
11 tion granted under paragraph (1) shall be termi-
12 nated immediately by the Secretary if the air carrier
13 to which it was granted uses the slot for any pur-
14 pose other than the purpose for which it was grant-
15 ed or in violation of the conditions under which it
16 was granted.

17 “(6) RESTORATION OF AIR SERVICE.—To the
18 extent that—

19 “(A) slots were withdrawn from an air car-
20 rier under subsection (b) of this section;

21 “(B) the withdrawal of slots under that
22 subsection resulted in a net loss of slots; and

23 “(C) the net loss of slots resulting from
24 the withdrawal had an adverse effect on service

1 to nonhub airports and in other domestic mar-
2 kets,
3 the Secretary shall give priority consideration to the
4 request of any air carrier from which slots were
5 withdrawn under that section for an equivalent num-
6 ber of slots at the airport where the slots were with-
7 drawn.

8 “(7) PRIORITY TO NEW ENTRANTS AND LIM-
9 ITED INCUMBENT CARRIERS.—In assigning slots
10 under this subsection the Secretary shall, in conjunc-
11 tion with paragraph (5), give priority consideration
12 to an application from an air carrier that, as of July
13 1, 1998, held fewer than 20 slots at the high density
14 airport for which it filed an exemption application.”.

15 (b) DEFINITIONS.—Subsection (i) of section 41714
16 as redesignated by subsection (a), is amended by—

17 (1) by striking “The term” in paragraph (1)
18 and inserting “Except as provided in paragraph (5),
19 the term”; and

20 (2) adding at the end thereof the following:

21 “(5) NONSTOP JET EXEMPTION DEFINI-
22 TIONS.—Any term used in subsection (h) that is de-
23 fined in section 41762 has the meaning given that
24 term by section 41762.”.

1 (c) SLOT WITHDRAWAL NOT TO AFFECT NONHUB
2 SERVICE.—Section 41714, as amended by subsection (a),
3 is amended—

4 (1) by redesignating subsection (i) as subsection
5 (j); and

6 (2) by inserting after subsection (h) the follow-
7 ing:

8 “(i) SLOT WITHDRAWAL MAY NOT AFFECT NONHUB
9 SERVICE.—The Secretary may not withdraw a slot from
10 a United States air carrier under this section in order to
11 provide a slot to a foreign air carrier for purposes of inter-
12 national air transportation unless the Secretary finds
13 that—

14 “(1) the withdrawal of that slot from the
15 United States air carrier will not adversely affect air
16 service to nonhub airports; and

17 “(2) United States air carriers seeking slots for
18 purposes of international air transportation at an
19 airport in the home country of that foreign air car-
20 rier receive reciprocal treatment by the government
21 of that country.”.

22 **SEC. 607. SECRETARY SHALL GRANT EXEMPTIONS TO PE-**
23 **RIMETER RULE.**

24 (a) IN GENERAL.—The Secretary of Transportation
25 shall by order grant exemptions from the application of

1 section 49109 of title 49, United States Code, to air car-
2 riers to operate limited frequencies and aircraft on select
3 routes between Ronald Reagan Washington National Air-
4 port and other airports if the Secretary finds that the ex-
5 emption will—

6 (1) provide air transportation service with do-
7 mestic network benefits in areas beyond the perim-
8 eter described in that section; and

9 (2) increase competition in multiple markets.

10 (b) LIMITATIONS.—

11 (1) AIRCRAFT.—An exemption granted under
12 subsection (a) may not be granted with respect to
13 any aircraft that is not a Stage 3 aircraft (as de-
14 fined by the Secretary).

15 (2) NUMBER AND TYPE OF OPERATION.—An
16 exemption granted under subsection (a) may not—

17 (A) result in more than 12 new daily air
18 carrier slots at such airport for long-haul serv-
19 ice beyond the perimeter;

20 (B) result in more than 12 new daily com-
21 muter slots at such airport; or

22 (C) result in new daily commuter slots for
23 service to any within-the-perimeter market that
24 is not an underserved market.

1 (3) HOURS OF OPERATION.—In granting ex-
2 emptions under subsection (a), the Secretary shall
3 distribute the 24 new daily slots fairly evenly across
4 the hours between 7:00 a.m. and 9:59 p.m., except
5 that—

6 (A) 2 slots per hour shall be added during
7 9 of the hours beginning during that period;
8 and

9 (B) 1 slot per hour shall be added during
10 6 of the hours beginning during that period.

11 (4) PROTECTION OF INCUMBENT CARRIERS.—
12 An exemption granted under subsection (a) may not
13 result in the withdrawal of a slot from any incum-
14 bent air carrier at that airport.

15 (c) WITHIN-PERIMETER SLOT DISTRIBUTION.—The
16 Secretary shall develop criteria for distributing slots for
17 flights within the perimeter to airports other than large
18 hubs (as defined in section 47134(d)(2) of title 49, United
19 States Code) in a manner consistent with promoting com-
20 petition.

21 (d) REPORT.—Within 1 year after the date of enact-
22 ment of this Act, and biannually thereafter, the Secretary
23 shall certify to the United States Senate Committee on
24 Commerce, Science, and Transportation, the United
25 States House of Representatives Committee on Transpor-

1 tation and Infrastructure, and the Governments of Mary-
2 land and Virginia that noise standards, air traffic conges-
3 tion, airport-related vehicular congestion, safety stand-
4 ards, and adequate air service to communities served by
5 small hub airports and medium hub airports within the
6 perimeter described in section 49109 of title 49, United
7 States Code, have been maintained at appropriate levels.

8 (d) FORFEITURE FOR MISUSE.—The Secretary shall
9 terminate an exemption granted under subsection (a) if
10 the air carrier to which it was granted violates subsection
11 (b)(5), and reallocate the exemption under subsection (a)
12 to another air carrier.

13 (f) CERTAIN TITLE 49 DEFINITIONS APPLY.—Any
14 term used in this section that is defined in chapter 417
15 of title 49, United States Code, has the meaning given
16 that term in that chapter.

17 **SEC. 608. ADDITIONAL SLOTS AT CHICAGO'S O'HARE AIR-**
18 **PORT.**

19 (a) IN GENERAL.—The Secretary of Transportation
20 may grant 100 additional slots under section 41714 of
21 title 49, United States Code, over a 3-year period to air
22 carriers to operate limited frequencies and aircraft on se-
23 lect routes between O'Hare Airport in Chicago, Illinois,
24 and other airports if the Secretary—

1 (1) first converts unused military slots at that
2 airport to air carrier slots;

3 (2) before granting the additional slots, finds
4 that the additional capacity—

5 (A) is available; and

6 (B) can be used safely; and

7 (3) limits the use of the additional slots to
8 Stage 3 aircraft (as defined by the Secretary).

9 (b) CERTAIN TITLE 49 DEFINITIONS APPLY.—Any
10 term used in this section that is defined in chapter 417
11 of title 49, United States Code, has the meaning given
12 that term in that chapter.

13 **SEC. 609. CONSUMER NOTIFICATION OF E-TICKET EXPIRA-**
14 **TION DATES.**

15 Section 41712 is amended by—

16 (1) inserting “(a) IN GENERAL.—” before
17 “On”; and

18 (2) adding at the end thereof the following:

19 “(b) E-TICKET EXPIRATION NOTICE.—It shall be an
20 unfair or deceptive practice under subsection (a) for any
21 air carrier utilizing electronically transmitted tickets to
22 fail to notify the purchaser of such a ticket of its expira-
23 tion date, if any.”.

1 **TITLE VII—PARK OVERFLIGHTS**

2 **SEC. 701. FINDINGS.**

3 The Congress finds that—

4 (1) the Federal Aviation Administration has
5 sole authority to control airspace over the United
6 States;

7 (2) the Federal Aviation Administration has the
8 authority to preserve, protect, and enhance the envi-
9 ronment by minimizing, mitigating, or preventing
10 the adverse effects of aircraft overflights on the pub-
11 lic and tribal lands;

12 (3) the National Park Service has the respon-
13 sibility of conserving the scenery and natural and
14 historic objects and wildlife in national parks and of
15 providing for the enjoyment of the national parks in
16 ways that leave the national parks unimpaired for
17 future generations;

18 (4) the protection of tribal lands from aircraft
19 overflights is consistent with protecting the public
20 health and welfare and is essential to the mainte-
21 nance of the natural and cultural resources of In-
22 dian tribes;

23 (5) the National Parks Overflights Working
24 Group, composed of general aviation, air tour, envi-
25 ronmental, and Native American representatives,

1 recommended that the Congress enact legislation
2 based on its consensus work product; and

3 (6) this title reflects the recommendations made
4 by that Group.

5 **SEC. 702. AIR TOUR MANAGEMENT PLANS FOR NATIONAL**
6 **PARKS.**

7 (a) IN GENERAL.—Chapter 401 is amended by add-
8 ing at the end the following:

9 **“§ 40125. Overflights of national parks**

10 “(a) IN GENERAL.—

11 “(1) GENERAL REQUIREMENTS.—A commercial
12 air tour operator may not conduct commercial air
13 tour operations over a national park or tribal lands
14 except—

15 “(A) in accordance with this section;

16 “(B) in accordance with conditions and
17 limitations prescribed for that operator by the
18 Administrator; and

19 “(C) in accordance with any effective air
20 tour management plan for that park or those
21 tribal lands.

22 “(2) APPLICATION FOR OPERATING AUTHOR-
23 ITY.—

24 “(A) APPLICATION REQUIRED.—Before
25 commencing commercial air tour operations

1 over a national park or tribal lands, a commer-
2 cial air tour operator shall apply to the Admin-
3 istrator for authority to conduct the operations
4 over that park or those tribal lands.

5 “(B) COMPETITIVE BIDDING FOR LIMITED
6 CAPACITY PARKS.—Whenever a commercial air
7 tour management plan limits the number of
8 commercial air tour flights over a national park
9 area during a specified time frame, the Admin-
10 istrator, in cooperation with the Director, shall
11 authorize commercial air tour operators to pro-
12 vide such service. The authorization shall speci-
13 fy such terms and conditions as the Adminis-
14 trator and the Director find necessary for man-
15 agement of commercial air tour operations over
16 the national park. The Administrator, in co-
17 operation with the Director, shall develop an
18 open competitive process for evaluating propos-
19 als from persons interested in providing com-
20 mercial air tour services over the national park.
21 In making a selection from among various pro-
22 posals submitted, the Administrator, in co-
23 operation with the Director, shall consider rel-
24 evant factors, including—

1 “(i) the safety record of the company
2 or pilots;

3 “(ii) any quiet aircraft technology pro-
4 posed for use;

5 “(iii) the experience in commercial air
6 tour operations over other national parks
7 or scenic areas;

8 “(iv) the financial capability of the
9 company;

10 “(v) any training programs for pilots;
11 and

12 “(vi) responsiveness to any criteria de-
13 veloped by the National Park Service or
14 the affected national park.

15 “(C) NUMBER OF OPERATIONS AUTHOR-
16 IZED.—In determining the number of author-
17 izations to issue to provide commercial air tour
18 service over a national park, the Administrator,
19 in cooperation with the Director, shall take into
20 consideration the provisions of the air tour
21 management plan, the number of existing com-
22 mercial air tour operators and current level of
23 service and equipment provided by any such
24 companies, and the financial viability of each
25 commercial air tour operation.

1 “(D) COOPERATION WITH NPS.—Before
2 granting an application under this paragraph,
3 the Administrator shall, in cooperation with the
4 Director, develop a air tour management plan
5 in accordance with subsection (b) and imple-
6 ment such plan.

7 “(E) TIME LIMIT ON RESPONSE TO ATMP
8 APPLICATIONS.—The Administrator shall act on
9 any such application and issue a decision on the
10 application not later than 24 months after it is
11 received or amended.

12 “(3) EXCEPTION.—Notwithstanding paragraph
13 (1), commercial air tour operators may conduct com-
14 mercial air tour operations over a national park
15 under part 91 of the Federal Aviation Regulations
16 (14 CFR 91.1 et seq.) if—

17 “(A) such activity is permitted under part
18 119 (14 CFR 119.1(e)(2));

19 “(B) the operator secures a letter of agree-
20 ment from the Administrator and the national
21 park superintendent for that national park de-
22 scribing the conditions under which the flight
23 operations will be conducted; and

24 “(C) the total number of operations under
25 this exception is limited to not more than 5

1 flights in any 30-day period over a particular
2 park.

3 “(4) SPECIAL RULE FOR SAFETY REQUIRE-
4 MENTS.—Notwithstanding subsection (c), an exist-
5 ing commercial air tour operator shall, not later
6 than 90 days after the date of enactment of the Na-
7 tional Air Transportation System Improvement Act
8 of 1998, apply for operating authority under part
9 119, 121, or 135 of the Federal Aviation Regula-
10 tions (14 CFR Pt. 119, 121, or 135). A new entrant
11 commercial air tour operator shall apply for such au-
12 thority before conducting commercial air tour oper-
13 ations over a national park or tribal lands.

14 “(b) AIR TOUR MANAGEMENT PLANS.—

15 “(1) ESTABLISHMENT OF ATMPS.—

16 “(A) IN GENERAL.—The Administrator
17 shall, in cooperation with the Director, establish
18 an air tour management plan for any national
19 park or tribal land for which such a plan is not
20 already in effect whenever a person applies for
21 authority to operate a commercial air tour over
22 the park. The development of the air tour man-
23 agement plan is to be a cooperative undertaking
24 between the Federal Aviation Administration
25 and the National Park Service. The air tour

1 management plan shall be developed by means
2 of a public process, and the agencies shall de-
3 velop information and analysis that explains the
4 conclusions that the agencies make in the appli-
5 cation of the respective criteria. Such expla-
6 nations shall be included in the Record of Deci-
7 sion and may be subject to judicial review.

8 “(B) OBJECTIVE.—The objective of any
9 air tour management plan shall be to develop
10 acceptable and effective measures to mitigate or
11 prevent the significant adverse impacts, if any,
12 of commercial air tours upon the natural and
13 cultural resources and visitor experiences and
14 tribal lands.

15 “(2) ENVIRONMENTAL DETERMINATION.—In
16 establishing an air tour management plan under this
17 subsection, the Administrator and the Director shall
18 each sign the environmental decision document re-
19 quired by section 102 of the National Environmental
20 Policy Act of 1969 (42 U.S.C. 4332) which may in-
21 clude a finding of no significant impact, an environ-
22 mental assessment, or an environmental impact
23 statement, and the Record of Decision for the air
24 tour management plan.

1 “(3) CONTENTS.—An air tour management
2 plan for a national park—

3 “(A) may prohibit commercial air tour op-
4 erations in whole or in part;

5 “(B) may establish conditions for the con-
6 duct of commercial air tour operations, includ-
7 ing commercial air tour routes, maximum or
8 minimum altitudes, time-of-day restrictions, re-
9 strictions for particular events, maximum num-
10 ber of flights per unit of time, intrusions on pri-
11 vacy on tribal lands, and mitigation of noise,
12 visual, or other impacts;

13 “(C) may apply to all commercial air tours
14 within ½ mile outside the boundary of a na-
15 tional park;

16 “(D) shall include incentives (such as pre-
17 ferred commercial air tour routes and altitudes,
18 relief from caps and curfews) for the adoption
19 of quieter aircraft technology by commercial air
20 tour operators conducting commercial air tour
21 operations at the park;

22 “(E) shall provide for the initial allocation
23 of opportunities to conduct commercial air
24 tours if the plan includes a limitation on the

1 number of commercial air tour flights for any
2 time period; and

3 “(F) shall justify and document the need
4 for measures taken pursuant to subparagraphs
5 (A) through (E).

6 “(4) PROCEDURE.—In establishing a commer-
7 cial air tour management plan for a national park,
8 the Administrator and the Director shall—

9 “(A) initiate at least one public meeting
10 with interested parties to develop a commercial
11 air tour management plan for the park;

12 “(B) publish the proposed plan in the Fed-
13 eral Register for notice and comment and make
14 copies of the proposed plan available to the
15 public;

16 “(C) comply with the regulations set forth
17 in sections 1501.3 and 1501.5 through 1501.8
18 of title 40, Code of Federal Regulations (for
19 purposes of complying with those regulations,
20 the Federal Aviation Administration is the lead
21 agency and the National Park Service is a co-
22 operating agency); and

23 “(D) solicit the participation of any Indian
24 tribe whose tribal lands are, or may be,
25 overflowed by aircraft involved in commercial air

1 tour operations over a national park or tribal
2 lands, as a cooperating agency under the regu-
3 lations referred to in paragraph (4)(C).

4 “(5) AMENDMENTS.—Any amendment of an air
5 tour management plan shall be published in the
6 Federal Register for notice and comment. A request
7 for amendment of an air tour management plan
8 shall be made in such form and manner as the Ad-
9 ministrators may prescribe.

10 “(c) INTERIM OPERATING AUTHORITY.—

11 “(1) IN GENERAL.—Upon application for oper-
12 ating authority, the Administrator shall grant in-
13 terim operating authority under this paragraph to a
14 commercial air tour operator for a national park or
15 tribal lands for which the operator is an existing
16 commercial air tour operator.

17 “(2) REQUIREMENTS AND LIMITATIONS.—In-
18 terim operating authority granted under this para-
19 graph—

20 “(A) shall provide annual authorization
21 only for the greater of—

22 “(i) the number of flights used by the
23 operator to provide such tours within the
24 12-month period prior to the date of enact-

1 ment of the National Air Transportation
2 System Improvement Act of 1998; or

3 “(ii) the average number of flights per
4 12-month period used by the operator to
5 provide such tours within the 36-month pe-
6 riod prior to such date of enactment, and,
7 for seasonal operations, the number of
8 flights so used during the season or sea-
9 sons covered by that 12-month period;

10 “(B) may not provide for an increase in
11 the number of operations conducted during any
12 time period by the commercial air tour operator
13 to which it is granted unless the increase is
14 agreed to by the Administrator and the Direc-
15 tor;

16 “(C) shall be published in the Federal Reg-
17 ister to provide notice and opportunity for com-
18 ment;

19 “(D) may be revoked by the Administrator
20 for cause;

21 “(E) shall terminate 180 days after the
22 date on which an air tour management plan is
23 established for that park or those tribal lands;
24 and

25 “(F) shall—

1 “(i) promote protection of national
2 park resources, visitor experiences, and
3 tribal lands;

4 “(ii) promote safe operations of the
5 commercial air tour;

6 “(iii) promote the adoption of quiet
7 technology, as appropriate; and

8 “(iv) allow for modifications of the op-
9 eration based on experience if the modi-
10 fication improves protection of national
11 park resources and values and of tribal
12 lands.

13 “(3) NEW ENTRANT AIR TOUR OPERATORS.—

14 “(A) IN GENERAL.—The Administrator, in
15 cooperation with the Director, may grant in-
16 terim operating authority under this paragraph
17 to an air tour operator for a national park for
18 which that operator is a new entrant air tour
19 operator if the Administrator determines the
20 authority is necessary to ensure competition in
21 the provision of commercial air tours over that
22 national park or those tribal lands.

23 “(B) SAFETY LIMITATION.—The Adminis-
24 trator may not grant interim operating author-
25 ity under subparagraph (A) if the Adminis-

1 trator determines that it would create a safety
2 problem at that park or on tribal lands, or the
3 Director determines that it would create a noise
4 problem at that park or on tribal lands.

5 “(C) ATMP LIMITATION.—The Adminis-
6 trator may grant interim operating authority
7 under subparagraph (A) of this paragraph only
8 if the air tour management plan for the park or
9 tribal lands to which the application relates has
10 not been developed within 24 months after the
11 date of enactment of the National Air Trans-
12 portation System Improvement Act of 1998.

13 “(d) DEFINITIONS.—In this section, the following
14 definitions apply:

15 “(1) COMMERCIAL AIR TOUR.—The term ‘com-
16 mercial air tour’ means any flight conducted for
17 compensation or hire in a powered aircraft where a
18 purpose of the flight is sightseeing. If the operator
19 of a flight asserts that the flight is not a commercial
20 air tour, factors that can be considered by the Ad-
21 ministrators in making a determination of whether
22 the flight is a commercial air tour, include, but are
23 not limited to—

1 “(A) whether there was a holding out to
2 the public of willingness to conduct a sightsee-
3 ing flight for compensation or hire;

4 “(B) whether a narrative was provided
5 that referred to areas or points of interest on
6 the surface;

7 “(C) the area of operation;

8 “(D) the frequency of flights;

9 “(E) the route of flight;

10 “(F) the inclusion of sightseeing flights as
11 part of any travel arrangement package; or

12 “(G) whether the flight or flights in ques-
13 tion would or would not have been canceled
14 based on poor visibility of the surface.

15 “(2) COMMERCIAL AIR TOUR OPERATOR.—The
16 term ‘commercial air tour operator’ means any per-
17 son who conducts a commercial air tour.

18 “(3) EXISTING COMMERCIAL AIR TOUR OPERA-
19 TOR.—The term ‘existing commercial air tour opera-
20 tor’ means a commercial air tour operator that was
21 actively engaged in the business of providing com-
22 mercial air tours over a national park at any time
23 during the 12-month period ending on the date of
24 enactment of the National Air Transportation Sys-
25 tem Improvement Act of 1998.

1 “(4) NEW ENTRANT COMMERCIAL AIR TOUR
2 OPERATOR.—The term ‘new entrant commercial air
3 tour operator’ means a commercial air tour operator
4 that—

5 “(A) applies for operating authority as a
6 commercial air tour operator for a national
7 park; and

8 “(B) has not engaged in the business of
9 providing commercial air tours over that na-
10 tional park or those tribal lands in the 12-
11 month period preceding the application.

12 “(5) COMMERCIAL AIR TOUR OPERATIONS.—
13 The term ‘commercial air tour operations’ means
14 commercial air tour flight operations conducted—

15 “(A) over a national park or within ½ mile
16 outside the boundary of any national park;

17 “(B) below a minimum altitude, deter-
18 mined by the Administrator in cooperation with
19 the Director, above ground level (except solely
20 for purposes of takeoff or landing, or necessary
21 for safe operation of an aircraft as determined
22 under the rules and regulations of the Federal
23 Aviation Administration requiring the pilot-in-
24 command to take action to ensure the safe op-
25 eration of the aircraft); and

1 “(C) less than 1 mile laterally from any
2 geographic feature within the park (unless more
3 than ½ mile outside the boundary).

4 “(6) NATIONAL PARK.—The term ‘national
5 park’ means any unit of the National Park System.

6 “(7) TRIBAL LANDS.—The term ‘tribal lands’
7 means ‘Indian country’, as defined by section 1151
8 of title 18, United States Code, that is within or
9 abutting a national park.

10 “(8) ADMINISTRATOR.—The term ‘Adminis-
11 trator’ means the Administrator of the Federal Avia-
12 tion Administration.

13 “(9) DIRECTOR.—The term ‘Director’ means
14 the Director of the National Park Service.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for chapter 401 is amended by adding at the end thereof
17 the following:

 “40125. Overflights of national parks”.

18 **SEC. 703. ADVISORY GROUP.**

19 (a) ESTABLISHMENT.—Not later than 1 year after
20 the date of enactment of this Act, the Administrator of
21 the Federal Aviation Administration and the Director of
22 the National Park Service shall jointly establish an advi-
23 sory group to provide continuing advice and counsel with
24 respect to the operation of commercial air tours over and
25 near national parks.

1 (b) MEMBERSHIP.—

2 (1) IN GENERAL.—The advisory group shall be
3 composed of—

4 (A) a balanced group of —

5 (i) representatives of general aviation;

6 (ii) representatives of commercial air
7 tour operators;

8 (iii) representatives of environmental
9 concerns; and

10 (iv) representatives of Indian tribes;

11 (B) a representative of the Federal Avia-
12 tion Administration; and

13 (C) a representative of the National Park
14 Service.

15 (2) EX-OFFICIO MEMBERS.—The Administrator
16 and the Director shall serve as ex-officio members.

17 (3) CHAIRPERSON.—The representative of the
18 Federal Aviation Administration and the representa-
19 tive of the National Park Service shall serve alter-
20 nating 1-year terms as chairman of the advisory
21 group, with the representative of the Federal Avia-
22 tion Administration serving initially until the end of
23 the calendar year following the year in which the ad-
24 visory group is first appointed.

1 (c) DUTIES.—The advisory group shall provide ad-
2 vice, information, and recommendations to the Adminis-
3 trator and the Director—

4 (1) on the implementation of this title;

5 (2) on the designation of commonly accepted
6 quiet aircraft technology for use in commercial air
7 tours of national parks or tribal lands, which will re-
8 ceive preferential treatment in a given air tour man-
9 agement plan;

10 (3) on other measures that might be taken to
11 accommodate the interests of visitors to national
12 parks; and

13 (4) on such other national park or tribal lands-
14 related safety, environmental, and air touring issues
15 as the Administrator and the Director may request.

16 (d) COMPENSATION; SUPPORT; FACAs.—

17 (1) COMPENSATION AND TRAVEL.—Members of
18 the advisory group who are not officers or employees
19 of the United States, while attending conferences or
20 meetings of the group or otherwise engaged in its
21 business, or while serving away from their homes or
22 regular places of business, each member may be al-
23 lowed travel expenses, including per diem in lieu of
24 subsistence, as authorized by section 5703 of title 5,

1 United States Code, for persons in the Government
2 service employed intermittently.

3 (2) ADMINISTRATIVE SUPPORT.—The Federal
4 Aviation Administration and the National Park
5 Service shall jointly furnish to the advisory group
6 clerical and other assistance.

7 (3) NONAPPLICATION OF FACCA.—Section 14 of
8 the Federal Advisory Committee Act (5 U.S.C.
9 App.) does not apply to the advisory group.

10 (e) REPORT.—The Administrator and the Director
11 shall jointly report to the Congress within 24 months after
12 the date of enactment of this Act on the success of this
13 title in providing incentives for quiet aircraft technology.

14 **SEC. 704. EXEMPTION.**

15 Section 40125 of title 49, United States Code, as
16 added by section 702 of this Act, does not apply to—

17 (1) the Grand Canyon National Park;

18 (2) Indian country within or abutting the
19 Grand Canyon National Park;

20 (3) any unit of the National Park System lo-
21 cated in Alaska; or

22 (4) Indian country located in Alaska.

23 **SEC. 705. OVERFLIGHT FEE REPORT.**

24 Not later than 180 days after the date of enactment
25 of this Act, the Administrator of the Federal Aviation Ad-

1 ministration shall transmit to Congress a report on the
2 effects proposed overflight fees are likely to have on the
3 commercial air tour industry. The report shall include, but
4 shall not be limited to—

5 (1) the viability of a tax credit for the commer-
6 cial air tour operators equal to the amount of the
7 proposed fee charged by the National Park Service;
8 and

9 (2) the financial effects proposed offsets are
10 likely to have on Federal Aviation Administration
11 budgets and appropriations.

12 **TITLE VIII—AVIATION TRUST**

13 **FUND AMENDMENTS**

14 **SEC. 801. AMENDMENTS TO THE AIRPORT AND AIRWAY**

15 **TRUST FUND.**

16 Section 9502(d)(1) of the Internal Revenue Code of
17 1986 (relating to expenditures from Airport and Airway
18 Trust Fund) is amended—

19 (1) by striking “1998,” and inserting “2002,”;

20 (2) by striking “1996;” in subparagraph (A)
21 and inserting “1996, or the National Air Transpor-
22 tation System Improvement Act of 1998;”;

23 (3) by striking “or” at the end of subparagraph
24 (B); and

- 1 (4) by striking “(B).” in subparagraph (C) and
- 2 inserting “(B); or”.

○