

106TH CONGRESS
1ST SESSION

S. 545

To amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 1999, 2000, 2001, 2002, 2003, and 2004 and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 4, 1999

Mr. HOLLINGS by request (for himself and Mr. ROCKEFELLER) 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 appropriations for the Federal Aviation Administration for fiscal years 1999, 2000, 2001, 2002, 2003, and 2004 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 **SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Aviation Administration Authorization Act of
6 1999”.

7 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

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

Sec. 3. Effective date.

TITLE I—AUTHORIZATIONS

Sec. 101. Federal Aviation Administration operations.

Sec. 102. Air navigation facilities.

Sec. 103. Research, engineering and development.

Sec. 104. Airport planning and development and noise compatibility planning and programs.

Sec. 105. Airport and Airway Trust Fund audits.

TITLE II—AMENDMENTS TO AVIATION LAW

Sec. 201. Severable services contracts for periods crossing fiscal years.

Sec. 202. Airport Noise and Capacity Act Amendments.

Sec. 203. Government and industry consortia.

Sec. 204. Passenger facility fees.

Sec. 205. Implementation of Article 83 bis of the Chicago Convention.

Sec. 206. User funding of the Federal Aviation Administration.

Sec. 207. Cost recovery for foreign aviation services and clarification of over-flight fee authority.

Sec. 208. Flexibility to perform criminal history record checks; technical amendments to Pilot Records Improvement Act of 1996.

Sec. 209. Extension of aviation insurance program.

Sec. 210. Technical correction to civil penalty provision.

Sec. 211. Improvements to air navigation facilities.

Sec. 212. Whistleblower protection for FAA employees; Hatch Act enforcement; Federal Procurement Integrity Act; merit system principles.

Sec. 213. Federal Aviation Administration personnel management system.

Sec. 214. Transitional user fee authority.

Sec. 215. Amendment of statute prohibiting the bringing of hazardous substances aboard an aircraft.

Sec. 216. Airport Security Program.

Sec. 217. Essential Air Service.

Sec. 218. FAA may fine unruly passengers.

Sec. 219. Delegation of authority for cargo inspections.

Sec. 220. Amendment of statute prohibiting piloting an aircraft without a valid airman's certificate.

TITLE III—AIRPORT IMPROVEMENT PROGRAM AMENDMENTS

Sec. 301. Removal of the cap on discretionary fund.

Sec. 302. Innovative use of airport grant funds.

Sec. 303. Matching share for state block grant program.

Sec. 304. Increase in apportionment for, and flexibility of, noise compatibility planning and programs.

Sec. 305. Increase in state apportionment.

Sec. 306. Discretionary use of unused apportionments.

Sec. 307. Pavement maintenance.

Sec. 308. Preservation of primary apportionments when air service is temporarily interrupted.

Sec. 309. Limitation on project eligibility at large and medium airports.

Sec. 310. Public notice before grant assurance waived.

Sec. 311. Intermodal planning.

- Sec. 312. Airport improvements to increase rural access to the air transportation system.
- Sec. 313. Military airports.
- Sec. 314. Letters of intent.
- Sec. 315. Technical amendments.

TITLE IV—COMMERCIAL SPACE TRANSPORTATION AMENDMENTS

- Sec. 401. Commercial Space Transportation Authorization.
- Sec. 402. Repeal of requirement for uniform guidelines for acquisition of surplus property.
- Sec. 403. Extension of payment of excess claims authority for a commercial space launch and reentry.

TITLE V—PERFORMANCE BASED ORGANIZATION FOR AIR TRAFFIC SERVICES

- Sec. 501. Establishment of Performance Based Organization.
- Sec. 502. Relationship of ATS and the Administrator.
- Sec. 503. Five-year evaluation.
- Sec. 504. Fees for air traffic service.
- Sec. 505. Financing a performance based organization for air traffic services.
- Sec. 506. Adjustment of certain aviation excise taxes.

TITLE VI—FAMILY ASSISTANCE

- Sec. 601. Responsibilities of National Transportation Safety Board.
- Sec. 602. Air carrier plans.
- Sec. 603. Foreign air carrier plans.
- Sec. 604. Applicability of Death on the High Seas Act.

TITLE VII—PASSENGER SERVICE AVAILABILITY; MAIL RATES

- Sec. 701. Non-discrimination in airline travel.
- Sec. 702. Airline service restoration pilot program.
- Sec. 703. Waiver of local contribution.
- Sec. 704. Joint fares and interline agreements.
- Sec. 705. Policy for air service to rural areas.
- Sec. 706. Clarification of air carrier code-sharing obligations.
- Sec. 707. Repeal of mail rate-setting authority.
- Sec. 708. Access to High Density Airports.

TITLE VIII—TRANSFER OF AERONAUTICAL CHARTING ACTIVITY

- Sec. 801. Transfer of functions, powers, and duties.
- Sec. 802. Transfer of office, personnel and funds.
- Sec. 803. Amendment to title 49, United States Code.
- Sec. 804. Savings provision.
- Sec. 805. National ocean survey.
- Sec. 806. National Oceanic and Atmospheric Administration: nautical and aeronautical products, sale and distribution.

TITLE IX—WHISTLEBLOWER PROTECTION

- Sec. 901. Protection of employees providing air safety information.
- Sec. 902. Civil penalty.

TITLE X—NATIONAL PARKS AIR TOUR MANAGEMENT

- Sec. 1001. Short title.
- Sec. 1002. Findings.
- Sec. 1003. Air tour management plans for national parks.
- Sec. 1004. Advisory group.
- Sec. 1005. Reports.
- Sec. 1006. Exemptions.
- Sec. 1007. Definitions.

TITLE XI—TITLE 49 TECHNICAL CORRECTIONS

- Sec. 1101. Restatement of 49 U.S.C. 106(g).
- Sec. 1102. Restatement of 49 U.S.C. 46306.
- Sec. 1103. Restatement of 49 U.S.C. 44909.
- Sec. 1104. Restatement of 49 U.S.C. 46301(a).
- Sec. 1105. Restatement of 49 U.S.C. 47122(b).

TITLE XII—PREVENTION OF FRAUD INVOLVING AIRCRAFT OR
SPACE VEHICLE PARTS

- Sec. 1201. Short title.
- Sec. 1202. Prevention of frauds involving aircraft or space vehicle parts in interstate or foreign commerce.
- Sec. 1203. Related amendments to other sections of title 18.

TITLE XIII—INTERNAL REVENUE CODE AMENDMENTS

- Sec. 1301. 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 SEC. 3. EFFECTIVE DATE.

9 Except as otherwise expressly provided, this Act and
10 the amendments made by this Act shall be effective on
11 the date of enactment.

1 **TITLE I—AUTHORIZATIONS**

2 **SEC. 101. FEDERAL AVIATION ADMINISTRATION OPER-**
3 **ATIONS.**

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

5 “(k) AUTHORIZATION OF APPROPRIATIONS FOR OP-
6 ERATIONS.—

7 “(1) There is authorized to be appropriated to
8 the Secretary of Transportation for operations of the
9 Administration \$6,039,000,000 for fiscal year 2000,
10 and such sums as necessary for fiscal years 2001,
11 2002, 2003 and 2004.

12 “(2) Of the amounts authorized by this sub-
13 section, not more than \$9,100,000 for the 3-fiscal-
14 year period beginning with fiscal year 2001 shall be
15 used to support a university consortium established
16 to provide an air safety and security management
17 certificate program, working cooperatively with the
18 Federal Aviation Administration and United States
19 air carriers. Funds authorized under this
20 paragraph—

21 “(A) may not be used for the construction
22 of a building or other facility;

23 “(B) shall be awarded on the basis of open
24 competition; and

1 “(C) may not constitute more than a 50-
2 percent share of the total costs of the consor-
3 tium.”.

4 **SEC. 102. AIR NAVIGATION FACILITIES.**

5 Section 48101(a) is amended by inserting the follow-
6 ing at the end:

7 “(3) \$2,319,000,000 for fiscal year 2000.

8 “(4) such sums as necessary for fiscal years
9 2001, 202, 2003 and 2004.”.

10 **SEC. 103. RESEARCH, ENGINEERING AND DEVELOPMENT.**

11 Section 48102(a) is amended—

12 (1) by striking paragraphs (1) through (4) and
13 redesignating paragraph (5) as paragraph (1); and

14 (2) by inserting the following:

15 “(2) \$173,000,000 for fiscal year 2000.

16 “(3) such sums as necessary for fiscal years
17 2001, 2002, 2003, and 2004.”.

18 **SEC. 104. AIRPORT PLANNING AND DEVELOPMENT AND**
19 **NOISE COMPATIBILITY PLANNING AND PRO-**
20 **GRAMS.**

21 (a) **AUTHORIZATION OF APPROPRIATIONS.**—Section
22 48103 is amended—

23 (1) by inserting “newly” before “available”;

24 (2) by striking “\$1,205,000,000” and all that
25 follows through the period at the end and inserting

1 the following: “\$2,410,000,000 for fiscal years end-
2 ing before October 1, 1999, \$1,600,000,000 for fis-
3 cal years ending before October 1, 2000,
4 \$1,600,000,000 for fiscal years ending before Octo-
5 ber 1, 2001, \$1,600,000,000 for fiscal years ending
6 before October 1, 2002, \$1,600,000,000 for fiscal
7 years ending before October 1, 2003, and
8 \$1,600,000,000 for fiscal years ending before Octo-
9 ber 1, 2004.”.

10 (b) PROJECT GRANT AUTHORITY.—Section 47104(c)
11 is amended by striking “March 31, 1999” and inserting
12 “September 30, 2004”.

13 **SEC. 105. AIRPORT AND AIRWAY TRUST FUND AUDITS.**

14 (a) AUTHORIZATION.—Chapter 481 is amended by
15 adding at the end a new section as follows:

16 **“§ 48112. Airport and Airway Trust Fund audits**

17 “For fiscal years beginning after September 30,
18 2000, there is authorized to be appropriated from the Air-
19 port and Airway Trust Fund established under section
20 9502 of the Internal Revenue Code of 1986 (26 U.S.C.
21 9502), to remain available until expended, to the Secretary
22 of Transportation such sums as necessary for the Office
23 of Inspector General for the conduct of annual audits of
24 financial statements of the Federal Aviation Administra-
25 tion required by 31 U.S.C. 3521.”.

1 (b) CONFORMING AMENDMENT.—The analysis of
 2 chapter 481 is amended by inserting at the end the follow-
 3 ing:

“§ 48112. Airport and Airway Trust Fund audits.”.

4 **TITLE II—AMENDMENTS TO**
 5 **AVIATION LAW**

6 **SEC. 201. SEVERABLE SERVICES CONTRACTS FOR PERIODS**
 7 **CROSSING FISCAL YEARS.**

8 (a) Chapter 401 is amended by adding the following
 9 new section:

10 **“§ 40125. Severable services contracts for periods**
 11 **crossing fiscal years**

12 “(a) GENERAL.—The Administrator of the Federal
 13 Aviation Administration may enter into a contract for pro-
 14 curement of severable services for a period that begins in
 15 one fiscal year and ends in the next fiscal year if (without
 16 regard to any option to extend the period of the contract)
 17 the contract period does not exceed one year.

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

22 (b) CONFORMING AMENDMENT.—The analysis of
 23 chapter 401 is amended by inserting the following at the
 24 end:

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

1 **SEC. 202. AIRPORT NOISE AND CAPACITY ACT AMEND-**
2 **MENTS.**

3 (a) FOREIGN CARRIERS ELIGIBLE FOR WAIVER.—
4 Section 47528(b)(1) is amended in the first sentence by
5 inserting “or foreign air carrier” after “air carrier” and
6 after “carrier” the first time each appears.

7 (b) EXEMPTION FOR AIRCRAFT MODIFICATION OR
8 DISPOSAL.—Section 47528 is amended—

9 (1) by inserting “or (f)” after “(b)” in sub-
10 section (a); and

11 (2) by inserting a new subsection at the end as
12 follows:

13 “(f) AIRCRAFT MODIFICATION OR DISPOSAL.—After
14 December 31, 1999, the Secretary may provide a proce-
15 dure under which a person may operate a Stage 1 or Stage
16 2 airplane in nonrevenue service to or from an airport in
17 the United States in order to:

18 “(1) sell the aircraft outside the United States;

19 “(2) sell the aircraft for scrapping; or

20 “(3) obtain modifications to the aircraft to meet
21 Stage 3 noise levels.”.

22 **SEC. 203. GOVERNMENT AND INDUSTRY CONSORTIA.**

23 Section 44903 is amended by adding the following
24 new subsection at the end:

25 “(f) GOVERNMENT AND INDUSTRY CONSORTIA.—
26 The Administrator may establish at individual airports

1 such consortia of government and aviation industry rep-
2 resentatives as the Administrator may designate to pro-
3 vide advice on matters related to aviation security and
4 safety. Such consortia shall not be considered federal advi-
5 sor committees.”.

6 **SEC. 204. PASSENGER FACILITY FEES.**

7 (a) PFC INCREASE.—Secion 40117 is amended—

8 (1) in paragraph (b)(1) by striking “or \$3” and
9 substituting “\$3, \$4, or \$5”; and

10 (2) by inserting the following at the end:

11 “(j) FEES OF MORE THAN \$4.—

12 “(1) When submitting an application for a pas-
13 senger facility fee under this section of more than
14 \$4, an eligible agency shall separately submit to the
15 Secretary the written competition plan specified by
16 paragraph (2) if the application is for a primary
17 airport—

18 “(A) having at least 1 percent of the total
19 number of passenger boardings each year at all
20 commercial service airports, and

21 “(B) at which more than 50 percent of the
22 total number of passenger boardings each year
23 is by a single air carrier and its regional affili-
24 ates.

1 “(2) As specified by paragraph (1), an eligible
2 agency shall submit a written competition plan for
3 the airport, including the availability of airport gates
4 and related facilities, leasing and sub-leasing ar-
5 rangements, gate-use requirements, patterns of air
6 service, gate-assignment policy, financial constraints,
7 airport controls over air- and ground-side capacity,
8 whether the airport intends to build or acquire gates
9 that would be used as common facilities, and airfare
10 levels compared to other large airports.

11 “(3) The Secretary shall, within the time limit
12 established by subsection (c)(3), review the descrip-
13 tion and plan submitted under this subsection to de-
14 termine whether the current and projected competi-
15 tion factors at the airport, as described, are likely to
16 contribute to the policy objectives of increased com-
17 petition between and among passenger air carriers.
18 If the Secretary determines that the submitted plan
19 fails to address needs for increased competition at
20 the airport, the Secretary shall disapprove the im-
21 position of a fee of more than \$4 on the basis of com-
22 petition factors.

23 “(k) SURFACE TRANSPORTATION PROJECTS.—The
24 Secretary may approve an application by an eligible agen-
25 cy for a surface transportation project to improve access

1 to an airport having at least .25 percent of the total num-
2 ber of passenger boardings each year at all commercial
3 service airports, under this section only if the Secretary
4 finds that the eligible agency has made adequate provision
5 for financing safety, security and capacity needs of the
6 airport.

7 “(1) PROJECT COST SHARING.—In order to carry out
8 the policy of section 47101(a)(5) of this title, the Sec-
9 retary may approve an application under this section by
10 an eligible agency to participate in a cost-sharing agree-
11 ment with one or more eligible surface transportation
12 agencies for a surface transportation project under title
13 23 or chapter 53 of title 49, United States Code, if the
14 Secretary finds that—

15 “(1) the eligible agency or an eligible surface
16 transportation agency participating in the project
17 will hold good title to property used for the project,
18 and the eligible agency will own or operate the
19 project;

20 “(2) use of passenger facility fees is limited to
21 capital costs for new construction of a facility or for
22 acquisition of equipment;

23 “(3) the project is directly and substantially re-
24 lated to the air transportation of passengers and
25 property;

1 “(4) the project is consistent with the transpor-
2 tation improvement program developed in accord-
3 ance with sections 134 and 135 of title 23 or section
4 5304 of title 49, United States Code, to address doc-
5 umented surface congestion problems that directly
6 and significantly affect airport access, or the project
7 is incidental to an otherwise justified surface trans-
8 portation project but provides substantially improved
9 direct access to an airport;

10 “(5) the subsection will be administered by the
11 Secretary in accordance with the requirements of
12 title 23 or chapter 53 of title 49, United States
13 Code, applicable to the project;

14 “(6) the proportion of the total cost of the
15 project contributed by the eligible agency under this
16 section shall not exceed the proportion of the direct
17 aviation-related use of the facility compared to the
18 total use of the facility as determined by the Sec-
19 retary;

20 “(7) there is an opportunity for public comment
21 on the project, particularly by airport users, con-
22 cerning the transportation, social, economic, and en-
23 vironmental effects of the project; and

24 “(8) the agreement meets any other conditions
25 required by the Secretary.”.

1 (b) REDUCTION IN ENTITLEMENT FUNDS.—Section
2 47114(f) is amended—

3 (1) by inserting a paragraph designator “(1)”
4 before “An”;

5 (2) by striking “reduced by” and all that fol-
6 lows and substituting the following: “reduced by—

7 “(A) an amount equal to 50 percent of the
8 projected revenues from the fee in the fiscal
9 year but not by more than 50 percent of the
10 amount that otherwise would be apportioned
11 under this section, if the sponsor has imposed
12 a passenger facility fee of \$1, \$2, or \$3 in the
13 fiscal year; or

14 “(B) an amount equal to 100 percent of
15 the amount that would otherwise be appor-
16 tioned to the sponsor under this section, if the
17 sponsor has imposed a passenger facility fee of
18 \$4 or \$5 in the fiscal year.”; and

19 (3) by inserting a new paragraph at the end as
20 follows:

21 “(2) A reduction in apportionment required by
22 paragraphs (1)(A) or (1)(B) of this subsection shall
23 not take effect until the first fiscal year following
24 the year in which the collection of a fee imposed
25 under section 40117 of this title is begun.”.

1 **SEC. 205. IMPLEMENTATION OF ARTICLE 83 BIS OF THE**
2 **CHICAGO CONVENTION.**

3 Section 44701 is amended by—

4 (1) redesignating subsection (e) as subsection
5 (f); and

6 (2) inserting following subsection (d) a new
7 subsection (e) as follows:

8 “(e) **BILATERAL EXCHANGES OF SAFETY OVER-**
9 **SIGHT RESPONSIBILITIES.**

10 “(1) Notwithstanding the provisions of this
11 chapter, and pursuant to Article 83 bis of the Con-
12 vention on International Civil Aviation, the Adminis-
13 trator may, by a bilateral agreement with the aero-
14 nautical authorities of another country, exchange
15 with that country all or part of their respective func-
16 tions and duties with respect to aircraft described in
17 subparagraphs (A) and (B), under the following ar-
18 ticles of the Convention: Article 12 (Rules of the
19 Air); Article 31 (Certificates of Airworthiness); or
20 Article 32a (Licenses of Personnel). Such agreement
21 may apply to—

22 “(A) aircraft registered in the United
23 States operated pursuant to an agreement for
24 the lease, charter, or interchange of the aircraft
25 or any similar arrangement by an operator that
26 has its principal place of business or, if it has

1 no such place of business, its permanent resi-
2 dence in another country; or

3 “(B) aircraft registered in a foreign coun-
4 try operated under an agreement for the lease,
5 charter, or interchange of the aircraft or any
6 similar arrangement by an operator that has its
7 principal place of business or, if it has no such
8 place of business, its permanent residence in
9 the United States.

10 “(2) The Administrator relinquishes responsibil-
11 ity with respect to the functions and duties trans-
12 ferred by the Administrator as specified in the bilat-
13 eral agreement, under the Articles listed in para-
14 graph (1) of this subsection for United States-reg-
15 istered aircraft transferred abroad as described in
16 subparagraph (1)(A) of this subsection, and accepts
17 responsibility with respect to the functions and du-
18 ties under those Articles for aircraft registered
19 abroad that are transferred to the United States as
20 described in subparagraph (1)(B) of this subsection.

21 “(3) The Administrator may, in the agreement,
22 predicate the transfer of these functions and duties
23 on any conditions the Administrator deems nec-
24 essary and prudent.”.

1 **SEC. 206. USER FUNDING OF THE FEDERAL AVIATION AD-**
2 **MINISTRATION.**

3 Section 48104(a) is amended—

4 (1) in paragraph (1), by striking “; and” and
5 substituting “;”;

6 (2) in paragraph (2), by striking the period at
7 the end and substituting “; and”; and

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

9 “(3) any cost incurred by the Federal Aviation
10 Administration after September 30, 1999, that is
11 authorized by law.”.

12 **SEC. 207. COST RECOVERY FOR FOREIGN AVIATION SERV-**
13 **ICES AND CLARIFICATION OF OVERFLIGHT**
14 **FEE AUTHORITY.**

15 Section 45301 is amended—

16 (1) in paragraph (a)(2), by inserting “or to any
17 entity obtaining services outside the United States”
18 before the period; and

19 (2) in subparagraph (b)(1)(B) by—

20 (A) striking “directly”; and

21 (B) striking the period after “rendered”
22 and inserting the phrase “, including both di-
23 rect and indirect costs, as determined by the
24 Administrator, using generally accepted ac-
25 counting principles and internationally accepted
26 economic principles.”.

1 **SEC. 208. FLEXIBILITY TO PERFORM CRIMINAL HISTORY**
2 **RECORD CHECKS; TECHNICAL AMENDMENTS**
3 **TO PILOT RECORDS IMPROVEMENT ACT OF**
4 **1996.**

5 Section 44936 is amended—

6 (1) in subsection (a)(1)(B), by striking “de-
7 scribed in subparagraph (C)” and inserting “the Ad-
8 ministrators decides is necessary to ensure air trans-
9 portation security”;

10 (2) by striking subsection (a)(1)(C);

11 (3) in subsection (a)(1)(D), by striking “(C)”
12 and inserting “(B)” and by redesignating subsection
13 (a)(1)(D) as subsection (a)(1)(C);

14 (4) in subsection (f)(1)(B) by inserting “(except
15 a branch of the United States Armed Forces, the
16 National Guard, a reserve component of the United
17 States Armed Forces, or the National Aeronautics
18 and Space Administration)” after “person” the first
19 place it appears;

20 (5) in subsection (f)(1)(B)(ii), by striking “indi-
21 vidual” and inserting “individual’s performance as a
22 pilot”;

23 (6) in subsection (f)(4), by striking “and
24 (1)(B)” and inserting “, (1)(B) and (2)(A)”;

25 (7) in subsection (f)(5), by striking the period
26 in the first sentence and inserting “, except that the

1 Administrator may allow, under terms established by
2 the Administrator, a designated individual to accept
3 the written consent on behalf of the Administrator.”;

4 (8) in subparagraph (f)(14)(B) by inserting “or
5 from a foreign government or entity that employed
6 the individual” after “exists,”; and

7 (9) in subsection (f), by adding a new sub-
8 section as follows:

9 “(15) ELECTRONIC ACCESS TO FAA
10 RECORDS.—For the purpose of increasing timely and
11 efficient access to Federal Aviation Administration
12 records described in subsection (f)(1) of this section,
13 the Administrator may allow, under terms estab-
14 lished by the Administrator, a designated individual
15 to have electronic access to a specified data base
16 containing information about such records.”.

17 **SEC. 209. EXTENSION OF AVIATION INSURANCE PROGRAM.**

18 Section 44310 is amended by striking “March 31,
19 1999” and substituting “December 31, 2004”.

20 **SEC. 210. TECHNICAL CORRECTION TO CIVIL PENALTY**
21 **PROVISION.**

22 Section 46301 is amended—

23 (1) in subparagraph (d)(7)(A) by striking “indi-
24 vidual” the first time it appears and substituting
25 “person”; and

1 (2) in subsection (g) by inserting “or the Ad-
2 ministrator” after “Secretary”.

3 **SEC. 211. IMPROVEMENTS TO AIR NAVIGATION FACILITIES.**

4 Section 44502(a) is amended by adding a new para-
5 graph (5) at the end to read as follows:

6 “(5) The Administrator may improve real prop-
7 erty leased for air navigation facilities when the im-
8 provements primarily benefit the government, are es-
9 sential for mission accomplishment, and the govern-
10 ment’s interest in the improvements is protected.
11 Such improvements may be made without regard to
12 the cost of the improvements in relation to the cost
13 of the lease.”.

14 **SEC. 212. WHISTLEBLOWER PROTECTION FOR FAA EM-**
15 **PLOYEES; HATCH ACT ENFORCEMENT; FED-**
16 **ERAL PROCUREMENT INTEGRITY ACT; MERIT**
17 **SYSTEM PRINCIPLES.**

18 (a) WHISTLEBLOWER PROTECTION.—Section
19 347(b)(1) of Public Law 104–50 (49 U.S.C. 106, note)
20 is amended by striking “protection;” and inserting “pro-
21 tection, including the provisions for investigations and en-
22 forcement as provided in chapter 12 of title 5, United
23 States Code;”.

24 (b) HATCH ACT ENFORCEMENT.—Section 347(b)(5)
25 of the Department of Transportation and Related Agen-

1 cies Appropriations Act, 1996 (49 U.S.C. 106 note; 109
2 Stat. 460) is amended by inserting before the semicolon
3 at the end the following: “, including the provisions for
4 investigation and enforcement as provided in chapter 12
5 of title 5, United States Code concerning subchapter III—
6 Political Activities”.

7 (c) FEDERAL PROCUREMENT INTEGRITY ACT.—Sec-
8 tion 348(b)(2) of the Department of Transportation and
9 Related Agencies Appropriations Act, 1996 (49 U.S.C.
10 40110 note; 109 Stat. 460) is amended by striking the
11 period and inserting the following: “, except for 41 U.S.C.
12 423; provided that subparagraphs (f) and (g) of section
13 423 shall not apply to the Federal Aviation Administra-
14 tion’s Acquisition Management System; provided further
15 that within 90 days following enactment of the Federal
16 Aviation Administration Authorization Act of 1999, the
17 Administrator of the Federal Aviation Administration
18 shall adopt definitions for its Acquisition Management
19 System that are consistent with the purpose and intent
20 of this section and that will allow the fully application of
21 the criminal, civil and administrative remedies provided;
22 and provided further that the Administrator shall have the
23 authority to take an adverse personnel action provided in
24 41 U.S.C. 423(e)(3)(A)(iv), but shall take any such ac-
25 tions in accordance with the procedures contained in the

1 Federal Aviation Administration’s Personnel Management
2 System.”.

3 (d) MERIT SYSTEMS PRINCIPLES.—Section 347(a) of
4 Public Law 104–50 (49 U.S.C. 106 note) is amended by
5 adding the following at the end: “The personnel manage-
6 ment system is governed by merit systems principles con-
7 sistent with those expressed in 5 U.S.C. 2301.”.

8 **SEC. 213. FEDERAL AVIATION ADMINISTRATION PERSON-**
9 **NEL MANAGEMENT SYSTEM.**

10 (a) MEDIATION.—Section 40122(a)(2) is amended by
11 adding at the end the following: “The 60-day period shall
12 not include any period during which Congress has ad-
13 journed sine die.”.

14 (b) RIGHT TO CONTEST ADVERSE PERSONNEL AC-
15 TIONS.—Section 40122 is amended by adding at the end
16 the following:

17 “(g) RIGHT TO CONTEST ADVERSE PERSONNEL AC-
18 TIONS.—An employee of the Administration who is the
19 subject of a major adverse personnel action may contest
20 the action either through any contractual grievance proce-
21 dure that is applicable to the employee as a member of
22 the collective bargaining unit or through the Administra-
23 tion’s internal process relating to review of major adverse
24 personnel actions of the Administration, known as Guar-
25 anteed Fair Treatment or under section 347(c) of the De-

1 partment of Transportation and Related Agencies Appro-
2 priations Act, 1996.

3 “(h) ELECTION OF FORUM.—Where a major adverse
4 personnel action may be contested through more than one
5 of the indicated fora (e.g., the contractual grievance proce-
6 dure, the Federal Aviation Administration’s internal proc-
7 ess or that of the Merit Systems Protection Board), an
8 employee must elect the forum through which the matter
9 will be contested. Nothing in this section is intended to
10 allow an employee to contest an action through more than
11 one forum unless otherwise allowed by law.

12 “(i) DEFINITION.—For purposes of this section, the
13 term “major adverse personnel action” means a suspen-
14 sion of more than 14 days, a reduction in pay or grade,
15 a removal for conduct or performance, a nondisciplinary
16 removal, a furlough of 30 days or less (but not including
17 placement in a nonpay status as the result of a lapse of
18 appropriations or an enactment by Congress), or a reduc-
19 tion in force action.”.

20 (c) APPLICABILITY OF MERIT SYSTEMS PROTECTION
21 BOARD PROVISIONS.—Section 347(b) of the Department
22 of Transportation and Related Agencies Appropriations
23 Act, 1996 (109 Stat. 460) is amended—

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

25 (6);

1 (2) by striking the period at the end of para-
2 graph (7) and inserting “; and”; and

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

4 “(8) sections 1204, 1211–1218, 1221, and
5 7701–7703, relating to the Merit Systems Protec-
6 tion Board.”.

7 (d) APPEALS TO MERIT SYSTEMS PROTECTION
8 BOARD.—Section 347(c) of the Department of Transpor-
9 tation and Related Agencies Appropriations Act, 1996 is
10 amended to read as follows:

11 “(c) APPEALS TO MERIT SYSTEMS PROTECTION
12 BOARD.—Under the new personnel management system
13 developed and implemented under subsection (a), an em-
14 ployee of the Federal Aviation Administration may submit
15 an appeal to the Merit Systems Protection Board and may
16 seek judicial review of any resulting final orders or deci-
17 sions of the Board from any action that was appealable
18 to the Board under any law, rule, or regulation as of
19 March 31, 1996.”.

20 **SEC. 214. TRANSITIONAL USER FEE AUTHORITY.**

21 (a) Chapter 453 is amended by adding the following
22 new section at the end:

23 **“§ 45305. Transitional user fee authority**

24 “(a) GENERAL.—

1 “(1) The Administrator of the Federal Aviation
2 Administration shall establish a schedule of new fees
3 and a collection process for such fees, payable by op-
4 erators described in paragraph (3), for the provision
5 of air traffic control services provided by the Federal
6 Aviation Administration to such operators. Such fees
7 shall be effective until replaced by the schedule of
8 fees for air traffic services adopted under section
9 45331.

10 “(2) Such fees shall reflect the full cost of pro-
11 viding air traffic services, including costs associated
12 with the depreciation, research, engineering, and de-
13 velopment, and the operation and maintenance of fa-
14 cilities and infrastructure, based on cost accounting
15 principles.

16 “(3) Such fees shall be payable by—

17 “(A) a person holding a certificate under
18 part 119 of title 14, Code of Federal Regula-
19 tions;

20 “(B) a person holding a certificate under
21 part 125 of title 14, Code of Federal Regula-
22 tions, to operate an aircraft for compensation
23 or hire; or

24 “(C) a foreign air carrier directly providing
25 air transportation.

1 “(b) CONSULTATION, PUBLICATION, AND COMMENT
2 ON FEES.—The Administrator shall publish in the Fed-
3 eral Register an initial fee schedule and associated collec-
4 tion process as an interim final rule not later than Sep-
5 tember 30, 1999, provided that the Administrator shall
6 consult with interested operators who may be subject to
7 the fees prior to such publication. After the Administrator
8 receives public comment on the interim final rule, the Ad-
9 ministrator shall issue a final rule as early as practicable.

10 “(c) DEPOSIT OF FEES.—Fees collected under this
11 section shall be deposited in the Airport and Airway Trust
12 Fund (26 U.S.C. 9502).

13 “(d) REDUCTION OF TAXES FOR FISCAL YEAR
14 2000.—Prior to October 1, 1999, if the sum of estimated
15 receipts from fees established under this section for fiscal
16 year 2000 and estimated receipts from excise taxes to be
17 credited to the Airport and Airway Trust Fund for fiscal
18 year 2000 is projected to exceed the budgetary require-
19 ments for the Federal Aviation Administration for fiscal
20 year 2001 as shown in the Budget of the United States
21 Government for Fiscal Year 2000, aviation excise taxes
22 that would otherwise be applicable shall be reduced in the
23 same manner as provided in section 506 of the Federal
24 Aviation Administration Authorization Act of 1999.

1 “(e) COLLECTION AND AVAILABILITY OF FEES.—
 2 Fees authorized under this section shall be collected and
 3 available for obligation only to the extent and in the
 4 amount provided in advance in appropriations acts. Such
 5 fees are authorized to be appropriated to remain available
 6 until expended.”.

7 (b) CONFORMING AMENDMENT.—The analysis of
 8 chapter 453 is amended by inserting the following at the
 9 end:

“45305. Transitional user fee authority.”.

10 **SEC. 215. AMENDMENT OF STATUTE PROHIBITING THE**
 11 **BRINGING OF HAZARDOUS SUBSTANCES**
 12 **ABOARD AN AIRCRAFT.**

13 Section 46312 is amended—

14 (1) by striking “A” and inserting “(a) GEN-
 15 ERAL.—A”; and

16 (2) by adding at the end a new subsection as
 17 follows:

18 “(b) KNOWLEDGE OF REGULATIONS.—Knowledge by
 19 the person of the existence of a regulation or requirement
 20 related to the transportation of hazardous material pre-
 21 scribed by the Secretary under this part is not an element
 22 of an offense under this section.”.

23 **SEC. 216. AIRPORT SECURITY PROGRAM.**

24 (a) IN GENERAL.—Chapter 471 is amended by add-
 25 ing the following new section:

1 **§ 47136. Airport security program**

2 “(a) GENERAL AUTHORITY.—To improve security at
3 public airports in the United States, the Secretary of
4 Transportation shall carry out one or more projects to test
5 and evaluate innovative aviation security systems and re-
6 lated technology.

7 “(b) PRIORITY.—In carrying out this section, the
8 Secretary shall give the highest priority to a request by
9 an eligible sponsor for a grant to undertake a project
10 that—

11 “(1) evaluates and tests the benefits of innova-
12 tive airport security systems or related technology,
13 including explosives detection systems, for the pur-
14 pose of improving aviation security, including air-
15 craft physical security, access control, and passenger
16 and baggage screening; and

17 “(2) provides testing and evaluation of aviation
18 security systems and technology in an operational,
19 test bed environment.

20 “(c) MATCHING SHARE.—Notwithstanding section
21 47109, the United States Government’s share of allowable
22 project costs for a project under this section is 100 per-
23 cent.

24 “(d) TERMS AND CONDITIONS.—The Secretary may
25 establish such terms and conditions as the Secretary de-
26 termines appropriate for carrying out a project under this

1 section, including terms and conditions relating to the
 2 form and content of a proposal for a project, project assur-
 3 ances, and schedule of payments.

4 “(e) ELIGIBLE SPONSOR DEFINED.—In this section,
 5 the term “eligible sponsor” means a nonprofit corporation
 6 composed of a consortium of public and private persons,
 7 including a sponsor of a primary airport, with the nec-
 8 essary engineering and technical expertise to successfully
 9 conduct the testing and evaluation of airport and aircraft
 10 related security systems.

11 “(f) AUTHORIZATION OF APPROPRIATIONS.—Of the
 12 amounts made available to the Secretary under section
 13 47115 in a fiscal year, the Secretary shall make available
 14 \$2,000,000 for the purpose of carrying out this section.”.

15 (b) CONFORMING AMENDMENT.—The analysis for
 16 subchapter 1 of such chapter is amended by adding at the
 17 end the following:

“47136. Airport security program.”.

18 **SEC. 217. ESSENTIAL AIR SERVICE.**

19 Section 41742(a) is amended by striking “provided
 20 to the Administration” and inserting “made available to
 21 the Department of Transportation”.

22 **SEC. 218. FAA MAY FINE UNRULY PASSENGERS.**

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

1 **“§ 4316. Interference with cabin or flight crew**

2 “(a) GENERAL.—An individual who interferes with
3 the duties or responsibilities of the flight crew or cabin
4 crew of a civil aircraft, or who poses an imminent threat
5 to the safety of the aircraft or other individuals on the
6 aircraft, is liable to the United States Government for a
7 civil penalty of not more than \$10,000.

8 “(b) COMPROMISE AND SETOFF.—

9 “(1) The Secretary of Transportation or the
10 Administrator may compromise the amount of a civil
11 penalty imposed under subsection (a).

12 “(2) The Government may deduct the amount
13 of a civil penalty imposed or compromised under this
14 section from amounts it owes the individual liable
15 for the penalty.”.

16 (b) CONFORMING CHANGE.—The chapter analysis
17 for chapter 463 is amended by striking the item relating
18 to section 46316 and inserting after the item relating to
19 section 46315 the following:

“46316. Interference with cabin or flight crew.

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

20 **SEC. 219. DELEGATION OF AUTHORITY FOR CARGO INSPEC-**
21 **TIONS.**

22 (a) DELEGATION OF AUTHORITY.—Subchapter II of
23 chapter 449 is amended by adding at the end the following
24 new section:

1 **“§ 44939. Delegation**

2 “(a) DELEGATION AUTHORITY.—Subject to regula-
3 tions, supervision and review that the Administrator of the
4 Federal Aviation Administration may prescribe, the Ad-
5 ministrator may delegate to a qualified private person, or
6 to an employee under supervision of that person, a matter
7 related to:

8 “(1) the examination, testing, and inspection
9 necessary to approve a program under this chapter
10 for the security of cargo to be carried on aircraft
11 carrying passengers in air transportation or intra-
12 state air transportation; and

13 “(2) preliminary approval of a program under
14 this chapter for the security of cargo to be carried
15 on aircraft carrying passengers in air transportation
16 or intrastate air transportation, subject to the Ad-
17 ministrator’s final approval.

18 “(b) AUTHORITY TO RESCIND DELEGATION.—The
19 Administrator may rescind a delegation under this section
20 at any time for any reason the administrator considers ap-
21 propriate.

22 “(c) RECONSIDERATION OF ACTION.—A person af-
23 fected by an action of a private person under this section
24 may apply for reconsideration of the action by the Admin-
25 istrator. On the Administrator’s own initiative, the Admin-
26 istrator may reconsider the action of a private person at

1 any time. If the Administrator decides on reconsideration
 2 that the action is unreasonable or unwarranted, the Ad-
 3 ministrator shall change, modify, or reverse the action. If
 4 the Administrator decides the action is warranted, the Ad-
 5 ministrator shall affirm the action.”.

6 (b) CONFORMING AMENDMENT.—The analysis of
 7 chapter 449 is amended by inserting at the end the follow-
 8 ing:

“44939. Delegation.”.

9 **SEC. 220. AMENDMENT OF STATUTE PROHIBITING PILOT-**
 10 **ING AN AIRCRAFT WITHOUT A VALID AIR-**
 11 **MAN’S CERTIFICATE.**

12 Section 46306(a) is amended to read as follows:

13 “(a) APPLICATION.—Except for subsection (b)(7),
 14 this section applies only to aircraft not used to provide
 15 air transportation.”.

16 **TITLE III—AIRPORT IMPROVE-**
 17 **MENT PROGRAM AMEND-**
 18 **MENTS**

19 **SEC. 301. REMOVAL OF THE CAP ON DISCRETIONARY FUND.**

20 Section 47115(g) is amended by repealing paragraph
 21 (4).

22 **SEC. 302. INNOVATIVE USE OF AIRPORT GRANT FUNDS.**

23 (a) CODIFICATION AND IMPROVEMENT OF 1996 PRO-
 24 GRAM.—Subchapter I of chapter 471 is amended by add-
 25 ing after section 47134 the following:

1 **“§ 47135. Innovative financing techniques**

2 “(a) GENERAL.—The Secretary of Transportation is
3 authorized to carry out a demonstration program under
4 which the Secretary may approve applications under this
5 subchapter for not more than 5 new projects in a fiscal
6 year at airports that have less than .25 percent of the
7 boardings at all commercial service airports for which
8 grants received under the subchapter may be used to im-
9 plement innovative financing techniques.

10 “(b) PURPOSE.—The purpose of the demonstration
11 program shall be to provide information on the use of in-
12 novative financing techniques for airport development
13 projects.

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

19 “(d) INNOVATIVE FINANCING TECHNIQUE DE-
20 FINED.—In this section, the term ‘innovative financing
21 technique’ includes methods of financing for projects to
22 undertake new airport development that the Secretary de-
23 termines may be beneficial, including, but not limited to,
24 the following:

25 “(1) payment of interest;

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

4 “(3) flexible non-Federal matching require-
5 ments; and

6 “(4) loans described in subsection (e) of this
7 section.

8 “(e) LOANS.—

9 “(1) A State designated as a block grant State
10 by the Secretary under section 47128 may loan to
11 a sponsor all or part of the funds apportioned to the
12 State pursuant to section 47114(d) of this title to
13 pay the government share of the allowable costs of
14 an eligible airport development project. Such project
15 must meet all requirements of a project undertaken
16 pursuant to section 47128 of this title.

17 “(2) The amount of any loan received for a
18 project under this subsection may be subordinated to
19 any other debt financing for the project.

20 “(3) The repayment of a loan made under this
21 subsection shall commence not more than five years
22 after the project is completed.

23 “(4) The term of a loan made under this sub-
24 section shall not exceed 30 years from the date on
25 which the loan funds are obligated.

1 “(5) A loan made under this subsection shall
2 bear interest at or below market interest rates, as
3 determined by the State, to make the project that is
4 the subject of the loan feasible.

5 “(6) Amounts repaid to a State from a loan
6 made under this subsection shall be considered to be
7 Federal funds subject to the requirements of section
8 47128 and may be obligated—

9 “(A) for any purpose for which the loan
10 funds were made available under the State
11 block grant program; and

12 “(B) for use as a capital reserve for other
13 forms of credit enhancement for project debt in
14 order to improve credit market access or to
15 lower interest rates for projects eligible for as-
16 sistance under the State block grant program.

17 “(7) The Secretary shall not approve more than
18 one state application in a fiscal year, nor more than
19 three in total, to establish state-run loan programs
20 under this subsection.

21 “(8) The Secretary shall, in consultation with
22 participating States, ensure that procedures and
23 guidelines for making loans under this subsection
24 meet the requirements of this subsection.”.

1 (b) CONFORMING AMENDMENT.—The analysis of
2 subchapter I of chapter 471 is amended by inserting at
3 the end the following:

“47135. Innovative financing techniques.”.

4 **SEC. 303. MATCHING SHARE FOR STATE BLOCK GRANT**
5 **PROGRAM.**

6 Section 47109(a) is amended—

7 (1) by redesignating paragraphs (2) and (3) as
8 paragraphs (4) and (5), respectively; and

9 (2) by inserting after paragraph (1) the follow-
10 ing:

11 “(2) not more than 90 percent for a project
12 funded by a grant issued to and administered by a
13 State pursuant to the State block grant program es-
14 tablished by section 47128 of this title;

15 “(3) for fiscal years beginning after September
16 30, 2001, in accordance with guidelines developed by
17 the Secretary—

18 “(A) not more than 75 percent for a
19 project at a primary airport having at least .25
20 percent of the total number of passenger
21 boardings each year at all commercial service
22 airports; and

23 “(B) not more than 90 percent for a
24 project at any other airport;”.

1 (3) in paragraph (4), as redesignated, by strik-
2 ing “; and” and inserting “;”;

3 (4) in paragraph (5), as redesignated, by strik-
4 ing the period and inserting “; and”;

5 (5) by inserting a new paragraph as follows:

6 “(6) not more than 50 percent for a project de-
7 scribed in section 47101(a)(14) of this title; pro-
8 vided, that the government’s share of allowable costs
9 for such a project will only be available if the avia-
10 tion benefits to the public exceed the allowable costs
11 of the project.”.

12 **SEC. 304. INCREASE IN APPORTIONMENT FOR, AND FLEXI-**
13 **BILITY OF, NOISE COMPATIBILITY PLANNING**
14 **AND PROGRAMS.**

15 Section 47117(e)(1)(A) is amended—

16 (1) by revising the first sentence to read as fol-
17 lows: “At least 35 percent, but in any fiscal year not
18 less than \$200,000,000, for grants for airport noise
19 compatibility planning under section 47505(a)(2) of
20 this title, for carrying out noise compatibility pro-
21 grams under section 47504(c) of this title, and for
22 noise mitigation projects approved in an environ-
23 mental record of decision for an airport development
24 project under this title.”; and

1 (2) in the second sentence, by striking “31 per-
2 cent” and inserting “35 percent or minimum fund-
3 ing”.

4 **SEC. 305. INCREASE IN STATE APPORTIONMENT.**

5 Section 47114(d)(2) is amended by striking “18.5”
6 and inserting “20”.

7 **SEC. 306. DISCRETIONARY USE OF UNUSED APPORTION-**
8 **MENTS.**

9 Section 47117(g) is amended to read as follows:

10 “(g) DISCRETIONARY USE OF APPORTIONMENTS.—

11 “(1) Subject to paragraph (2) of this sub-
12 section, if the Secretary finds that all or part of an
13 amount under an apportionment available pursuant
14 to subsection (b) of this section is not required to
15 fund a grant under the apportionment during the
16 current fiscal year, the Secretary may use the
17 amount not so required to fund discretionary grants
18 under section 47115 of this title during such year.
19 The finding may be based on the notifications that
20 the Secretary receives under section 47105(f) of this
21 title, or on other information received from sponsors.
22 The discretionary grants may be made for any of the
23 purposes for which amounts are authorized for
24 grants under section 47104 of this title, and are not
25 subject to any of the crediting and allocation provi-

1 sions applicable to the discretionary fund established
2 under section 47115.

3 “(2) If the current fiscal year is not the last
4 year of availability, under subsection (b) of this sec-
5 tion of an apportionment from which the Secretary
6 funds a discretionary grant under paragraph (1) of
7 this subsection, the Secretary shall, in a later fiscal
8 year, restore to the apportionment an amount equal
9 to the grant whenever a sufficient amount is made
10 available for grant obligations under sections 47104
11 and 48103 of this title, as follows:

12 “(A) if an amount sufficient for such res-
13 toration is made available at any time in the
14 current or next following fiscal year, the
15 amount so restored shall be subject to the origi-
16 nal period of availability of the apportionment
17 made under subsection (b) of this section; or

18 “(B) if an amount sufficient for such res-
19 toration is not made available in the current or
20 next following fiscal year, the amount so re-
21 stored shall be deemed to remain available
22 under subsection (b) of this section for the
23 original period of availability, plus the number
24 of complete fiscal years during which an
25 amount was not available for such restoration.

1 “(3)(A) Of an amount newly available under
2 section 48103 of this title, an amount equal to the
3 amounts restored under paragraph (2) of this sub-
4 section shall be deemed unavailable for discretionary
5 grant obligations under section 47115 of this title.

6 “(B) Subparagraph (A) of this paragraph does
7 not impair the Secretary’s authority under para-
8 graph (1) of this subsection, after a restoration
9 under paragraph (2) of this subsection, to apply all
10 or part of a restored amount that is not required to
11 fund a grant under an apportionment to fund discre-
12 tionary grants.

13 “(4) This subsection does not authorize the
14 Secretary to incur grant obligations above the
15 amount made available under sections 47104 and
16 48103 of this title.”.

17 **SEC. 307. PAVEMENT MAINTENANCE.**

18 (a) **REPEAL OF PILOT PROGRAM.**—Section 47132 is
19 repealed.

20 (b) **ELIGIBILITY AS AIRPORT DEVELOPMENT.**—Sec-
21 tion 47102(3) is amended by adding at the end the follow-
22 ing new subparagraph:

23 “(H) routine work to preserve and extend
24 the useful life of runways, taxiways, and aprons
25 at airports for which apportionments are made

1 under section 47114(d), under guidelines issued
2 by the Administrator.”.

3 **SEC. 308. PRESERVATION OF PRIMARY APPORTIONMENTS**

4 **WHEN AIR SERVICE IS TEMPORARILY INTER-**
5 **RUPTED.**

6 Section 47114(c)(1) is amended—

7 (1) in paragraph (c)(1)(A) by striking “The”
8 and inserting “Except for an apportionment under
9 subparagraph (C) of this paragraph, the”; and

10 (2) by adding at the end the following:

11 “(C) The Secretary may apportion to an
12 airport sponsor in a fiscal year an amount
13 equal to the amount apportioned to that spon-
14 sor in the previous fiscal year if the Secretary
15 finds that—

16 “(i) passenger boardings at the air-
17 port fell below 10,000 in the calendar year
18 used to calculate the apportionment;

19 “(ii) the airport had at least 10,000
20 passenger boardings in the calendar year
21 prior to the calendar year used to calculate
22 apportionments to airport sponsors in a
23 fiscal year; and

24 “(iii) the cause of the shortfall in pas-
25 senger boardings was a temporary but sig-

1 nificant interruption in service by an air
 2 carrier to that airport due to an employ-
 3 ment action, natural disaster, or other
 4 event unrelated to the demand for air
 5 transportation at the affected airport.”.

6 **SEC. 309. LIMITATION ON PROJECT ELIGIBILITY AT LARGE**
 7 **AND MEDIUM AIRPORTS.**

8 (a) **LIMITATION ON ELIGIBILITY.**—Chapter 471 is
 9 amended by adding the following new section:

10 **“§ 47137. Limitation on project eligibility at large and**
 11 **medium airports**

12 “(a) **LIMITATION.**—Except as may be contained in a
 13 letter of intent issued prior to the date of enactment of
 14 this section, under section 47110(e), and notwithstanding
 15 section 47110(d), the Secretary may approve a project for
 16 airport development at an airport having at least .25 per-
 17 cent of the total number of passenger boardings each year
 18 at all commercial service airports only for—

19 “(1) a development project to meet safety or se-
 20 curity requirements of the Secretary or requirements
 21 under the Americans with Disabilities Act of 1990
 22 (42 U.S.C. 12101 et seq.), the Clean Air Act (42
 23 U.S.C. 7401 et seq.), and the Federal Water Pollu-
 24 tion Control Act (33 U.S.C. 1251 et seq.) as de-
 25 scribed in section 47102(3)(F) of this title;

1 “(2) projects for which funds are made avail-
2 able under section 47117(e)(1)(A) of this title;

3 “(3) a development project that the Secretary
4 determines will create new airfield capacity at the
5 airport; and

6 “(4) airport planning.

7 “(b) NO LIMITATION ON PROJECTS FINANCED BY
8 PASSENGER FACILITY FEES.—The limitation imposed on
9 grant approvals under subsection (a) of this section does
10 not apply to projects funded by passenger facility revenue
11 under section 40117 of this title.”.

12 (b) CONFORMING AMENDMENT.—The analysis of
13 chapter 471 is amended by inserting the following at the
14 end:

“47137. Limitation on project eligibility at large and medium airports.”.

15 (c) CONFORMING AMENDMENT.—Section 47104(a) is
16 amended by inserting “subject to section 47137 of this
17 title,” after “aeronautics,”.

18 **SEC. 310. PUBLIC NOTICE BEFORE GRANT ASSURANCE**
19 **WAIVED.**

20 Section 47107(h) is amended—

21 (1) by striking “MODIFYING ASSURANCES AND
22 REQUIRING COMPLIANCE WITH ADDITIONAL AS-
23 SURANCES.—Before” and substituting “MODIFYING,
24 ADDING OR WAIVING ASSURANCES.—(1) Before”;
25 and

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

3 “(2) After the date of enactment of this para-
4 graph, with respect to airport property used for
5 landing, taking off or surface maneuvering of air-
6 craft, the Secretary of Transportation may not waive
7 an assurance required under this section that re-
8 quires property to be used for aeronautical purposes
9 unless the Secretary provides at least 30 days notice
10 to the public and an opportunity to comment before
11 issuing any such waiver. Nothing in this paragraph
12 shall be construed to authorize the Secretary to
13 issue a waiver of any assurance required under this
14 section.”.

15 **SEC. 311. INTERMODAL PLANNING.**

16 (a) Section 47101(a)(5) is amended by striking “that
17 use various modes of transportation in a way that will
18 serve the States” and inserting “, including airport sys-
19 tems, in a manner that will serve the Nation, the States,”;

20 (b) Section 47102(8) is amended—

21 (1) in subparagraph (C), by striking “; and”
22 and inserting “;”;

23 (2) in subparagraph (D), by striking the period
24 and inserting “; and”; and

25 (3) by inserting a new subparagraph as follows:

1 “(E) developing a plan for an airport sys-
2 tem that includes a primary airport that en-
3 planes at least 0.25 percent of the total number
4 of passenger boardings each year at all com-
5 mercial service airports, so that such planning
6 includes fair consideration of surface transpor-
7 tation and land use plans relevant to airport ac-
8 cess and development in the airport system
9 under study.”.

10 (c) Section 47106(a) is amended—

11 (1) in paragraph (1), by inserting “, including
12 transportation and land use plans,” after “plans”;

13 (2) in paragraph (4), by striking “; and” and
14 inserting “;”;

15 (3) in paragraph (5), by striking the period and
16 inserting “; and”; and

17 (4) by inserting a new paragraph at the end as
18 follows:

19 “(6) with respect to a project for the location
20 of an airport or a project for a runway or a major
21 runway extension at a primary airport having at
22 least 0.25 percent of the total number of passenger
23 boardings each year at all commercial service air-
24 ports, the sponsor has (A) provided the metropolitan
25 planning organization authorized to conduct metro-

1 politan planning in the area in which the airport is
2 located with not less than 60 days to review the air-
3 port master plan or the airport layout plan in which
4 the project is described and depicted and to submit
5 comments on such plans to the sponsor, and (B) in-
6 cluded in its application to the Secretary its written
7 responses to such comments as are made by the
8 metropolitan planning organization.”.

9 **SEC. 312. AIRPORT IMPROVEMENTS TO INCREASE RURAL**
10 **ACCESS TO THE AIR TRANSPORTATION SYS-**
11 **TEM.**

12 Section 47101(a) is amended at the end by inserting
13 a new subparagraph as follows:

14 “(14) that priority consideration should be
15 given to encourage development identified by the
16 Secretary of Transportation, in consultation with
17 State aviation officials, as warranted, to support op-
18 erations of turbine powered aircraft at nonprimary
19 airports to the extent possible with available funds
20 and considering other airport needs.”.

21 **SEC. 313. MILITARY AIRPORTS.**

22 (a) **CLARIFICATION OF TERM OF MILITARY AIRPORT**
23 **PROGRAM APPORTIONMENT.**—

1 (1) Section 124(d) of the Federal Aviation Re-
2 authorization Act of 1996 (Public Law 104–264) is
3 repealed.

4 (2) Section 47117(e)(1)(B) is amended by
5 striking “for each fiscal year thereafter”.

6 (b) DESIGNATING CURRENT AND FORMER MILITARY
7 AIRPORTS.—Section 47118 is amended—

8 (1) in subsection (a), by striking “12” and in-
9 serting “15”; and

10 (2) in subsection (d), by striking “5 fiscal year
11 periods” and inserting “periods, each not to exceed
12 5 fiscal years,”.

13 **SEC. 314. LETTERS OF INTENT.**

14 Section 47110(e)(2)(C) is amended to read as fol-
15 lows:

16 “(C) that meets the criteria of section
17 47115(d) of this title and, if for a project at an
18 airport having at least 0.25 percent of the
19 boardings each year of all commercial service
20 airports, the Secretary decides will enhance sys-
21 tem-wide airport capacity significantly.”.

22 **SEC. 315. TECHNICAL AMENDMENTS.**

23 (a) USE OF APPORTIONMENTS FOR ALASKA, PUERTO
24 RICO AND HAWAII.—Section 47114(d) is amended by re-
25 vising paragraph (3) to read as follows:

1 “(3) An amount apportioned under paragraph
2 (2) of this subsection for airports in Alaska, Hawaii
3 or Puerto Rico may be made available by the Sec-
4 retary for any public airport in those respective
5 jurisdictions.”.

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

8 (1) in the catchline by striking “ALTERNATIVE”
9 and inserting “SUPPLEMENTAL”;

10 (2) in paragraph (1)—

11 (A) by striking “Instead of apportioning
12 amounts for airports in Alaska under” and in-
13 serting “Notwithstanding”; and

14 (B) by striking “those airports” and in-
15 serting “airports in Alaska”; and

16 (3) by amending paragraph (3) to read:

17 “(3) An amount apportioned under this sub-
18 section may be used for any public airport in
19 Alaska.”.

20 (c) REPEAL OF APPORTIONMENT LIMITATION ON
21 COMMERCIAL SERVICE AIRPORTS IN ALASKA.—Section
22 47117 is amended by striking subsection (f) and redesign-
23 ating subsections (g) and (h) as (f) and (g).

24 (d) DISCRETIONARY FUND DEFINITION.—

25 (1) Section 47115 is amended—

1 (A) in subsection (a) by striking “25” and
2 inserting “12.5”; and

3 (B) in subsection (b) by striking the sec-
4 ond sentence; and

5 (2) Section 47116 is amended—

6 (A) in subsection (a), by striking “75” and
7 inserting “87.5”;

8 (B) in subsection (b), by redesignating
9 paragraphs (1) and (2) as subparagraphs
10 (2)(A) and (2)(B), and inserting after the colon
11 the following new paragraphs:

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

15 “(2) the remaining amounts based on the fol-
16 lowing:”.

17 (e) USE OF STATE-APPORTIONED FUNDS.—Section
18 47114(d) is amended by adding the following new para-
19 graphs at the end:

20 “(4) Notwithstanding paragraph (2) of this
21 subsection, funds made available under this sub-
22 section may be used for integrated airport system
23 planning that encompasses one or more primary air-
24 ports.

1 “(5) A project to survey or to upgrade a non-
2 primary airport to obtain greater benefits from im-
3 plementation of satellite-based air navigation sys-
4 tems may be financed only with funds apportioned
5 under this section.”.

6 (f) CONTINUATION OF PROJECT FUNDING.—Section
7 47108 is amended by adding a new subsection at the end
8 as follows:

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

17 (g) 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) by inserting a new clause (ii) as follows:

22 “(ii) a privately-owned airport that, as
23 a reliever airport, received Federal aid for
24 airport development prior to October 9,
25 1996; or”.

1 (h) RELIEVER AIRPORTS INELIGIBLE FOR LETTERS
2 OF INTENT.—Section 47110(e)(1) is amended by striking
3 “or reliever” in the first sentence.

4 (i) PASSENGER FACILITY FEE WAIVER FOR CERTAIN
5 CLASS OF CARRIERS OR FOR SERVICE TO AIRPORTS
6 IN ISOLATED COMMUNITIES.—Section 40117(i) is
7 amended—

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

11 (2) by inserting a new paragraph at the end as
12 follows:

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

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

22 “(B) passengers enplaned on a flight to an
23 airport—

1 “(i) that has fewer than 2500 pas-
2 sengers boardings each year and receives
3 scheduled passenger service; or

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

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

11 (1) Section 47151 is amended—

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

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

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

18 (2) Section 47152 is amended—

19 (A) in the title by striking “gifts” and in-
20 serting “conveyances”; and

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

23 (3) The table of sections for subchapter 471 is
24 amended in the item relating to section 47152 by
25 striking “gifts” and inserting “conveyances”.

1 (4) Section 47153(a) is amended—

2 (A) in paragraph (1) by striking “gift”
3 and inserting “conveyance”;

4 (B) in subparagraph (1)(A) by striking
5 “given” and inserting “conveyed”; and

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

8 **TITLE IV—COMMERCIAL SPACE**
9 **TRANSPORTATION AMEND-**
10 **MENTS**

11 **SEC. 401. COMMERCIAL SPACE TRANSPORTATION AUTHOR-**
12 **IZATION.**

13 Section 70119 is amended—

14 (1) in paragraph (1), by striking “and” at the
15 end;

16 (2) in subparagraph (2), by striking
17 “\$6,600,000” and inserting “\$6,838,000”, and by
18 striking the period at the end and inserting “; and”;
19 and

20 (3) by inserting a new paragraph at the end as
21 follows:

22 “(3) such sums as necessary for the fiscal years
23 2001 through 2004.”.

1 **SEC. 402. REPEAL OF REQUIREMENT FOR UNIFORM GUIDE-**
 2 **LINES FOR ACQUISITION OF SURPLUS PROP-**
 3 **ERTY.**

4 Section 70111 is amended by striking subsection
 5 (b)(3).

6 **SEC. 403. EXTENSION OF PAYMENT OF EXCESS CLAIMS**
 7 **AUTHORITY FOR A COMMERCIAL SPACE**
 8 **LAUNCH AND REENTRY.**

9 Section 70113(f) is amended by striking “December
 10 31, 1999” and inserting “December 31, 2005”.

11 **TITLE V—PERFORMANCE BAS-**
 12 **ED ORGANIZATION FOR AIR**
 13 **TRAFFIC SERVICES**

14 **SEC. 501. ESTABLISHMENT OF PERFORMANCE BASED OR-**
 15 **GANIZATION.**

16 (a) Subtitle VII is amended by inserting after chapter
 17 445 the following:

“CHAPTER 446—PERFORMANCE BASED ORGANIZATION FOR AIR
 TRAFFIC SERVICES

“§ 44601. Definitions.

“§ 44602. Establishment of a performance-based organization for air traffic
 services.

“§ 44603. Management Advisory Committee participation.

“§ 44604. Chief Operating Officer.

“§ 44605. Responsibilities of the ATS organization.

“§ 44606. Performance management.

“§ 44607. Personnel management.

“§ 44608. Acquisitions.

“§ 44609. Contract for services.

18 **“§ 44601. Definitions**

19 “In this chapter—

1 “(1) AIR TRAFFIC CONTROL SYSTEM.—The
2 term ‘Air traffic control system’ means the combina-
3 tion of elements used to safely and efficiently mon-
4 itor, direct, control, and guide aircraft in the United
5 States and United States-assigned airspace,
6 including—

7 “(A) allocated electro-magnetic spectrum
8 and physical, real, personal, and intellectual
9 property assets making up facilities and sys-
10 tems employed to detect, track, and guide air-
11 craft movement;

12 “(B) laws, regulations, orders, directives,
13 agreements, and licenses;

14 “(C) published procedures that explain re-
15 quired actions, activities, and techniques used
16 to assure adequate aircraft separation; and

17 “(D) trained personnel with specific tech-
18 nical capabilities to satisfy the operational, en-
19 gineering, management, and planning require-
20 ments for air traffic control.

21 “(2) ATS.—The term ‘ATS’ means the per-
22 formance-based organization for air traffic services
23 established by section 44602 of this title for the pur-
24 pose of operating the U.S. air traffic control system.

1 **“§ 44602. Establishment of performance-based organi-**
2 **zation for air traffic services**

3 “(a) GENERAL.—

4 “(1) The Administrator of the Federal Aviation
5 Administration shall establish not later than Janu-
6 ary 1, 2000, within the Federal Aviation Adminis-
7 tration, a performance-based organization (herein-
8 after referred to as the ATS) to manage and operate
9 the air traffic control system on an efficient, busi-
10 ness-like basis, without sources of federal funding
11 after May 15, 2001, other than as provided in sec-
12 tion 48302 of this title.

13 “(2) After May 15, 2001, the ATS shall be
14 funded exclusively under Subchapter II of chapter
15 453 and section 48302 of this title.

16 “(b) ATS SUBCOMMITTEE.—A subcommittee of the
17 Management Advisory Council established under section
18 106(p) of this title shall be constituted to offer advice and
19 recommendations to the Administrator, as specified by
20 section 44603 of this title.

21 “(c) CHIEF OPERATING OFFICER.—The policies and
22 operations of the ATS shall be implemented and directed
23 by a Chief Operating Officer, who shall be appointed
24 under section 44604 of this title by the Secretary of
25 Transportation.

1 “(d) PERSONNEL MANAGEMENT AND ACQUISITION.—Personnel management and acquisitions shall be
2 carried out by the ATS using the existing authority of the
3 Administrator.
4

5 “(e) RELATIONSHIP OF ATS TO THE ADMINISTRATOR AND THE INSPECTOR GENERAL.—

6 “(1) The relationship of the ATS and the Administrator shall be as set forth in section 106(r) of
7 this title.
8

9 “(2) The activities of the ATS shall be subject
10 to the authority of the Department of Transportation Inspector General in the same manner and to
11 the same extent as the other elements of the Administration are subject to the authority of the Inspector
12 General.
13

14 **“§ 44603. Management Advisory Council Participation**

15 “(a) GENERAL.—Using the authority provided under
16 section 106(p) of this title, the Chairman of the Management Advisory Council shall constitute an ‘Air Traffic
17 Services Subcommittee’ to provide comments, recommended modifications, and dissenting views to the Administrator on ATS performance, including—
18

19 “(1) The performance of the Chief Operating Officer and other senior managers of the ATS under
20 sections 44604 and 44607 of this title.
21
22
23
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25

1 “(2) Long-range and strategic plans for the
2 ATS.

3 “(3) User fees and other charges imposed
4 under section 45331 of this title.

5 “(4) Plans for annual ATS receipts and ex-
6 penditures.

7 “(5) Other significant actions that the ATS
8 Subcommittee considers appropriate and that are
9 consistent with implementing the Federal Aviation
10 Administration Authorization Act of 1999.

11 “(b) SUBCOMMITTEE MEMBERSHIP.—The Chairman
12 shall appoint the members of the ATS Subcommittee,
13 which shall include the designees of the Secretary of
14 Transportation and of the Secretary of Defense on the
15 Management Advisory Council.

16 “(c) USER-FEE RECOMMENDATIONS.—The ATS
17 Subcommittee shall participate in the establishment and
18 modification of user-fee schedules under 49 U.S.C. 45331
19 by offering comments, recommended modifications, and
20 dissenting views to the Administrator.

21 **§ 44604. Chief Operating Officer**

22 “(a) GENERAL.—

23 “(1) The management of the ATS is vested in
24 a Chief Operating Officer, who shall be appointed by
25 the Secretary of Transportation to a 5-year term

1 and compensated under the authority of this chap-
2 ter.

3 “(2) The Chief Operating Officer shall serve at
4 the pleasure of the Secretary, except that the Sec-
5 retary shall make every effort to ensure stability and
6 continuity in the leadership of the ATS.

7 “(b) ANNUAL PERFORMANCE AGREEMENT.—The ad-
8 ministrator and the Chief Operating Officer shall enter
9 into an annual performance agreement that sets forth
10 measurable organization and individual goals for the chief
11 Operating Officer in key operational areas. The agreement
12 shall be subject to review and re-negotiation on an annual
13 basis.

14 “(c) COMPENSATION.—

15 “(1) The Chief Operating Officer shall be paid
16 at an annual rate of basic pay not to exceed that of
17 the Administrator, including any applicable locality-
18 based payment. This basic rate of pay shall subject
19 the COO to the post-employment provisions of sec-
20 tion 207 of title 18 as if this position were described
21 in section 207(c)(2)(A)(i) of that title.

22 “(2) In addition to the annual rate of basic pay
23 authorized by paragraph (1) of this subsection, the
24 Chief Operating Officer may receive a bonus not to
25 exceed 50 percent of the annual rate of basic pay,

1 based upon the Administrator's evaluation of the
2 Chief Operating Officer's performance in relation to
3 the performance goals set forth in the performance
4 agreement described in subsection (b) of this section.
5 A bonus may not cause the Chief Operating Officer's
6 total aggregate compensation in a calendar year to
7 equal or exceed the amount of the President's salary
8 under section 102 of title 3, United States Code.

9 “(d) ANNUAL PERFORMANCE REPORT.—The Chief
10 Operating Officer shall prepare and submit to the Sec-
11 retary and to Congress an annual management report con-
12 taining such information as the Secretary shall prescribe.

13 **“§ 44605. Responsibilities of the ATS organization**

14 “(a) RESPONSIBILITY FOR MOVEMENT OF AIRCRAFT
15 IN UNITED STATES AIRSPACE.—The ATS shall, in a con-
16 tinuing joint relationship with the Department of Defense,
17 exercise day-to-day operational supervision and control
18 over the movement of aircraft in United States-controlled
19 airspace on and after a date set by the Federal Aviation
20 Administrator.

21 “(b) RELATIONSHIP OF ATS AND THE ADMINIS-
22 TRATOR.—The ATS shall exercise the authority conferred
23 on the Administrator by this title to carry out its respon-
24 sibilities under this chapter, consistent with the relation-

1 ship established between the ATS and the Administrator
2 under section 106(r) of this title.

3 “(c) CONSISTENCY WITH INTERNATIONAL OBLIGA-
4 TIONS AND NATIONAL SECURITY.—The ATS shall ensure
5 that its actions are in compliance and consistent with es-
6 tablished relationships of the Department of Transpor-
7 tation with the Department of State and the Department
8 of Defense in fulfilling the international obligations and
9 national security objectives of the United States.

10 **“§ 44606. Performance management**

11 “(a) GENERAL.—The ATS shall establish a perform-
12 ance management system for all ATS employees that—

13 “(1) strengthens ATS effectiveness by—

14 “(A) establishing goals or objectives for in-
15 dividual, group, or organizational performance
16 (consistent with the annual performance agree-
17 ment described in section 44604(b) of this title)
18 and performance planning procedures, including
19 those established under the Government Per-
20 formance and Results Act of 1993;

21 “(B) communicating the goals or objectives
22 to employees;

23 “(C) using the goals and objectives to
24 make performance distinctions among employ-
25 ees or groups of employees; and

1 “(D) using performance assessments as a
2 basis for granting employee awards, adjusting
3 an employee’s rate of basic pay, and other ap-
4 propriate personnel actions. For purposes of
5 this subparagraph, ‘performance assessment’
6 means a determination of whether or not reten-
7 tion standards established under paragraph
8 (2)(A) are met, and any additional performance
9 determination made on the basis of perform-
10 ance goals and objectives established under sub-
11 paragraph (A) of this paragraph; and

12 “(2) maintains individual accountability by—

13 “(A) establishing one or more retention
14 standards for each employee related to the work
15 of the employee and expressed in terms of indi-
16 vidual performance, and communicating such
17 retention standards to the employee;

18 “(B) making periodic determinations of
19 whether each employee meets or does not meet
20 the employee’s established retention standards;
21 and

22 “(C) with respect to any employee whose
23 performance does not meet established retention
24 standards, denying any increases in basic pay,
25 denying any promotions, and taking any appro-

1 appropriate action to resolve the performance prob-
2 lem.

3 “(b) AWARDS AND INCENTIVES.—The ATS may es-
4 tablish an awards program designed to provide incentives
5 for and recognition of organizational, group, and individ-
6 ual achievements by providing for granting awards to em-
7 ployees who, as individuals or members of a group, con-
8 tribute to meeting the performance goals and objectives
9 established under this section by means of a superior indi-
10 vidual or group accomplishment, a documented productiv-
11 ity gain, or sustained superior performance.

12 **“§ 44607. Personnel management**

13 “(a) GENERAL.—In conducting its personnel activi-
14 ties, the ATS shall have the same authority as the Federal
15 Aviation Administrator.

16 “(b) CONTINUATION OF EXISTING LABOR AGREE-
17 MENTS.—Notwithstanding reorganization of air traffic
18 services under this chapter, existing labor agreements with
19 employees of the Administration in effect on the date of
20 establishment of the ATS continue in effect under their
21 terms and are unaffected by the reorganization. The ATS
22 shall accord full recognition to labor organizations rep-
23 resenting ATS employees to the extent that the labor orga-
24 nizations have been accorded exclusive representative sta-
25 tus.

1 **“§ 44608. Acquisitions**

2 “(a) GENERAL.—In conducting its acquisition activi-
3 ties, the ATS shall have the same authority as the Federal
4 Aviation Administrator.

5 “(b) DEPARTMENT OF DEFENSE INTERFACE.—Ex-
6 isting Federal Aviation Administration acquisition author-
7 ity for interface with the Department of Defense is ex-
8 tended to the ATS, and inclusion of the Department in
9 current acquisition laws and practices regarding joint ad-
10 ministration programs remains intact.

11 **“§ 44609. Contracts for services**

12 “(a) GENERAL.—Using fees collected under sub-
13 chapter II of chapter 453 of this title, the ATS may con-
14 tract for personnel management, financial accounting,
15 budgeting, legal, and other necessary services in addition
16 to or as an alternative to obtaining services within the
17 Federal Aviation Administration.

18 “(b) REIMBURSEMENT FOR ADMINISTRATION SERV-
19 ICES.—Personnel management, financial accounting,
20 budgeting, legal, and other services provided from within
21 the Federal Aviation Administration shall be made avail-
22 able to the ATS on a reimbursable basis.

23 “(c) SELECTION OF CHIEF OPERATING OFFICER.—
24 The Secretary may retain outside experts or consultants
25 as part of any effort to identify potential candidates for
26 the position of Chief Operating Officer.”.

1 (b) CONFORMING AMENDMENT.—The analysis of
2 subtitle VII is amended by adding the following after the
3 entry for chapter 445:

“446. PERFORMANCE BASED ORGANIZATION FOR AIR TRAFFIC
SERVICES 44601”.

4 **SEC. 502. RELATIONSHIP OF ATS AND THE ADMINIS-**
5 **TRATOR.**

6 Section 106 is amended by inserting at the end the
7 following new subsection:

8 “(r) RELATIONSHIP OF ADMINISTRATOR AND
9 ATS.—

10 “(1) The Administrator shall delegate such
11 functions, powers, and duties to the perform-
12 ance-based organization for air traffic services
13 (ATS) established under chapter 446 of this
14 title as the Administrator deems necessary to
15 fulfill the requirements of the Federal Aviation
16 Administration Authorization Act 1999.

17 “(2) The Administrator shall retain final
18 authority over the actions of the ATS that af-
19 fect aviation safety and security, government-
20 wide Federal mandates and policies, national
21 security, and international negotiations, agree-
22 ments, and obligations of the United States.

1 “(3) Not later than September 30, 2000, the
2 Administrator shall issue a written delegation that
3 specifies—

4 “(A) the air-traffic-system-related func-
5 tions, powers, and duties to be exercised by the
6 ATS, to ensure clear lines of authority and re-
7 sponsibility for the safe and efficient movement
8 of air traffic;

9 “(B) the subject matter in which a deci-
10 sion, action, or policy of the Chief Operating
11 Officer shall have the effect of a final agency
12 action or order; and

13 “(C) the allocation of Federal Aviation Ad-
14 ministration administrative expenses to the
15 ATS and the basis for reimbursement by the
16 ATS of their cost.”.

17 **SEC. 503. FIVE-YEAR EVALUATION.**

18 Not later than five years after the enactment of the
19 Federal Aviation Administration Authorization Act of
20 1999, the Secretary of Transportation shall provide to the
21 President and Congress a report on the operation and ef-
22 fectiveness of the provisions of this title of this Act and
23 the costs associated therewith. As part of the report, the
24 Secretary shall include any recommendations for legisla-
25 tion the Secretary deems necessary or appropriate as a

1 result of his or her analysis of the operation and effective-
2 ness of this title and the costs associated therewith.

3 **SEC. 504. FEES FOR AIR TRAFFIC SERVICE.**

4 (a) Chapter 453 of subtitle VII is amended by des-
5 ignating sections 45301–45305 as Subchapter I and in-
6 serting immediately thereafter the following:

7 “SUBCHAPTER II—AIR TRAFFIC SERVICE FEES

8 “§ 45331. Air traffic service fees

9 “(a) GENERAL.—

10 “(1) The Chief Operating Officer (COO) of the
11 performance-based organization for air traffic serv-
12 ices established by section 44602 of this title (here-
13 inafter referred to as the ATS) shall prescribe and
14 regularly update a schedule of fees or other charges
15 for air traffic and related services that are provided
16 by the ATS to the air carrier, foreign air carrier,
17 and other non-public/non-military aircraft.

18 “(2) Fees shall—

19 “(A) reflect the cost of providing ATS
20 services, including costs associated with the re-
21 plenishment for depreciation, research, in engi-
22 neering, and development, and the operation
23 and maintenance of facilities and infrastruc-
24 ture;

1 “(B) be computed in a manner that por-
2 trays use of the system by all categories of
3 users;

4 “(C) be based on costs, which shall, to the
5 extent practicable, be derived from generally ac-
6 cepted cost accounting principles;

7 “(D) not unreasonably discriminate
8 against a particular category of users of the air
9 traffic system; and

10 “(E) conform to obligations of the United
11 States Government under international agree-
12 ments.

13 “(3) In developing the initial fees, the COO
14 may use the services of experts and consultants, and
15 may contract on a non-competitive basis, notwith-
16 standing any other provision of law to the contrary,
17 to develop air traffic service user fees. The COO
18 shall publish the proposed initial fee schedule in the
19 Federal Register.

20 “(4) A schedule of fees or charges, including
21 the initial schedule of fees or charges, shall not be
22 made final if the Secretary of Transportation deter-
23 mines, within 45 days of the receipt of a proposed
24 final fee schedule from the COO, that the schedule

1 is not consistent with the requirements of this sec-
2 tion.

3 “(b) CALCULATION OF FEES.—A fee imposed under
4 this section for a category of service shall—

5 “(1) be based, to the extent equitable, on the
6 cost of providing the service to a specific user, based
7 upon the best available data derived from a cost ac-
8 counting system that measures all costs associated
9 with depreciation, research, engineering, and devel-
10 opment, and the operation and maintenance of facili-
11 ties and infrastructure of the ATS; provided, that no
12 redistribution of costs to another category of user
13 shall result; and

14 “(2) differentiate between the provision of serv-
15 ices related to the landing and takeoff of aircraft
16 and the provision of services related to handling air-
17 craft in flight.

18 “(c) IMPOSITION OF FEES.—

19 “(1) the aggregate amount of fees or charges
20 imposed under the authority of this section in a fis-
21 cal year shall, when combined with amounts pro-
22 vided annually under section 48302 of title, be suffi-
23 cient to pay the projected total expenditures of the
24 ATS, subject to appropriations, for a fiscal year.

1 “(2) Subject to the review provisions of this
2 section, the COO shall, on and after May 15, 2001,
3 impose a fee or charge for each use of a category of
4 service by a person who is responsible for remitting
5 tax to the U.S. Treasury under section 4261 or
6 4271 of the Internal Revenue Code of 1986 (26
7 U.S.C. 4261, 4271), as in effect of the date of en-
8 actment of this section.

9 “(3) The COO shall not impose a fee or charge
10 for each use of a category of service by a person who
11 is not responsible for remitting tax to the U.S.
12 Treasury under section 4261 or 4271 of the Internal
13 Revenue Code of 1986 (26 U.S.C. 4261, 4271), as
14 in effect of the date of enactment of this section.

15 “(4) The COO shall not impose a fee or charge
16 for service for military and civilian aircraft of a for-
17 eign government.

18 “(d) CONSULTATION WITH ATS SUBCOMMITTEE.—
19 In developing a fee schedule, the COO shall consult with
20 the ATS Subcommittee established under section 44603
21 of this title and, to the extent possible, seek to develop
22 a consensus.

23 “(e) NOTICE TO CONGRESS.—The COO shall trans-
24 mit to the Committee on Commerce, Science, and Trans-
25 portation of the Senate and the Committee on Transpor-

1 tation and Infrastructure of the House of Representatives
2 each fee schedule 60 days before the final fees become ef-
3 fective.

4 “(f) PUBLICATION OF FEE SCHEDULE.—The COO
5 shall publish each fee schedule in the Federal Register at
6 least 30 days before the fees become effective. The devel-
7 opment and publication of a fee schedule under this sec-
8 tion shall not be subject to the rulemaking provisions of
9 title 5, United States Code.

10 “(g) COLLECTION AND AVAILABILITY OF FEES.—
11 Fees authorized under this subchapter shall be collected
12 and available for obligation only to the extent and in the
13 amount provided in advance in appropriations acts. Such
14 fees are authorized to be appropriated to remain available
15 until expended.

16 **“§ 45332. Fees for international aircraft movements**

17 “(a) GENERAL.—Fees may be imposed under this
18 subchapter on any commercial operation involving air traf-
19 fic control services provided by the United States but not
20 subject to tax under section 4261 of title 26, United
21 States Code, as long as the fees are consistent with inter-
22 national agreements.

23 “(b) FEE PAYMENT IN LIEU OF OVERFLIGHT
24 FEE.—To the extent that a person pays a fee under this
25 subchapter to the ATS for a service, the service is not

1 subject to the imposition of a fee under section 45301 of
2 this title.

3 **“§ 45333. Collection of fees**

4 “(a) FEES PAYABLE TO THE ATS.—Notwithstand-
5 ing section 3302 of title 31, all fees imposed and amounts
6 collected under this subchapter for the ATS shall be cred-
7 ited to the Airport and Airway Trust Fund as specified
8 by chapter 483 of this title and shall be accounted for
9 separately within the Fund.

10 “(b) COLLECTION OF PAYMENTS.—The ATS shall
11 comply with the debt collection provisions of subchapter
12 II of chapter 37 of title 31 and the Department of Trans-
13 portation implementing regulations in 49 CFR part 89 ex-
14 cept that, notwithstanding any other provision of law, the
15 ATS shall have the authority to compromise all claims and
16 litigate the collection of claims.

17 **“§ 45334. Initial imposition of fees; Congressional re-
18 view procedure**

19 “(a) GENERAL.—

20 “(1) Subject to the review procedures of this
21 section, the COO shall impose an initial schedule of
22 fees or charges under this subchapter that applies to
23 air traffic services provided after May 15, 2001.

24 “(2) The COO shall issue a final initial fee
25 schedule under this section, after public hearing and

1 comment and consultation with the ATS Sub-
2 committee established under section 44603 of this
3 title, not later than March 1, 2001.

4 “(b) CONGRESSIONAL REVIEWS.—

5 “(1) Not later than March 1, 2001, the COO
6 shall transmit copies of the final fee schedule issued
7 under this section to the Committee on Commerce,
8 Science, and Transportation of the Senate, and the
9 Committee on Transportation and Infrastructure of
10 the House of Representatives.

11 “(2) The COO may not implement the initial
12 fee schedule if a joint resolution is enacted, in ac-
13 cordance with the provisions of this section, dis-
14 approving the schedule before the earlier of the—

15 “(A) end of the 60-day period beginning
16 on the date on which the fee schedule is trans-
17 mitted to Congress; or

18 “(B) adjournment of Congress sine die for
19 the session during which the fee schedule is
20 transmitted.

21 “(3) For purposes of this section, the days on
22 which either House of Congress is not in session be-
23 cause of an adjournment of more than three days to
24 a day certain shall be excluded in the computation
25 of a 60-day period.

1 “(c) JOINT RESOLUTION OF DISAPPROVAL.—

2 “(1) For purposes of this section, the term
3 ‘joint resolution’ means only a joint resolution which
4 is introduced within the 10-day period beginning on
5 the date on which the COO transmits the fee sched-
6 ule to the Congress under this section, and—

7 “(A) which does not have a preamble;

8 “(B) the matter after the resolving clause
9 of which is as follows: ‘That Congress dis-
10 approves the funding proposal submitted by the
11 ATS Chief Operating Officer established by 49
12 U.S.C. 44603 on _____’, the blank space
13 being filled in with the appropriate date; and

14 “(C) the title of which is as follows: ‘Joint
15 resolution disapproving the ATS funding pro-
16 posal submitted by the ATS Chief Operating
17 Officer established by 49 U.S.C. 44603.’

18 “(2) A resolution described in paragraph (1) of
19 this subsection that is introduced in the House of
20 Representatives shall be referred to the Committee
21 on Transportation and Infrastructure of the House
22 of Representatives. A resolution described in para-
23 graph (1) of this subsection introduced in the Senate
24 shall be referred to the Committee on Commerce,
25 Science, and Transportation of the Senate.

1 “(3) If the committee to which a resolution de-
2 scribed in paragraph (1) of this subsection is re-
3 ferred has not reported the resolution (or an iden-
4 tical resolution) by the end of the 30-day period be-
5 ginning on the date on which the fee schedule is
6 transmitted to Congress, the committee shall be, at
7 the end of such period, discharged from further con-
8 sideration of such resolution, and such resolution
9 shall be placed on the appropriate calendar of the
10 House involved.

11 “(d) CONSIDERATION.—

12 “(1) On or after the third day after the date on
13 which the committee to which a resolution is re-
14 ferred has reported, or has been discharged (under
15 subsection (c) of this section) from further consider-
16 ation of, such a resolution, it is in order (even
17 though a previous motion to the same effect has
18 been disagreed to) for any Member of the respective
19 House to move to proceed to the consideration of the
20 resolution. A Member may make the motion only on
21 the day after the calendar day on which the Member
22 announces to the House concerned the Member’s in-
23 tention to make the motion, except that, in the case
24 of the House of Representatives, the motion may be
25 made without such prior announcement if the mo-

1 tion is made by direction of the committee to which
2 the resolution was referred. All points of order
3 against the resolution (and against consideration of
4 the resolution) are waived. The motion is highly
5 privileged in the House of Representatives and is
6 privileged in the Senate and is not debatable. The
7 motion is not subject to amendment, or to a motion
8 to postpone, or to a motion to proceed to the consid-
9 eration of other business. A motion to reconsider the
10 vote by which the motion is agreed to or disagreed
11 to shall not be in order. If a motion to proceed to
12 the consideration of the resolution is agree to, the
13 respective House shall immediately proceed to con-
14 sideration of the joint resolution without intervening
15 motion, order, or other business, and the resolution
16 shall remain the unfinished business of the respec-
17 tive House until disposed of.

18 “(2) Debate on the resolution, and on all debat-
19 able motions and appeals in connection therewith,
20 shall be limited to not more than 2 hours, which
21 shall be divided equally between those favoring and
22 those opposing the resolution. An amendment to the
23 resolution is not in order. A motion further to limit
24 debate is in order and not debatable. A motion to
25 postpone, or a motion to proceed to the consider-

1 ation of other business, or a motion to recommit the
2 resolution is not in order. A motion to reconsider the
3 vote by which the resolution is agreed to or dis-
4 agreed to is not in order.

5 “(3) Immediately following the conclusion of
6 the debate on a resolution described in subsection
7 (c) of this section and a single quorum call at the
8 conclusion of the debate if requested in accordance
9 with the rules of the appropriate House, the vote on
10 final passage of the resolution shall occur.

11 “(4) Appeals from the decisions of the Chair-
12 person relating to the application of the rules of the
13 Senate or the House of Representatives, as the case
14 may be, to the procedure relating to a resolution de-
15 scribed in subsection (c) of this section shall be de-
16 cided without debate.

17 “(e) CONSIDERATION BY OTHER HOUSE.—

18 “(1) If, before the passage by one House of a
19 resolution of that House described in subsection (c)
20 of this section, that House receives from the other
21 House a resolution described in subsection (c), then
22 the following procedures shall apply:

23 “(A) The resolution of the other House
24 shall not be referred to a committee and may
25 not be considered in the House receiving it ex-

1 cept in the case of final passage as provided
2 in clause (B)(ii) of this paragraph.

3 “(B) With respect to a resolution of the
4 House receiving the resolution—

5 “(i) the procedure in that House shall
6 be the same as if no resolution had been
7 received from the other House; but

8 “(ii) the vote on final passage shall be
9 on the resolution of the other House.

10 “(2) Upon disposition of the resolution received
11 from the other House, it shall no longer be in order
12 to consider the resolution that originated in the re-
13 ceiving House.

14 “(f) RULES OF THE SENATE AND HOUSE.—Sub-
15 sections (b)–(f) of this section are enacted by Congress—

16 “(1) as an exercise of the rulemaking power of
17 the Senate and House of Representatives, respec-
18 tively, and as such are deemed a part of the rules
19 of each House, respectively, but applicable only with
20 respect to the procedure to be followed in that
21 House in the case of a resolution describe in sub-
22 section (a) of this section, and it supersedes other
23 rules only to the extent that it is inconsistent with
24 such rules; and

1 “(2) with full recognition of the constitutional
2 right of either House to change the rules (so far as
3 relating to the procedure of that House) at any time,
4 in the same manner, and to the same extent as in
5 the case of any other rule of that House.

6 “(g) CERTIFICATION OF DELAY.—In the event that
7 the COO is unable to transmit to Congress by March 1,
8 2001, the initial schedule of fees or charges imposed under
9 this subchapter, the COO shall certify to Congress the
10 basis for the delay and shall advise Congress of the earliest
11 practicable date for compliance with the notice and review
12 requirements of this section.”.

13 “(b) CONFORMING AMENDMENTS.—

14 “(1) Section 45303(c) is amended by striking
15 “Administration,” the first place it appears and sub-
16 stituting “Administration (other than under section
17 45305 and Subchapter II of this chapter),”.

18 “(2) The analysis of chapter 453 is amended to
19 read as follows:

“SUBCHAPTER I—GENERAL REQUIREMENTS

- “45301. General provisions.
- “45302. Fees involving aircraft not providing air transportation.
- “45303. Administrative provisions.
- “45304. Maximum fee for private person services.
- “45305. Transitional User Fee Authority.

“SUBCHAPTER II—AIR TRAFFIC SERVICES

- “45331. Air traffic service fees.
- “45332. Fees for international aircraft movements.
- “45333. Collection of fees.
- “45334. Initial imposition of fees; Congressional review procedure.”.

1 **SEC. 505. FINANCING A PERFORMANCE BASED ORGANIZA-**
 2 **TION FOR AIR TRAFFIC SERVICES.**

3 (a) Subtitle VII is amended by inserting after chapter
 4 482 the following:

5 “CHAPTER 483—FINANCING A PERFORMANCE
 6 BASED ORGANIZATION FOR AIR TRAFFIC
 7 SERVICES

“§ 48301. Deposit and use of ATS fees

“§ 48302. Authorization of appropriations

8 **“§ 48301. Deposit and use of ATS fees**

9 “(a) DEPOSITS TO AIRPORT AND AIRWAY TRUST
 10 FUND.—There shall be deposited into the Airport and Air-
 11 way Trust Fund (26 U.S.C. 9502)—

12 “(1) fees and amounts collected under sub-
 13 chapter II of chapter 453 of this title;

14 “(2) fees collected under section 45305; and

15 “(3) any other amounts the ATS is authorized
 16 to collect.

17 “(b) EXPENDITURES OF FUNDS DEPOSITED.—

18 “(1) The funds deposited under subsection (a)
 19 shall be available without fiscal-year limitation for
 20 the payment of all obligations that the performance-
 21 based organization for air traffic services established
 22 by section 44602 of this title (hereinafter referred to
 23 as the ATS) incurs in carrying out its functions,
 24 powers, and duties under chapter 446 of this title.

1 “(2) Deposits under subsection (a) are available
2 to the extent and in the amounts provided for by ap-
3 propriations acts.

4 **“§ 48302. Authorization of appropriations**

5 “(a) GENERAL.—On and after May 15, 2001, there
6 is authorized to be appropriated without fiscal-year limita-
7 tion to the performance-based organization for air traffic
8 services established by section 44602 of this title (herein-
9 after referred to as the ATS) the amounts set forth in
10 subsections (b), (c), and (d) of this section, to carry out
11 powers, functions, and duties established under chapter
12 446 of this title.

13 “(b) AIR TRAFFIC USER FEES.—In each of fiscal
14 years 2001–2004, there is authorized to be appropriated
15 from the Airport and Airway Trust Fund an amount from
16 fees and charges collected as may be necessary for each
17 of fiscal years 2001–2004.

18 “(c) GENERAL AVIATION FUEL TAXES.—In each of
19 fiscal years 2001–2004, there is authorized to be appro-
20 priated from the Airport and the Airway Trust Fund
21 amounts equivalent to the amounts paid after May 15,
22 2001, in respect of aviation fuels, including gasoline, used
23 in non-commercial aircraft under sections 4041(c), 4081,
24 and 4091 of title 26, United States Code (26 U.S.C.
25 4041(c), 4081, 4091).

1 “(d) OTHER FUNDING.—In each of fiscal years
2 2001–2004, there is authorized to be appropriated from
3 the Airport and the Airway Trust Fund such sums as may
4 be necessary for each fiscal years 2001–2004.”.

5 (b) CONFORMING AMENDMENT.—The analysis of
6 Subtitle VII is amended by adding the following after the
7 entry for chapter 482:

“CHAPTER 483. FINANCING A PERFORMANCE BASED
ORGANIZATION FOR AIR TRAFFIC SERVICES 48301”.

8 **SEC. 506. ADJUSTMENT OF CERTAIN AVIATION EXCISE**
9 **TAXES.**

10 (a) IN GENERAL.—On the date on which the Budget
11 of the United States Government is transmitted to Con-
12 gress in 2000, and on that date in each year thereafter,
13 if the sum of revenue from fees projected to be collected
14 under section 45305 and subchapter II of this title in the
15 upcoming fiscal year and amounts equivalent to excise
16 taxes projected to be credited to the Airport and Airway
17 Trust Fund in that fiscal year does not equal the budg-
18 etary requirements for the Federal Aviation Administra-
19 tion for the succeeding year, as shown in the Budget of
20 the United States Government for the upcoming fiscal
21 year, aviation excise taxes that would otherwise be im-
22 posed in the upcoming fiscal year shall be adjusted as fol-
23 lows:

1 (1) PASSENGER TICKET TAX.—The rate of tax
2 imposed under section 4261(a) of the Internal Reve-
3 nue Code of 1986 (26 U.S.C. 4261(a)) is adjusted
4 pursuant to the calculation made for each fiscal year
5 under subsection (b) of this section.

6 (2) INTERNATIONAL ARRIVALS AND DEPAR-
7 TURES.—The rate of tax imposed under section
8 4261(e) of the Internal Revenue Code of 1986 (26
9 U.S.C. 4261(e)) is adjusted pursuant to the calcula-
10 tion made for each fiscal year under subsection (b)
11 of this section.

12 (3) AIR CARGO.—The rate of tax imposed under
13 section 4271 of the Internal Revenue Code of 1986
14 (26 U.S.C. 4271) is adjusted pursuant to the cal-
15 culation made for each fiscal year under subsection
16 (b) of this section.

17 (4) DOMESTIC PASSENGER FLIGHT SEG-
18 MENTS.—The rate of tax imposed under section
19 4261(b) of the Internal Revenue Code of 1986 (26
20 U.S.C. 4261(b)) is adjusted pursuant to the calcula-
21 tion made for each fiscal year under subsection (b)
22 of this section.

23 (5) PASSENGER TICKET TAX AT RURAL AIR-
24 PORTS.—The rate of tax imposed under section
25 4261(e)(1) of the Internal Revenue Code of 1986

1 (26 U.S.C. 4261(e)(1)) is adjusted pursuant to the
2 calculation made for each fiscal year under sub-
3 section (b) of this section.

4 (6) FREQUENT FLYER TAX.—The rate of tax
5 imposed under section 4261(e)(3) of the Internal
6 Revenue Code of 1986 (26 U.S.C. 4261(e)(3)) is ad-
7 justed pursuant to the calculation made for each fis-
8 cal year under subsection (b) of this section.

9 (7) COMMERCIAL AVIATION FUEL TAX.—The
10 rate of tax not exempted under section 4291(b)(2)
11 of the Internal Revenue Code of 1986 (26 U.S.C.
12 4291(b)(2)) is adjusted pursuant to the calculation
13 made for each fiscal year under subsection (b) of
14 this section.

15 (b) CALCULATION.—On the date on which the Budg-
16 et of the United States Government is transmitted to Con-
17 gress in 2000, and on that date in each year thereafter,
18 the Secretary of the Treasury, in consultation with the
19 Secretary of Transportation, shall calculate a percent fig-
20 ure for the upcoming fiscal year as follows:

21 (1) The Secretary of the Treasury shall esti-
22 mate the budgetary requirements for the Federal
23 Aviation Administration for the succeeding fiscal
24 year based on the Budget of the United States Gov-
25 ernment.

1 (2) The Secretary of the Treasury shall esti-
2 mate the mount of user fees imposed under 49
3 U.S.C. 45305, 45331, and 45332 to be collected for
4 the upcoming fiscal year.

5 (3) The Secretary of the Treasury shall esti-
6 mate the receipts in the upcoming fiscal year from
7 taxes that, but for this section, would be imposed
8 under sections 4261(a) (passenger ticket tax),
9 4261(c) (international arrivals and departures),
10 4271 (transportation of property) of the Internal
11 Revenue Code of 1986, 4261(b) (domestic passenger
12 flight segments), 4261(e)(1) (passenger ticket tax-
13 rural airports), and 4261(e)(3) (frequent flyer tax).

14 (4) On the date on which the Budget of the
15 United States Government is transmitted to Con-
16 gress in 2002, and on that date in each year there-
17 after, the Secretary of Treasury shall calculate the
18 amount that actual budget resources, in the fiscal
19 year that is one year earlier than the current year,
20 and user fee and tax receipts credited to the Airport
21 and Airway Trust Fund, in the fiscal year that is
22 two years earlier than the current year, varied from
23 the amounts projected in the calculation previously
24 made for the fiscal year that is two years earlier
25 than the current year under this subsection or sec-

1 tion 45305(d). The resulting positive or negative
 2 amount shall be added to the estimated amount cal-
 3 culated under paragraph (3).

4 (5) The Secretary of the Treasury shall sub-
 5 tract the amount calculated under paragraph (2)
 6 from the amount calculated under paragraph (1)
 7 and divide that result by the amount calculated
 8 under paragraph (3), after any adjustment under
 9 paragraph (4). If the result is less than 1, subtract
 10 the resulting percentage from 100 percent. The per-
 11 cent that taxes are to be reduced for the upcoming
 12 fiscal year under subsection (a) is the result of this
 13 calculation. If the result is greater than 1, subtract
 14 1 from the result. The percent that taxes are to be
 15 increased for the upcoming fiscal year under sub-
 16 section (a) is the result of this calculation.

17 **TITLE VI—FAMILY ASSISTANCE**

18 **SEC. 601. RESPONSIBILITIES OF NATIONAL TRANSPOR-** 19 **TATION SAFETY BOARD.**

20 (a) PROHIBITION ON UNSOLICITED COMMUNICA-
 21 TIONS.—

22 (1) IN GENERAL.—Section 1136(g)(2) is
 23 amended—

24 (A) by inserting after “transportation,”
 25 the following: “and in a case involving a foreign

1 air carrier and an accident that occurs within
2 the United States,”;

3 (B) by inserting after “attorney” the fol-
4 lowing: “(including any associate, agent, em-
5 ployee, or other representative of the attor-
6 ney)”; and

7 (C) by striking “30th day” and inserting
8 “45th day”.

9 (2) ENFORCEMENT.—

10 (A) Section 1113(a)(4) is amended by
11 striking “Board,” and substituting “Board, or
12 takes an action prohibited by section 1136(g) of
13 this title,”.

14 (B) Section 1151 is amended by inserting
15 “1136(g),” before “or 1155(a)” each place it
16 appears.

17 (b) PROHIBITION ON ACTIONS TO PREVENT MENTAL
18 HEALTH AND COUNSELING SERVICES.—Section 1136(g)
19 is amended by adding at the end the following:

20 “(3) PROHIBITION ON ACTIONS TO PREVENT
21 MENTAL HEALTH AND COUNSELING SERVICES.—No
22 State or political subdivision may prevent the em-
23 ployees, agents, or volunteers of an organization des-
24 ignated to assist at an accident under subsection
25 (a)(2) from providing mental health and counseling

1 services under subsection (c)(1) in the 30-day period
 2 beginning on the date of the accident. The director
 3 of family support services designated for the acci-
 4 dent under subsection (a)(1) may extend such period
 5 for not to exceed an additional 30 days if the direc-
 6 tor determines that the extension is necessary to
 7 meet the needs of the families and if State and local
 8 authorities are notified of the determination.”.

9 (c) INCLUSION OF NON-REVENUE PASSENGERS IN
 10 FAMILY ASSISTANCE COVERAGE.—Section 1136(h)(2) is
 11 amended to read as follows:

12 “(2) PASSENGER.—The term ‘passenger’
 13 includes—

14 “(A) an employee of an air carrier or for-
 15 eign air carrier aboard an aircraft; and

16 “(B) any other person aboard the aircraft
 17 without regard to whether the person paid for
 18 the transportation, occupied a seat, or held a
 19 reservation for the flight.”.

20 (d) LIMITATION ON STATUTORY CONSTRUCTION.—
 21 Section 1136 is amended by adding at the end the follow-
 22 ing:

23 “(i) LIMITATION ON STATUTORY CONSTRUCTION.—
 24 Nothing in this section may be construed as limiting the
 25 actions that an air carrier may take, or the obligations

1 that an air carrier may have, in providing assistance to
2 the families of passengers involved in an aircraft acci-
3 dent.”.

4 (e) FAMILY SUPPORT CLARIFICATIONS.—

5 (1) Section 1136(c)(4) is amended by deleting
6 “, government agencies, and the air carrier or for-
7 eign air carrier involved”.

8 (2) The phrase “family affairs” is substituted
9 for “family support services” wherever it appears in
10 sections 1136, 41113, and 41313.

11 **SEC. 602. AIR CARRIER PLANS.**

12 (a) CONTENTS OF PLANS.—

13 (1) FLIGHT RESERVATION INFORMATION.—Sec-
14 tion 41113(b) is amended by adding at the end the
15 following:

16 “(14) An assurance that, upon request of the
17 family of a passenger, the air carrier will inform the
18 family of the status of the review of the verification
19 of the passenger manifest, including whether the
20 passenger’s name appeared on a preliminary pas-
21 senger manifest for the flight involved in the acci-
22 dent.”.

23 (2) TRAINING OF EMPLOYEES AND AGENTS.—
24 Section 41113(b) is further amended by adding at
25 the end the following:

1 “(15) An assurance that the air carrier will
2 provide adequate training to the employees and
3 agents of the carrier to meet the needs of survivors
4 and family members following an accident.”.

5 (3) SUBMISSION OF UPDATED PLANS.—The
6 amendments made by paragraphs (1) and (2) shall
7 take effect on the 180th day following the date of
8 enactment of this Act. On or before such 180th day,
9 each air carrier holding a certificate of public con-
10 venience and necessity under section 41102 of title
11 49, United States Code, shall submit to the Sec-
12 retary of Transportation and the Chairman of the
13 National Transportation Safety Board an updated
14 plan under section 41113 of such title that meets
15 the requirement of the amendments made by para-
16 graphs (1) and (2).

17 (4) CONFORMING AMENDMENTS.—Section
18 41113 is amended—

19 (A) in subsection (a) by striking “Not later
20 than 6 months after the date of the enactment
21 of this section, each air carrier” and inserting
22 “Each air carrier”; and

23 (B) in subsection (c) by striking “After the
24 date that is 6 months after the date of the en-

1 actment of this section, the Secretary” and in-
2 serting “The Secretary”.

3 (b) LIMITATION ON LIABILITY.—Section 41113(d) is
4 amended by inserting “, or in providing information con-
5 cerning a flight reservation,” before “pursuant to a plan”.

6 (c) LIMITATION ON STATUTORY CONSTRUCTION.—
7 Section 41113 is amended by adding at the end the follow-
8 ing:

9 “(f) LIMITATION ON STATUTORY CONSTRUCTION.—
10 Nothing in this section may be construed as limiting the
11 actions that an air carrier may take, or the obligations
12 that an air carrier may have, in providing assistance to
13 the families of passengers involved in an aircraft acci-
14 dent.”.

15 (d) CONSULTATION ON CARRIER RESPONSE NOT
16 COVERED BY A PLAN.—Section 41113(c), as amended by
17 this section, is further amended by striking “of such appli-
18 cation” and all that follows and substituting the following:

19 “of such application—

20 “(1) a plan that meets the requirements of sub-
21 section (b); and

22 “(2) an agreement that, in the event that the
23 air carrier volunteers assistance to United States
24 citizens within the United States in the case of an
25 aircraft accident outside the United States involving

1 major loss of life, the air carrier will consult with
2 the Board and the Department of State on the pro-
3 vision of assistance.”.

4 **SEC. 603. FOREIGN AIR CARRIER PLANS.**

5 (a) INCLUSION OF NON-REVENUE PASSENGERS IN
6 FAMILY ASSISTANCE COVERAGE.—Section 41313(a)(2) is
7 amended to read as follows:

8 “(2) PASSENGER.—The term ‘passenger’ has
9 the meaning given such term by section 1136 of this
10 title.”.

11 (b) ACCIDENTS FOR WHICH PLAN IS REQUIRED.—
12 Section 41313(b) is amended by striking “significant” and
13 inserting “major”.

14 (c) CONTENTS OF PLANS.—

15 (1) IN GENERAL.—Section 41313(c) is amend-
16 ed by adding at the end the following:

17 “(15) An assurance that, upon request of the
18 family of a passenger, the air carrier will inform the
19 family of the status of review of the verification of
20 the passenger manifest, including whether the pas-
21 senger’s name appeared on a preliminary passenger
22 manifest for the flight involved in the accident.

23 “(16) An assurance that the foreign air carrier
24 will provide adequate training to the employees and

1 agents of the carrier to meet the needs of survivors
2 and family members following an accident.”.

3 (2) SUBMISSION OF UPDATED PLANS.—The
4 amendment made by paragraph (1) shall take effect
5 on the 180th day following the date of enactment of
6 this Act. On or before such 180th day, each foreign
7 air carrier providing foreign air transportation under
8 chapter 413 of title 49, United States Code, shall
9 submit to the Secretary of Transportation and the
10 Chairman of the National Transportation Safety
11 Board an updated plan under section 41313 of such
12 title that meets the requirement of the amendment
13 made by paragraph (1).

14 (d) CONSULTATION ON CARRIER RESPONSE NOT
15 COVERED BY A PLAN.—Section 431313(d) is amended by
16 striking “request for exemption” and all that follows and
17 inserting the following: “request for exemption—

18 “(1) a plan that meets the requirements of sub-
19 section (c); and

20 “(2) an agreement that, in the event that the
21 foreign air carrier volunteers assistance to United
22 States citizens within the United States in the case
23 of an aircraft accident outside the United States in-
24 volving major loss of life, the foreign air carrier will

1 consult with the Board and the Department of State
2 on the provision of assistance.”.

3 **SEC. 604. APPLICABILITY OF DEATH ON THE HIGH SEAS**
4 **ACT.**

5 (a) IN GENERAL.—Section 40120(a) is amended by
6 inserting “(including the Act entitled ‘An Act relating to
7 the maintenance of actions for death on the high seas and
8 other navigable waters’, approved March 30, 1920, com-
9 monly known as the Death on the High Seas Act (46
10 U.S.C. App. 761–767; 41 Stat. 537–538))” after “United
11 States”.

12 (b) APPLICABILITY.—The amendment made by sub-
13 section (a) applies to civil actions commenced after the
14 date of enactment of this Act and to civil actions that are
15 not adjudicated by a court of original jurisdiction or set-
16 tled on or before such date of enactment.

17 **TITLE VII—PASSENGER SERVICE**
18 **AVAILABILITY; MAIL RATES**

19 **SEC. 701. NON-DISCRIMINATION IN AIRLINE TRAVEL.**

20 (a) Section 41310(a) is amended by redesignating the
21 existing paragraph as paragraph 41310(a)(1).

22 (b) Section 41310(a)(1), as redesignated, is amended
23 by striking “person,”.

24 (c) Section 41310(a) is further amended by adding
25 the following at the end:

1 “(2) An air carrier or foreign air carrier may
2 not subject a person in foreign air transportation to
3 unreasonable discrimination, including discrimina-
4 tion on the basis of race, color, national origin, reli-
5 gion, or sex.

6 “(3) Subject to the restriction of section
7 40105(b) of this title, in providing foreign air trans-
8 portation, a foreign air carrier may not discriminate
9 against an otherwise qualified individual on the fol-
10 lowing grounds:

11 “(A) the individual has a physical or men-
12 tal impairment that substantially limits one or
13 more major life activities.

14 “(B) the individual has a record of such
15 impairment.

16 “(C) the individual is regarded as having
17 such an impairment.”.

18 (d) Section 41702 is amended by redesignating the
19 existing text as subsection 41702(a), with “SAFE AND
20 ADEQUATE AIR TRANSPORTATION” as the caption.

21 (e) Section 41702 is further amended by adding the
22 following at the end:

23 “(b) DISCRIMINATION AGAINST PERSONS.—An air
24 carrier may not subject a person in interstate air transpor-
25 tation to unreasonable discrimination, including discrimi-

1 nation on the basis of race, color, national origin, religion,
2 or sex.”.

3 (f) Section 46107 is amended by adding the following
4 new subsection at the end:

5 “(d) CIVIL ACTIONS TO ENFORCE SECTIONS
6 41310(a)(2), 41310(a)(3), 41702(b), 41702(b), AND
7 41705.—

8 “(1) The Attorney General may act to enforce
9 sections 41310(a)(2), 41310(a)(3), 41702(b), and
10 41705 of this title by instituting a civil proceeding
11 seeking damages for persons injured as a result of
12 past violations of those sections and for preventive
13 relief, including an application for a permanent or
14 temporary injunction, restraining order or other
15 order, whenever the Attorney General—

16 “(A) determines that the matters alleged
17 are of general public importance or where there
18 is evidence of a pattern or practice of discrimi-
19 nation; or

20 “(B) agrees with the Secretary of Trans-
21 portation’s referral of a complaint alleging a
22 violation of sections 41310(a)(2), 41310(a)(3),
23 41702(b), or 41705 filed with the Department
24 of Transportation.

1 action if the Attorney General certifies that the case is
2 of general public importance.

3 “(b) ATTORNEY’S FEES.—In any action commenced
4 under sections 41310(a)(2), 41310(a)(3), 41702(b), or
5 41705 of this title, the court, in its discretion, may allow
6 the prevailing party, other than the United States, a rea-
7 sonable attorney’s fee as part of the costs.”.

8 (2) The analysis for Chapter 461 is amended by
9 the addition at the end of the following:

“46111. Enforcement of discrimination provisions by interested persons.”.

10 **SEC. 702. AIRLINE SERVICE RESTORATION PILOT PRO-**
11 **GRAM.**

12 (a) Chapter 417 is amended by adding the following
13 at the end:

14 “SUBCHAPTER III—AIRLINE SERVICE
15 RESTORATION

16 “§ 41761. Pilot program project authority

17 “(a) GENERAL.—The Secretary of Transportation
18 shall establish a pilot program to assist communities and
19 states with inadequate access to the national transpor-
20 tation system to improve their access to the system.

21 “(b) PROJECT AUTHORITY.—Under the pilot pro-
22 gram established under subsection (a), the Secretary
23 may—

24 “(1) provide financial assistance by way of
25 grants to small communities under this chapter; and

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

3 “(c) OTHER ACTION.—Under the pilot program es-
4 tablished under subsection (a), the Secretary may facili-
5 tate service by—

6 “(1) working with airports and air carriers to
7 ensure that appropriate facilities are made available
8 at an essential airport facility, as defined in section
9 41717 of this title;

10 “(2) requiring interline or joint-fare agreements
11 between air carriers for domestic United States serv-
12 ice if necessary to facilitate access to an essential
13 airport facility, as defined in section 41717 of this
14 title, for participants in the program, subject to the
15 right of a carrier being required to enter into such
16 agreements to impose reasonable safety, service, and
17 other obligations on the potential partner;

18 “(3) collecting data on air carrier service to
19 small communities; and

20 “(4) providing policy recommendations to stim-
21 ulate air service and competition to small commu-
22 nities.

23 **“§ 41762. Assistance to communities for service**

24 “(a) GENERAL.—

1 “(1) Financial assistance provided under this
2 subchapter as part of the pilot program established
3 under section 41761(a) shall be implemented at any
4 time for not more than—

5 “(A) four communities within a state; and

6 “(B) 40 communities in the entire pro-
7 gram.

8 “(2) In this section, a ‘community’ includes a
9 group or consortium of communities acting as a sin-
10 gle applicant.

11 “(b) ELIGIBILITY.—To participate in a pilot project
12 under this subchapter, a state, community, or group of
13 communities shall apply to the Secretary in such form and
14 at such time, and shall supply such information, as the
15 Secretary may require, and shall demonstrate to the satis-
16 faction of the Secretary that—

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

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

7 “(5) the pilot project will not impose adverse
8 environmental impacts.

9 “(c) COORDINATION WITH SUBCHAPTER II.—The
10 Secretary shall carry out this subchapter in such a manner
11 as to complement action taken under subchapter II of this
12 chapter. To the extent the Secretary determines to be ap-
13 propriate, the Secretary may adopt criteria for implemen-
14 tation of this subchapter that are the same as, or similar
15 to, the criteria developed under subchapter II for deter-
16 mining which airports are eligible under that subchapter.

17 “(d) MAXIMIZATION OF PARTICIPATION.—The Sec-
18 retary shall structure the program established under sec-
19 tion 41761(a) in a way designed to—

20 “(1) permit the participation of the maximum
21 feasible number of communities over a 5-year period
22 by limiting the number of years of participation or
23 otherwise; and

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

4 “(A) progressively decreasing, on a project-
5 by-project basis, any federal financial incentives
6 provided under this chapter over the 5-year pe-
7 riod; and

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

12 “(i) viable without further support
13 under this subchapter; or

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

17 “(e) SUCCESS BONUS.—If federal financial incentives
18 to a community are terminated under subparagraph
19 (d)(2)(B) because of the success of the program in that
20 community, then that community may receive a one-time
21 incentive grant to ensure the continued success of the pro-
22 gram.

23 “(f) PROGRAM TO TERMINATE IN 5 YEARS.—No new
24 financial assistance may be provided under this sub-
25 chapter for any fiscal year beginning more than 5 years

1 after the date of enactment of authorizations for this sub-
2 chapter.

3 “(g) LIMITS ON FINANCIAL ASSISTANCE.—The Sec-
4 retary may not provide financial assistance under this sub-
5 chapter to a community in a fiscal year in excess of the
6 lesser of—

7 “(1) up to 75 percent of the total annual finan-
8 cial assistance involved in the service; or

9 “(2) \$500,000.

10 **“§ 41763. Additional authority**

11 “In carrying this subchapter, the Secretary—

12 “(1) may provide assistance to states and com-
13 munities in the design and application phase of any
14 project under this chapter, and oversee the imple-
15 mentation of any such project;

16 “(2) may assist states and communities in put-
17 ting together projects under this chapter to utilize
18 private sector resources, other Federal resources, or
19 a combination of public and private resources;

20 “(3) may accord priority to service by jet air-
21 craft;

22 “(4) may take such action as may be necessary
23 to ensure that financial resources, facilities, and ad-
24 ministrative arrangements made under this chapter

1 are used to carry out the purpose of this subchapter;
2 and

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

6 **“§ 41764. Authorization of appropriations**

7 “(a) GENERAL.—There is authorized to be appro-
8 priated not more than \$25,000,000 from fiscal year 2001
9 through 2005 to carry out this subchapter.

10 “(b) SUCCESS BONUS.—If the Secretary determines
11 that the program carried out under this subchapter is suc-
12 cessful in providing enhanced air carrier service to small
13 communities, there is authorized to be appropriated an ad-
14 ditional amount, not in excess of \$5,000,000, for each of
15 fiscal years 2004 and 2005 to carry out this subchapter
16 out of the funds.”.

17 (b) The analysis for Chapter 417 is amended by the
18 addition at the end of the following:

“SUBCHAPTER III—AIRLINE SERVICE RESTORATION

“41761. Pilot program project authority.

“41762. Assistance to communities for service.

“41763. Additional authority.

“41764. Authorization of appropriations.”.

19 **SEC. 703. WAIVER OF LOCAL CONTRIBUTION.**

20 Section 41736(b)(4) is amended by inserting “in the
21 case of a community approved for service under this sec-

1 tion before October 1, 1991, or after December 31, 1997,”
 2 before “the State or”.

3 **SEC. 704. JOINT FARES AND INTERLINE AGREEMENTS.**

4 (a) Subchapter I of chapter 417 is amended by add-
 5 ing at the end the following:

6 **“§ 41717. Joint fares and interline agreements for do-
 7 mestic transportation**

8 “(a) DEFINITIONS.—In this section—

9 “(1) QUALIFYING AIR CARRIER.—The term
 10 ‘qualifying air carrier’ means an air carrier that op-
 11 erates under a certificate of public convenience and
 12 necessity under chapter 411 of this title.

13 “(2) UNDER-SERVED MARKET.—The term
 14 ‘under-served market’ means a commercial service
 15 airport that is a nonhub airport (as defined in sec-
 16 tion 41731 of this title), a small hub airport (as de-
 17 fined in section 41731 of this title), or an airport
 18 that is smaller than a small hub airport.

19 “(3) ESSENTIAL AIRPORT FACILITY.—The term
 20 ‘essential airport facility’ means at large hub airport
 21 (as defined in section 41731 of this title) in the con-
 22 tiguous 48 states at which one carrier has more than
 23 50 percent of total annual enplanements.

24 “(b) SECRETARY MAY COMPEL JOINT FARE STRUC-
 25 TURE.—If the Secretary of Transportation determines

1 that it is necessary to facilitate service to a small commu-
2 nity, the Secretary, may require an air carrier that serves
3 an essential airport facility to enter into a joint-fare or
4 interline agreement, that the Secretary determines is rea-
5 sonable, with a qualifying air carrier that serves an under-
6 served market to facilitate air transportation in the mar-
7 ket.”.

8 (b) The analysis for subchapter I of chapter 417 is
9 amended by inserting at the end the following:

“41717. Joint fares and interline agreements for domestic transportation.”.

10 **SEC. 705. POLICY FOR AIR SERVICE TO RURAL AREAS.**

11 Section 40101(a) is amended by adding at the end
12 the following:

13 “(16) ensuring that consumers in all regions of
14 the United States, including those in small commu-
15 nities and rural and remote areas, have access to af-
16 fordable, regularly scheduled air service.

17 “(17) ensuring that slots provided to air car-
18 riers to provide small community air service are
19 withdrawn if the carrier fails to provide the serv-
20 ice.”.

21 **SEC. 706. CLARIFICATION OF AIR CARRIER CODESHARING**
22 **OBLIGATIONS.**

23 Section 41739 is amended to read as follows:

1 **“§ 41739. Air carrier obligations**

2 “If at least 2 air carriers make an agreement to oper-
 3 ate under or use a single carrier designator code to provide
 4 air transportation, the carrier whose code is being used
 5 shares responsibility with the other carriers for the level
 6 and quality of transportation provided the public under
 7 the code by the other carriers, including providing full
 8 service at Essential Air Service communities under sub-
 9 chapter II of this chapter.”.

10 **SEC. 707. REPEAL OF MAIL RATE-SETTING AUTHORITY.**

11 (a) Effective December 31, 1998, section 4(k) of the
 12 Act of July 5, 1994 (Public Law 103–272, 108 Stat.
 13 1370), as amended by section 7(a)(3)(D) of the Act of
 14 October 31, 1994 (Public Law 103–429, 108 Stat. 4329),
 15 is repealed.

16 (b) Section 41901(a) is amended to read as follows:

17 “(a) TITLE 39.—The United States Postal Service
 18 may provide for the transportation of mail by aircraft in
 19 air transportation under this chapter and under chapter
 20 54 of title 39.”.

21 (c) In section 41902(b)

22 (1) strike clause (1);

23 (2) redesignate clauses (2), (3), and (4) as
 24 clauses (1), (2), and (3), respectively; and

25 (3) in clause (2), as redesignated, strike
 26 “clauses (1) and (2)” and substitute “clause (1)”.

1 (d) Section 41907(b) is repealed.

2 (e) Sections 41107, 41901(b), 41902(a), 41903(a),
3 and 41903(b) are amended by striking “in foreign air
4 transportation or”.

5 (f) EFFECTIVE DATE.—The amendments made by
6 subsection (b)–(e) of this section take effect October 1,
7 2000.

8 **SEC. 708. ACCESS TO HIGH DENSITY AIRPORTS.**

9 (a) Effective September 30, 2004, the requirements
10 of Subparts K and S of Part 93 of title 14, Code of Fed-
11 eral Regulations, are of no force and effect at an airport
12 other than Ronald Reagan Washington National Airport.
13 The Secretary of Transportation is authorized to under-
14 take appropriate actions to effectuate an orderly termi-
15 nation of these requirements.

16 (b) Effective September 30, 2000, a two-engine jet
17 aircraft with a design capacity of 70 or fewer passenger
18 seats, manufactured after January 1, 1992, that has an
19 effective perceived noise level on takeoff not exceeding 83
20 decibels when measured according to the procedures speci-
21 fied in Part 36 of Title 14, Code of Federal Regulations,
22 shall not be subject to the requirements of Subparts K
23 and S of Part 93 of title 14, Code of Federal Regulations,
24 at an airport other than Ronald Reagan Washington
25 National Airport.

1 **TITLE VIII—TRANSFER OF AERO-**
2 **NAUTICAL CHARTING ACTIV-**
3 **ITY**

4 **SEC. 801. TRANSFER OF FUNCTIONS, POWERS, AND DUTIES.**

5 Effective October 1, 1999, there are transferred to
6 the Department of Transportation and vested in the Sec-
7 retary of Transportation the functions, powers, and duties
8 of the Secretary of Commerce and other officers of the
9 Department of Commerce that relate to the Office of
10 Aeronautical Charting and Cartography and are set forth
11 in 49 U.S.C. 304, as amended.

12 **SEC. 802 TRANSFER OF OFFICE, PERSONNEL AND FUNDS.**

13 (a) Effective October 1, 1999, the Office of Aero-
14 nautical Charting and Cartography of the National Oce-
15 anic and Atmospheric Administration, Department of
16 Commerce, is transferred to the Department of Transpor-
17 tation.

18 (b) Effective October 1, 1999, the personnel em-
19 ployed in connection with, and the assets, liabilities, con-
20 tracts, property, equipment, facilities, records, and unex-
21 pended balance of appropriations, and other funds em-
22 ployed, held, used, arising from, available to, or to be
23 made available in connection with the function and offices,
24 or portions of offices, transferred by this Act, including
25 all Senior Executive Service positions, subject to section

1 1531 of title 31, United States Code, are transferred to
2 the Secretary of Transportation for appropriate allocation.
3 Personnel employed in connection with functions trans-
4 ferred by this Act transfer under any applicable law and
5 regulation relating to transfer of functions. Unexpended
6 funds transferred under this section shall be used only for
7 the purposes for which the funds were originally author-
8 ized and appropriated, except that funds may be used for
9 expenses associated with the transfer authorized by this
10 Act.

11 **SEC. 803. AMENDMENT TO TITLE 49, UNITED STATES CODE.**

12 (a) Section 304 of title 49, United States Code, is
13 amended to read as follows:

14 **“SEC. 304. AERONAUTICAL CHARTS AND RELATED PROD-**
15 **UCTS AND SERVICES.**

16 “(a) GENERAL.—The Secretary of Transportation is
17 invested with and shall exercise, effective October 1, 1999,
18 the functions, powers, and duties of the Secretary of Com-
19 merce and other officers of the Department of Commerce
20 that relate to the Office of Aeronautical Charting and Car-
21 tography to provide aeronautical charts and related prod-
22 ucts and services for the safe and efficient navigation of
23 air commerce, under the following authorities:

24 “(1) 33 U.S.C. 883a–883j.

25 “(2) 44 U.S.C. 1307.

1 “(3) Pub. L. 103–317, Title II.

2 “(b) AUTHORITY TO CONDUCT SURVEYS.—To pro-
3 vide aeronautical charts and related products and services
4 for the safe and efficient navigation of air commerce, and
5 to provide basic data for engineering and scientific pur-
6 poses and for other commercial and industrial needs, the
7 Secretary of Transportation is authorized to conduct the
8 following activities:

9 “(1) aerial and field surveys for aeronautical
10 charts.

11 “(2) other airborne and field surveys when in
12 the best interest of the United States Government.

13 “(3) acquiring, owning, operating, maintaining
14 and staffing aircraft in support of surveys.

15 “(c) ADDITIONAL AUTHORITY.—In order that full
16 public benefit may be derived from the dissemination of
17 data resulting from activities under this section and of re-
18 lated data from other sources, the Secretary of Transpor-
19 tation is authorized to conduct the following activities:

20 “(1) developing, processing, disseminating and
21 publishing of digital and analog data, information,
22 compilations, and reports;

23 “(2) compiling, printing, and disseminating
24 aeronautical charts and related products and serv-

1 ices of the United States, its Territories, and posses-
2 sions.

3 “(3) compiling, printing, and disseminating
4 aeronautical charts and related products and serv-
5 ices covering international airspace as are required
6 primarily by United States civil aviation.

7 “(4) compiling, printing and disseminating non-
8 aeronautical navigational, transportation or public-
9 safety-related products and services when in the best
10 interests of the United States Government.

11 “(d) CONTRACT, COOPERATIVE AGREEMENTS,
12 GRANTS, AND OTHER AGREEMENTS.—

13 “(1) The Secretary of Transportation is author-
14 ized to contract with qualified organizations for the
15 performance of any part of the authorized functions
16 of the Office of Aeronautical Charting and Cartog-
17 raphy when the Secretary deems such procedure to
18 be in the public interest and will not compromise
19 public safety.

20 “(2) The Secretary of Transportation is author-
21 ized to enter into cooperative agreements, grants, re-
22 imburseable agreements, memoranda of understand-
23 ing and other agreements, with a State, subdivision
24 of a State, Federal agency, public or private organi-

1 zation, or individual, to carry out the purposes of
2 this section.

3 “(e) SPECIAL SERVICES AND PRODUCTS.—

4 “(1) The Secretary of Transportation is author-
5 ized, at the request of a State, subdivision of a
6 State, federal agency, public or private organization,
7 or individual, to conduct special services, including
8 making special studies, or developing special publica-
9 tions or products on matters relating to navigation,
10 transportation or public safety.

11 “(2) The Secretary of Transportation shall as-
12 sess a fee for any special service provided under
13 paragraph (1). A fee shall be not more than the ac-
14 tual or estimated full cost of the service. A fee may
15 be reduced or waived for research organizations,
16 educational organizations, or non-profit organiza-
17 tions, when the Secretary of Transportation deter-
18 mines that reduction or waiver of the fee is in the
19 best interest of the United States Government by
20 furthering public safety.

21 “(f) SALE AND DISSEMINATION OF AERONAUTICAL
22 PRODUCTS; USE OF FEES.—

23 “(1) Aeronautical products created or main-
24 tained under the authority of this section shall be

1 sold at prices established annually by the Secretary
2 of Transportation consistent with the following:

3 “(A) Subject to subparagraph (B), the
4 price of an aeronautical product sold to the
5 public shall be not more than necessary to re-
6 cover all costs attributable to—

7 (i) data base management and proc-
8 essing;

9 (ii) compilation;

10 (iii) printing or other types of repro-
11 duction; and

12 (iv) dissemination of the product.

13 “(B) The Secretary of Transportation
14 shall, in consultation with the Administrator of
15 the Federal Aviation Administration, adjust the
16 price of an aeronautical product and service
17 sold to the public as necessary to avoid any ad-
18 verse impact on aviation safety attributable to
19 the price specified under this paragraph.

20 “(C) A price established under this para-
21 graph may not include costs attributable to the
22 acquisition of aeronautical data.

23 “(2) The Secretary shall publish annually the
24 prices at which aeronautical products are sold to the
25 public.

1 “(3) The Secretary of Transportation may dis-
2 tribute aeronautical products and provide aeronauti-
3 cal services—

4 “(A) without charge to each foreign gov-
5 ernment or international organization with
6 which the Secretary or a federal agency has an
7 agreement for exchange of these products or
8 services without cost;

9 “(B) at prices the Secretary establishes, to
10 the departments and officers of the United
11 States requiring them for official use; and

12 “(C) at reduced or no charge where, in the
13 judgment of the Secretary, furnishing the aero-
14 nautical product or service to a recipient is a
15 reasonable exchange for voluntary contribution
16 of information by the recipient to the activities
17 under this section.

18 “(4) The fees provided for in this subsection
19 are for the purpose of reimbursing the United States
20 Government for the costs of creating, printing and
21 disseminating aeronautical products and services
22 under this section. The collection of fees authorized
23 by this section does not alter or expand any duty or
24 liability of the Government under existing law for
25 the performance of functions for which fees are col-

1 lected, nor does the collection of fees constitute an
2 express or implied undertaking by the Government
3 to perform any activity in a certain manner. Nothing
4 in this section or the Federal Aviation Administra-
5 tion Authorization Act of 1999 (the Act) shall be
6 construed to allow the Department of Transporta-
7 tion to retain any monies that, as of the date of
8 enactment of the Act, are required to be deposited
9 to the general fund of the Treasury.

10 “(g) AUTHORITY OF SECRETARY OF COMMERCE.—
11 Nothing in this section shall limit the Secretary of Com-
12 merce’s authority to conduct activities for the safe naviga-
13 tion of marine and air commerce.”.

14 (b) Item 304 in the analysis of chapter 3 of title 49,
15 United States Code, is amended to read as follows:

“Sec. 304. Aeronautical charts and related products and services.”.

16 **SEC. 804. SAVINGS PROVISION.**

17 (a) CONTINUED EFFECTIVENESS OF DIRECTIVES.—
18 All orders, determinations, rules, regulations, permits,
19 contracts, certificates, licenses, privileges, and financial
20 assistance that—

21 (1) have been issued, made, granted, or allowed
22 to become effective by the President of the United
23 States, the Secretary of Commerce, the National
24 Oceanic and Atmospheric Administration (NOAA)
25 Administrator, any federal agency or official thereof,

1 or by a court of competent jurisdiction, in the per-
2 formance of functions which are transferred by this
3 Act; and

4 (2) are in effect on the date of transfer, shall
5 continue in effect according to their terms until
6 modified, terminated, superseded, set aside, or re-
7 voked in accordance with law by the President of the
8 United States, the Secretary of Transportation, a
9 court of competent jurisdiction, or by operation of
10 law.

11 (b) CONTINUED EFFECTIVENESS OF PENDING AC-
12 TIONS.—

13 (1) The provisions of this Act shall not affect
14 any proceedings, including notices of proposed rule-
15 making, or any application for any license, permit,
16 certificate, or financial assistance pending on the
17 date of transfer before the Department of Commerce
18 or the NOAA Administrator, or any officer thereof
19 with respect to functions transferred by this Act; but
20 such proceedings or applications, to the extent that
21 they relate to functions transferred, shall be contin-
22 ued in accord with transition guidelines promulgated
23 by the Secretary of Transportation under the au-
24 thority of this section. Orders issued in any such
25 proceeding shall continue in effect until modified,

1 terminated, superseded, or revoked by the Secretary
2 of Transportation, by a court of competent jurisdic-
3 tion, or by operation of law. Nothing in this sub-
4 section prohibits the discontinuance or modification
5 of any such proceeding under the same terms and
6 conditions and to the same extent that such proceed-
7 ing could have been discontinued or modified if this
8 Act had not been enacted.

9 (2) The Secretary of Commerce, the NOAA Ad-
10 ministrator, and the Secretary of Transportation are
11 authorized to issue transition guidelines providing
12 for the orderly transfer of proceedings and otherwise
13 to accomplish the orderly transfer of functions, per-
14 sonnel and property under this Act.

15 (c) CONTINUED EFFECTIVENESS OF JUDICIAL AC-
16 TIONS.—No cause of action by or against the Department
17 of Commerce or the National Oceanic and Atmospheric
18 Administration with respect to functions transferred by
19 this Act, or by or against any officer thereof in the offi-
20 cial's capacity, shall abate by reason of the enactment of
21 this Act. Causes of action and actions with respect to a
22 function or office transferred by this Act, or other pro-
23 ceedings may be asserted by or against the United States
24 or an official of the Department of Transportation, as may
25 be appropriate, and, in an action pending when this Act

1 takes effect, the court may at any time, on its own motion
2 or that of any party, enter an order that will give effect
3 to the provisions of this subsection.

4 (d) SUBSTITUTION OR ADDITION OF PARTIES TO JU-
5 DICIAL ACTIONS.—If, on the date of transfer, the Depart-
6 ment of Commerce or the National Oceanic and Atmos-
7 pheric Administration, or any officer thereof in the offi-
8 cial's capacity, is a party to an action, and under this Act
9 any function relating to the action of such Department,
10 Administration, or officer is transferred to the Depart-
11 ment of Transportation, then such action shall be contin-
12 ued with the Secretary of Transportation substituted or
13 added as a party.

14 (e) CONTINUED JURISDICTION OVER ACTIONS
15 TRANSFERRED.—Orders and actions of the Secretary of
16 Transportation in the exercise of functions transferred by
17 this Act shall be subject to judicial review to the same
18 extent and in the same manner as if such orders and ac-
19 tions had been by the Department of Commerce or the
20 National Oceanic and Atmospheric Administration, or any
21 office or officer thereof, in the exercise of such functions
22 immediately preceding their transfer.

23 (f) LIABILITIES AND OBLIGATIONS.—The Secretary
24 of Transportation shall assume all liabilities and obliga-
25 tions (tangible and incorporeal, present and executory) as-

1 sociated with the functions transferred under this Act on
2 the date of transfer, including leases, permits, licenses,
3 contracts, agreements, claims, tariffs, accounts receivable,
4 accounts payable, financial assistance, and litigation relat-
5 ing to such obligations, regardless whether judgment has
6 been entered, damages awarded, or appeal taken.

7 **SEC. 805. NATIONAL OCEAN SURVEY.**

8 Title 33 of the United States Code is amended as
9 follows:

10 (1) Section 883a is amended by striking para-
11 graph (4) and renumbering the remaining para-
12 graphs accordingly.

13 (2) Section 883(a)(1) is amended to read as fol-
14 lows: “(1) Hydrographic, topographic and other
15 types of field surveys;”

16 (3) Section 883b(4) is amended by deleting “of
17 the United States, its Territories, and possessions”.

18 (4) Section 883b(6) is amended by deleting “for
19 the United States, its Territories, and possessions”.

20 (5) Section 883b is amended by striking para-
21 graphs (3) and (5) and renumbering the remaining
22 paragraphs accordingly.

23 (6) Paragraph (1) of section 883e is amended
24 by inserting “, or any other agreements,” after “co-

1 operative agreements”, and before “with, and to re-
2 ceive and expend funds made available by,”.

3 **SEC. 806. NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-
4 ISTRATION: NAUTICAL AND AERONAUTICAL
5 PRODUCTS, SALE AND DISTRIBUTION.**

6 Title 44 of the United States Code is amended as
7 follows:

8 (1) Section 1307 is amended by deleting “and
9 aeronautica” and “or aeronautical” wherever either
10 appears in the section.

11 (2) Section 1307(a)(2)(B) is amended by delet-
12 ing “aviation and” after “impact on”.

13 (3) Section 1307(d) is amended by deleting
14 “aeronautical and” after “distributing”.

15 **TITLE IX—WHISTLEBLOWER
16 PROTECTION**

17 **SEC. 901. PROTECTION OF EMPLOYEES PROVIDING AIR
18 SAFETY INFORMATION.**

19 (a) GENERAL RULE.—Chapter 421 is amended by
20 adding at the end the following:

1 “SUBCHAPTER III—WHISTLEBLOWER
2 PROTECTION PROGRAM

3 **“§ 42121. Protection of employees providing air safety**
4 **information**

5 “(a) DISCRIMINATION AGAINST EMPLOYEES.—No
6 person may discharge an employee or otherwise discrimi-
7 nate against an employee with respect to compensation,
8 terms, conditions, or privileges of employment because the
9 employee (or any person acting pursuant to a request of
10 the employee)—

11 “(1) notified his or her employer of an alleged
12 violation of this subtitle;

13 “(2) refused to operate aircraft or work when
14 operation would violate a regulation issued by the
15 Administrator of the Federal Aviation Administra-
16 tion under this subtitle, or because of a reasonable
17 apprehension of death or serious physical harm;

18 “(3) provided, caused to be provided, or is
19 about to provide or cause to be provided information
20 relating to air safety under this subtitle or any other
21 law of the United States;

22 “(4) has filed, caused to be filed, or is about to
23 file or cause to be filed a proceeding relating to air
24 carrier safety under this subtitle or any other law of
25 the United States;

1 “(5) testified or is about to testify in such a
2 proceeding; or

3 “(6) assisted or participated or is about to as-
4 sist or participate in such a proceeding or in any
5 other action to carry out the purposes of this sub-
6 title.

7 “(b) DEPARTMENT OF LABOR COMPLAINT PROCE-
8 DURE.—

9 “(1) FILING AND NOTIFICATION.—

10 “(A) A person who believes that he or she
11 has been discharged or otherwise discriminated
12 against by a person in violation of subsection
13 (a) may, not later than 180 days after the date
14 on which the violation occurs, file (or have any
15 person file on his or her behalf) a complaint
16 with the Secretary of Labor alleging the dis-
17 charge or discrimination.

18 “(B) Upon receipt of a complaint, the Sec-
19 retary shall notify the person named in the
20 complaint and the Administrator of the—

21 “(i) filing of the complaint;

22 “(ii) allegations contained in the com-
23 plaint; and

24 “(iii) opportunities that will be af-
25 farded to the person under paragraph (2).

1 “(2) INVESTIGATION; PRELIMINARY ORDER.—

2 “(A) The Secretary shall conduct an inves-
3 tigation and shall have the authority to issue
4 subpoenas. The Secretary may bring an action
5 in any appropriate United States district court
6 for the enforcement of subpoenas.

7 “(B) Not later than 60 days after receipt
8 of a complaint filed under paragraph (1) and
9 after providing the person named in the com-
10 plaint a notice of the substance of the evidence
11 supporting the complaint, an opportunity to
12 submit to the Secretary a written response to
13 the complaint, and an opportunity to meet with
14 a representative of the Secretary to present
15 statements from witnesses, the Secretary shall
16 determine whether there is reasonable cause to
17 believe that the complaint has merit and notify
18 the complainant and the person alleged to have
19 committed a violation of subsection (a) of the
20 Secretary’s findings.

21 “(C) If the Secretary concludes that there
22 is a reasonable cause to believe that a violation
23 of subsection (a) has occurred, the Secretary
24 shall accompany the Secretary’s findings with a

1 preliminary order providing the relief prescribed
2 by paragraph (3)(B).

3 “(D) Not later than 30 days after the date
4 of notification of findings under this paragraph,
5 either the person alleged to have committed the
6 violation or the complainant may file objections
7 to the findings or preliminary order and request
8 a hearing before an administrative law judge on
9 the record. The filing of objections shall not op-
10 erate to stay any reinstatement remedy con-
11 tained in the preliminary order. Hearings shall
12 be conducted expeditiously.

13 “(E) If a hearing is not requested in the
14 30-day period, the preliminary order shall be
15 deemed a final order that is not subject to judi-
16 cial review.

17 “(3) FINAL ORDER.—

18 “(A) Not later than 120 days after the
19 date of the issuance of the decision of the ad-
20 ministrative law judge under paragraph (2), the
21 Secretary shall issue a final order providing the
22 relief prescribed by this paragraph or denying
23 the complaint. At any time before issuance of a
24 final order, a proceeding under this subsection
25 may be terminated on the basis of a settlement

1 agreement entered into by the Secretary, the
2 complainant, and the person alleged to have
3 committed the violation.

4 “(B) If, in response to a complaint filed
5 under paragraph (1), the Secretary of Labor
6 determines that a violation of subsection (a)
7 has occurred, the Secretary of Labor shall order
8 the person who committed the violation to—

9 “(i) take appropriate remedial action
10 to abate the violation;

11 “(ii) reinstate the complainant to his
12 or her former position together with the
13 compensation (including back pay), terms,
14 conditions, and privileges associated with
15 his or her employment; and

16 “(iii) provide compensatory and exem-
17 plary damages to the complainant.

18 “(C) If an order is issued under this para-
19 graph, the Secretary, at the request of the com-
20 plainant, shall assess against the person against
21 whom the order is issued a sum equal to the ag-
22 gregate amount of all costs and expenses (in-
23 cluding attorneys’ and expert witness fees) rea-
24 sonably incurred, as determined by the Sec-
25 retary, by the complainant for, or in connection

1 with, the bringing of the complaint upon which
2 the order was issued, including in a judicial
3 proceeding under paragraph (4).

4 “(4) REVIEW.—

5 “(A) A person adversely affected or ag-
6 grieved by an order issued under paragraph (3)
7 for which the person has exhausted all adminis-
8 trative remedies may obtain review of the order
9 in the United States Court of Appeals for the
10 circuit in which the violation, with respect to
11 which the order was issued, allegedly occurred
12 or the circuit in which the complainant resided
13 on the date of such violation. The petition for
14 review must be filed not later than 60 days
15 after the date of the issuance of the order of
16 the Secretary. Review shall conform to chapter
17 7 of title 5, United States Code. The com-
18 mencement of proceedings under this subpara-
19 graph shall not, unless ordered by the court, op-
20 erate as a stay of the order.

21 “(B) An order of the Secretary with re-
22 spect to which review could have been obtained
23 under subparagraph (A) shall not be subject to
24 judicial review in any criminal or other civil
25 proceeding.

1 “(5) ENFORCEMENT OF ORDER BY SECRETARY
2 OF LABOR.—Whenever a person has failed to comply
3 with an order issued under paragraph (3), the Sec-
4 retary may file a civil action in an appropriate
5 United States district court to enforce such order. In
6 actions brought under this paragraph, the district
7 courts shall have jurisdiction to grant all appropriate
8 relief including, but not limited to, injunctive relief
9 and compensatory and exemplary damages.

10 “(6) ENFORCEMENT OF ORDER BY PARTIES.—

11 “(A) A person on whose behalf an order
12 was issued under paragraph (3) may commence
13 a civil action against the person to whom such
14 order was issued to require compliance with the
15 order. The appropriate United States district
16 court shall have jurisdiction, without regard to
17 the amount in controversy or the citizenship of
18 the parties, to enforce the order.

19 “(B) The court, in issuing any final order
20 under this paragraph, may award costs of liti-
21 gation (including reasonable attorney and ex-
22 pert witness fees) to any party whenever the
23 court determines an award is appropriate.

1 “(c) MANDAMUS.—Any nondiscretionary duty im-
2 posed by this section shall be enforceable in a mandamus
3 proceeding brought under section 1361 of title 28.

4 “(d) NONAPPLICABILITY TO DELIBERATE VIOLA-
5 TIONS.—Subsection (a) shall not apply with respect to an
6 employee who, acting without direction from his or her
7 employer, deliberately causes a violation of any require-
8 ment relating to air carrier safety under this subtitle or
9 any other law of the United States.

10 “(e) DEFINITIONS.—In this section—

11 “(1) CONTRACTOR.—The term ‘contractor’
12 means a company that performs, safety-sensitive
13 functions by contract for a U.S. or foreign air car-
14 rier;

15 “(2) EMPLOYEE.—The term ‘employee’ means
16 an employee of a U.S. or foreign air carrier, its con-
17 tractor, or its subcontractor; and

18 “(3) SUBCONTRACTOR.—The term ‘subcontrac-
19 tor’ means a company that performs safety-sensitive
20 functions, through a contractor, for a U.S. or for-
21 eign air carrier.

22 “(f) APPLICABILITY.—This section applies to employ-
23 ees of a U.S. employer without regard to whether the ad-
24 verse action or protected activity occurs in the United
25 States. This section applies to employees of a foreign em-

1 ployer, if the adverse action or protected activity occurs
2 in the United States.”.

3 (b) CONFORMING AMENDMENT.—The analysis for
4 Chapter 421 is amended by adding at the end the follow-
5 ing:

“SUBCHAPTER II—WHISTLEBLOWER PROTECTION PROGRAM
“42121. Protection of employees providing air safety information.”.

6 **SEC. 902. CIVIL PENALTY.**

7 Section 46301(a)(1)(A) is amended by striking “sub-
8 chapter II of chapter 421” and inserting “subchapter II
9 or III of chapter 421”.

10 **TITLE X—NATIONAL PARKS AIR**
11 **TOUR MANAGEMENT**

12 **SEC. 1001. SHORT TITLE.**

13 This title may be cited as the “National Parks Air
14 Tour Management Act of 1999”.

15 **SEC. 1002. FINDINGS.**

16 Congress finds that—

17 (1) the Federal Aviation Administration has
18 sole authority to control airspace over the United
19 States;

20 (2) the Federal Aviation Administration has the
21 authority to preserve, protect, and enhance the envi-
22 ronment by minimizing, mitigating, or preventing
23 the adverse effects of aircraft overflights of public
24 and tribal lands;

1 (3) the National Park Service has the respon-
2 sibility of conserving the scenery and natural and
3 historic objects and wildlife in national parks and of
4 providing for the enjoyment of the national parks in
5 ways that leave the national parks unimpaired for
6 future generations;

7 (4) the protection of tribal lands from aircraft
8 overflights is consistent with protecting the public
9 health and welfare and is essential to the mainte-
10 nance of the natural and cultural resources of
11 Indian tribes;

12 (5) the National Parks Overflights Working
13 Group, composed of general aviation, commercial air
14 tour, environmental, and Native American represent-
15 atives, recommended that the Congress enact legisla-
16 tion based on the Group's consensus work product;
17 and

18 (6) this title reflects the recommendations made
19 by that Group.

20 **SEC. 1003. AIR TOUR MANAGEMENT PLANS FOR NATIONAL**
21 **PARKS.**

22 (a) IN GENERAL.—Chapter 401 of title 49, United
23 States Code, is amended by adding at the end the follow-
24 ing:

1 **“§ 40125. Overflights of national parks**

2 “(a) IN GENERAL.—

3 “(1) GENERAL REQUIREMENTS.—A commercial
4 air tour operator may not conduct commercial air
5 tour operations over a national park (including tribal
6 lands) except—

7 “(A) in accordance with this section;

8 “(B) in accordance with conditions and
9 limitations prescribed for that operator by the
10 Administrator; and

11 “(C) in accordance with any applicable air
12 tour management plan for the park.

13 “(2) APPLICATION FOR OPERATING AUTHOR-
14 ITY.—

15 “(A) APPLICATION REQUIRED.—Before
16 commencing commercial air tour operations
17 over a national park (including tribal lands), a
18 commercial air tour operator shall apply to the
19 Administrator for authority to conduct the
20 operations over the park.

21 “(B) COMPETITIVE BIDDING FOR LIMITED
22 CAPACITY PARKS.—Whenever an air tour man-
23 agement plan limits the number of commercial
24 air tour operations over a national park during
25 a specific time frame, the Administrator, in co-
26 operation with the Director, shall issue oper-

1 ation specifications to commercial air tour oper-
2 ators that conduct such operations. The oper-
3 ation specifications shall include such terms and
4 conditions as the Administrator and the Direc-
5 tor find necessary for management of commer-
6 cial air tour operations over the park. The
7 Administrator, in cooperation with the Director,
8 shall develop an open competitive process for
9 evaluating proposals from persons interested in
10 providing commercial air tour operations over
11 the park. In making a selection from among
12 various proposals submitted, the Administrator,
13 in cooperation with the Director, shall consider
14 relevant factors, including—

15 “(i) the safety record of the person
16 submitting the proposal or pilots employed
17 by the person;

18 “(ii) any quiet aircraft technology pro-
19 posed to be used by the person submitting
20 the proposal;

21 “(iii) the experience of the person sub-
22 mitting the proposal with commercial air
23 tour operations over other national parks
24 or scenic areas;

1 “(iv) the financial capability of the
2 company;

3 “(v) any training programs for pilots
4 provided by the person submitting the pro-
5 posal; and

6 “(vi) responsiveness of the person
7 submitting the proposal to any relevant
8 criteria developed by the National Park
9 Service for the affected park.

10 “(C) NUMBER OF OPERATIONS AUTHOR-
11 IZED.—In determining the number of author-
12 izations to issue to provide commercial air tour
13 operations over a national park, the Adminis-
14 trator, in cooperation with the Director, shall
15 take into consideration the provisions of the air
16 tour management plan, the number of existing
17 commercial air tour operators and current level
18 of service and equipment provided by any such
19 operators, and the financial viability of each
20 commercial air tour operation.

21 “(D) COOPERATION WITH NPS.—Before
22 granting an application under this paragraph,
23 the Administrator, in cooperation with the Di-
24 rector, shall develop an air tour management

1 plan in accordance with subsection (b) and im-
2 plement such plan.

3 “(3) EXCEPTION.—

4 “(A) IN GENERAL.—If a commercial air
5 tour operator secures a letter of agreement
6 from the Administrator and the superintendent
7 for the national park that describes the condi-
8 tions under which the commercial air tour oper-
9 ation will be conducted, then notwithstanding
10 paragraph (1), the commercial air tour operator
11 may conduct such operations over the national
12 park under part 91 of title 14, Code of Federal
13 Regulations, if such activity is permitted under
14 part 119 of such title.

15 “(B) LIMIT ON EXCEPTIONS.—Not more
16 than 5 flights in any 30-day period over a sin-
17 gle national park may be conducted under this
18 paragraph.

19 “(4) SPECIAL RULE FOR SAFETY REQUIRE-
20 MENTS.—Notwithstanding subsection (c), an exist-
21 ing commercial air tour operator shall apply, not
22 later than 90 days after the date of enactment of
23 this section, for operating authority under part 119,
24 121, or 135 of title 14, Code of Federal Regulations.
25 A new entrant commercial air tour operator shall

1 apply for such authority before conducting commer-
2 cial air tour operations over a national park (includ-
3 ing tribal lands). The Administrator shall act on any
4 such application for a new entrant and issue a deci-
5 sion on the application not later than 24 months
6 after it is received or amended.

7 “(b) AIR TOUR MANAGEMENT PLANS.—

8 “(1) ESTABLISHMENT.—

9 “(A) IN GENERAL.—The Administrator, in
10 cooperation with the Director, shall establish an
11 air tour management plan for any national park
12 (including tribal lands) for which such a plan is
13 not in effect whenever a person applies for au-
14 thority to conduct a commercial air tour oper-
15 ation over the park. The air tour management
16 plan shall be developed by means of a public
17 process in accordance with paragraph (4).

18 “(B) OBJECTIVE.—The objective of any
19 air tour management plan shall be to develop
20 acceptable and effective measures to mitigate or
21 prevent the significant adverse impacts, if any,
22 of commercial air tours upon the natural and
23 cultural resources, visitor experiences, and trib-
24 al lands.

1 “(2) ENVIRONMENTAL DETERMINATION.—In
2 establishing an air tour management plan under this
3 subsection, the Administrator and the Director shall
4 each sign the environmental decision document re-
5 quired by section 102 of the National Environmental
6 Policy Act of 1969 (42 U.S.C. 4332) (including a
7 finding of no significant impact, an environmental
8 assessment, and an environmental impact statement)
9 and the record of decision for the air tour manage-
10 ment plan.

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

13 “(A) may limit or prohibit commercial air
14 tour operations;

15 “(B) may establish conditions for the con-
16 duct of commercial air tour operations, includ-
17 ing commercial air tour operation routes, maxi-
18 mum or minimum altitudes, time-of-day restric-
19 tions, restrictions for particular events, maxi-
20 mum number of flights per unit of time, intru-
21 sions on privacy on tribal lands, and mitigation
22 of adverse noise, visual, or other impacts;

23 “(C) may apply to all commercial air tour
24 operations;

1 “(D) shall include incentives (such as pre-
2 ferred commercial air tour operation routes and
3 altitudes and relief from flight caps and cur-
4 fews) for the adoption of quiet aircraft tech-
5 nology by commercial air tour operators con-
6 ducting commercial air tour operations over the
7 park;

8 “(E) shall provide a system for allocating
9 opportunities to conduct commercial air tours if
10 the air tour management plan includes a limita-
11 tion on the number of commercial air tour oper-
12 ations for any time period; and

13 “(F) shall justify and document the need
14 for measures taken pursuant to subparagraphs
15 (A) through (E) and include such justifications
16 in the record of decision.

17 “(4) PROCEDURE.—In establishing an air tour
18 management plan for a national park (including
19 tribal lands), the Administrator and the Director
20 shall—

21 “(A) hold at least one public meeting with
22 interested parties to develop the air tour man-
23 agement plan;

24 “(B) publish the proposed plan in the Fed-
25 eral Register for notice and comment and make

1 copies of the proposed plan available to the
2 public;

3 “(C) comply with the regulations set forth
4 in sections 1501.3 and 1501.5 through 1501.8
5 of title 40, Code of Federal Regulations (for
6 purposes of complying with the regulations, the
7 Federal Aviation Administration shall be the
8 lead agency and the National Park Service is a
9 cooperating agency); and

10 “(D) solicit the participation of any Indian
11 tribe whose tribal lands are, or may be,
12 overflowed by aircraft involved in a commercial
13 air tour operation over the park, as a cooperat-
14 ing agency under the regulations referred to in
15 subparagraph (C).

16 “(5) JUDICIAL REVIEW.—An air tour manage-
17 ment plan developed under this subsection shall be
18 subject to judicial review.

19 “(6) AMENDMENTS.—The Administrator, in co-
20 operation with the Director, may make amendments
21 to an air tour management plan. Any such amend-
22 ments shall be published in the Federal Register for
23 notice and comment. A request for amendment of an
24 air tour management plan shall be made in such

1 form and manner as the Administrator may pre-
2 scribe.

3 “(c) DETERMINATION OF COMMERCIAL AIR TOUR
4 OPERATION STATUS.—In making a determination of
5 whether a flight is a commercial air tour operation, the
6 Administrator may consider—

7 “(1) whether there was a holding out to the
8 public of willingness to conduct a sightseeing flight
9 for compensation or hire;

10 “(2) whether a narrative that referred to areas
11 or points of interest on the surface below the route
12 of the flight was provided by the person offering the
13 flight;

14 “(3) the area of operation;

15 “(4) the frequency of flights conducted by the
16 person offering the flight;

17 “(5) the route of flight;

18 “(6) the inclusion of sightseeing flights as part
19 of any travel arrangement package offered by the
20 person offering the flight;

21 “(7) whether the flight would have been can-
22 celed based on poor visibility of the surface below
23 the route of the flight; and

24 “(8) any other factors that the Administrator
25 considers appropriate.

1 “(d) INTERIM OPERATING AUTHORITY.—

2 “(1) IN GENERAL.—Upon application for oper-
3 ating authority, the Administrator shall grant in-
4 terim operating authority under this subsection to a
5 commercial air tour operator for commercial air tour
6 operations over a national park (including tribal
7 lands) for which the operator is an existing commer-
8 cial air tour operator.

9 “(2) REQUIREMENTS AND LIMITATIONS.—In-
10 terim operating authority granted under this
11 subsection—

12 “(A) shall provide annual authorization
13 only for the greater of—

14 “(i) the number of flights used by the
15 operator to provide such tours within the
16 12-month period prior to the date of enact-
17 ment of this section; or

18 “(ii) the average number of flights per
19 12-month period used by the operator to
20 provide such tours within the 36-month pe-
21 riod prior to such date of enactment, and,
22 for seasonal operations, the number of
23 flights so used during the season or sea-
24 sons covered by that 12-month period;

1 “(B) may not provide for an increase in
2 the number of commercial air tour operations
3 conducted during any time period by the com-
4 mercial air tour operator above the number that
5 the air tour operator was originally granted un-
6 less such an increase is agreed to by the Ad-
7 ministrator and the Director;

8 “(C) shall be published in the Federal Reg-
9 ister to provide notice and opportunity for com-
10 ment;

11 “(D) may be revoked by the Administrator
12 for cause;

13 “(E) shall terminate 180 days after the
14 date on which an air tour management plan is
15 established for the park or the tribal lands;

16 “(F) shall promote protection of national
17 park resources, visitor experiences, and tribal
18 lands;

19 “(G) shall promote safe operations of the
20 commercial air tour;

21 “(H) shall promote the adoption of quiet
22 technology, as appropriate; and

23 “(I) shall allow for modifications of the op-
24 eration based on experience if the modification

1 improves protection of national park resources
2 and values and of tribal lands.

3 “(e) EXEMPTIONS.—

4 “(1) IN GENERAL.—Except as provided by
5 paragraph (2), this section shall not apply to—

6 “(A) the Grand Canyon National Park;

7 “(B) tribal lands within or abutting the
8 Grand Canyon National Park; or

9 “(C) any unit of the National Park System
10 located in Alaska or any other land or water lo-
11 cated in Alaska.

12 “(2) EXCEPTION.—This section shall apply to
13 the Grand Canyon National Park if section 3 of
14 Public Law 100–91 (16 U.S.C. 1a–1 note; 101 Stat.
15 674–678) is no longer in effect.

16 “(f) DEFINITIONS.—In this section, the following
17 definitions apply:

18 “(1) COMMERCIAL AIR TOUR OPERATOR.—The
19 term ‘commercial air tour operator’ means any per-
20 son who conducts a commercial air tour operation.

21 “(2) EXISTING COMMERCIAL AIR TOUR OPERA-
22 TOR.—The term ‘existing commercial air tour opera-
23 tor’ means a commercial air tour operator that was
24 actively engaged in the business of providing com-
25 mercial air tour operations over a national park at

1 any time during the 12-month period ending on the
2 date of enactment of this section.

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

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

10 “(B) has not engaged in the business of
11 providing commercial air tour operations over
12 the national park (including tribal lands) in the
13 12-month period preceding the application.

14 “(4) COMMERCIAL AIR TOUR OPERATION.—The
15 term ‘commercial air tour operation’ means any
16 flight, conducted for compensation or hire in a pow-
17 ered aircraft where a purpose of the flight is sight-
18 seeing over a national park, within ½ mile outside
19 the boundary of any national park, or over tribal
20 lands, during which the aircraft flies—

21 “(A) below a minimum altitude, deter-
22 mined by the Administrator in cooperation with
23 the Director, above ground level (except solely
24 for purposes of takeoff or landing, or necessary
25 for safe operation of an aircraft as determined

1 under the rules and regulations of the Federal
2 Aviation Administration requiring the pilot-in-
3 command to take action to ensure the safe op-
4 eration of the aircraft); or

5 “(B) less than 1 mile laterally from any
6 geographic feature within the park (unless more
7 than ½ mile outside the boundary).

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

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

14 “(7) ADMINISTRATOR.—The term ‘Adminis-
15 trator’ means the Administrator of the Federal Avia-
16 tion Administration.

17 “(8) DIRECTOR.—The term ‘Director’ means
18 the Director of the National Park Service.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for chapter 401 of title 49, United States Code, is amend-
21 ed by adding at the end the following:

“40125. Overflights of national parks.”.

22 **SEC. 1004. ADVISORY GROUP.**

23 (a) ESTABLISHMENT.—Not later than 1 year after
24 the date of enactment of this Act, the Administrator and
25 the Director shall jointly establish an advisory group to

1 provide continuing advice and counsel with respect to com-
2 mercial air tour operations over and near national parks.

3 (b) MEMBERSHIP.—

4 (1) IN GENERAL.—The advisory group shall be
5 composed of—

6 (A) a balanced group of—

7 (i) representatives of general aviation;

8 (ii) representatives of commercial air
9 tour operators;

10 (iii) representatives of environmental
11 concerns; and

12 (iv) representatives of Indian tribes;

13 (B) a representative of the Federal Avia-
14 tion Administration; and

15 (C) a representative of the National Park
16 Service.

17 (2) EX-OFFICIO MEMBERS.—The Administrator
18 (or the designee of the Administrator) and the Di-
19 rector (or the designee of the Director) shall serve
20 as ex-officio members.

21 (3) CHAIRPERSON.—The representative of the
22 Federal Aviation Administration and the representa-
23 tive of the National Park Service shall serve alter-
24 nating 1-year terms as chairman of the advisory
25 group, with the representative of the Federal Avia-

1 tion Administration serving initially until the end of
2 the calendar year following the year in which the
3 advisory group is first appointed.

4 (c) DUTIES.—The advisory group shall provide ad-
5 vice, information, and recommendations to the Adminis-
6 trator and the Director—

7 (1) on the implementation of this title and the
8 amendments made by this title;

9 (2) on commonly accepted quiet aircraft tech-
10 nology for use in commercial air tour operations over
11 national parks (including tribal lands), which will
12 receive preferential treatment in a given air tour
13 management plan;

14 (3) on other measures that might be taken to
15 accommodate the interests of visitors to national
16 parks; and

17 (4) at request of the Administrator and the
18 Director, safety, environmental, and other issues re-
19 lated to commercial air tour operations over a na-
20 tional park (including tribal lands).

21 (d) COMPENSATION; SUPPORT; FACA.—

22 (1) COMPENSATION AND TRAVEL.—Members of
23 the advisory group who are not officers or employees
24 of the United States, while attending conferences or
25 meetings of the group or otherwise engaged in its

1 business, or while serving away from their homes or
2 regular places of business, may be allowed travel
3 expenses, including per diem in lieu of subsistence,
4 as authorized by section 5703 of title 5, United
5 States Code, for persons in the Government service
6 employed intermittently.

7 (2) ADMINISTRATIVE SUPPORT.—The Federal
8 Aviation Administration and the National Park
9 Service shall jointly furnish to the advisory group
10 clerical and other assistance.

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

14 **SEC. 1005. REPORTS.**

15 (a) NATIONAL PARK OVERFLIGHT FEE REPORT.—
16 Not later than 180 days after the date of enactment of
17 this Act, the Administrator shall transmit to Congress a
18 report on the effects overflight fees are likely to have on
19 the commercial air tour operation industry. The report
20 shall include, but shall not be limited to—

21 (1) the viability of a tax credit for the commer-
22 cial air tour operators equal to the amount of any
23 overflight fees charged by the National Park Service;
24 and

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

4 (b) QUIET AIRCRAFT TECHNOLOGY REPORT.—Not
5 later than 2 years after the date of enactment of this Act,
6 the Administrator and the Director shall jointly transmit
7 a report to Congress on the effectiveness of this title in
8 providing incentives for the development and use of quiet
9 aircraft technology.

10 **SEC. 1006. EXEMPTIONS.**

11 This title shall not apply—

12 (1) any unit of the National Park System lo-
13 cated in Alaska; or

14 (2) any other land or water located in Alaska.

15 **SEC. 1007. DEFINITIONS.**

16 In this title, the following definitions apply:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Federal
19 Aviation Administration.

20 (2) DIRECTOR.—The term “Director” means
21 the Director of the National Park Service.

1 **TITLE XI—TITLE 49 TECHNICAL**
2 **CORRECTIONS**

3 **SEC. 1101. RESTATEMENT OF 49 U.S.C. 106(g).**

4 (a) GENERAL.—Section 106(g) of title 49 (Transportation), strike “, 40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b) and (c), 44504, 44505, 44507, 44508, 44511–44513, 44701–44716, 44718(c), 44721(a), 44901, 44902, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, and 44938(a) and (b), chapter 451, sections 45302–45304,” and insert “40113(a), (c)–(e), 40114(a), and 40119, and chapter 445 (except sections 44501(b), 44502(a)(2)–(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a) and (b), 44719, 44720, 44721(b), 44722, and 44723), chapter 449 (except sections 44903(d), 44904, 44905, 44907–44911, 44913, 44915, and 44931–44934), chapter 451, chapter 453, sections”.

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

21 **SEC. 1102. RESTATEMENT OF 49 U.S.C. 46306.**

22 (a) GENERAL.—Section 46306 is amended—

23 (1) in subsection (a), by striking “This section
24 applies only to” and substituting “Except for sub-

1 sections (b)(1)–(3), (c)(2)(B), and (e) of this sec-
2 tion, this section applies only in the case of”;

3 (2) in subsection (c), by inserting “In a case in-
4 volving an aircraft not used to provide air transpor-
5 tation,” at the beginning of paragraph (2), redesign-
6 ating the text of paragraph (2) as subparagraph
7 (2)(A), redesignating subparagraphs (2)(A) and
8 (2)(B) as clauses (2)(A)(i) and (2)(A)(ii), and by in-
9 serting at the end of paragraph (2) the following:

10 “(B) In a case involving an aircraft used
11 to provide air transportation, a person is sub-
12 ject to the penalties of this paragraph for an
13 act—

14 “(i) listed in paragraphs (b)(1)–(3) of
15 this section, but only if the person under-
16 took the act with the intent to commit a
17 crime punishable by death or imprisonment
18 of more than one year under a law of the
19 United States or a State related to a con-
20 trolled substance (except a law related to
21 simple possession of a controlled sub-
22 stance); or

23 “(ii) in selling a fraudulent certificate,
24 undertook the act with the knowledge that
25 the purchaser intended to use the certifi-

1 cate to commit a crime punishable by
2 death or imprisonment for more than one
3 year under a law of the United States or
4 a State related to a controlled substance
5 (except a law related to simple possession
6 of a controlled substance).”; and

7 (3) in subsection (c), by striking “paragraph
8 (2)” and substituting “subparagraph (2)(A)”.

9 (b) TECHNICAL CORRECTIONS.—

10 (1)(A) The heading of section 46306 is amend-
11 ed to read as follows:

12 **“§ 46306. Forgery, false marking, and other aircraft**
13 **registration violations.”**

14 (B) In the analysis of chapter 463 of title 49,
15 item 46306 is amended to read as follows:

 “46306. Forgery, false marking, and other aircraft registration violations.”.

16 (2) The amendment made by this section may
17 not be construed as making a substantive change in
18 the language replaced.

19 **SEC. 1103. RESTATEMENT OF 49 U.S.C. 44909.**

20 Section 44909 is amended in paragraph (a)(2) by
21 striking “shall” and substituting “should”.

22 **SEC. 1104. RESTATEMENT OF 49 U.S.C. 46301(a).**

23 Section 46301(a)(1)(A) is amended by striking “sec-
24 tion 46302, 46303, or” and inserting “chapter 451, or
25 section”.

1 **SEC. 1105. RESTATEMENT OF 49 U.S.C. 47122(b).**

2 (a) IN GENERAL.—Section 106(g)(1)(a) is amended
3 by inserting “section 47122(b),” after “chapter 465”.

4 (b) AMENDMENT.—Section 47122(b) is amended by
5 inserting the phrase “(or the Administrator of the Federal
6 Aviation Administration with respect to aviation duties
7 and powers designated to be carried out by the Adminis-
8 trator)” after “Secretary” the first place and second
9 places it appears; and by inserting the phrase “or the Ad-
10 ministrator” after “Secretary” the third place it appears.

11 **TITLE XII—PREVENTION OF**
12 **FRAUD INVOLVING AIRCRAFT**
13 **OR SPACECRAFT PARTS**

14 **SEC. 1201. SHORT TITLE.**

15 This title may be cited as “The Aircraft Safety Act
16 of 1999”.

17 **SEC. 1202. PREVENTION OF FRAUDS INVOLVING AIRCRAFT**
18 **OR SPACE VEHICLE PARTS IN INTERSTATE**
19 **OR FOREIGN COMMERCE.**

20 (a) Chapter 2 of title 18, United States Code, is
21 amended—

22 (1) by adding the following at the end of sec-
23 tion 31:

24 “(1) AVIATION QUALITY.—The term ‘aviation
25 quality’ means, with respect to aircraft or space ve-
26 hicle parts, that the item has been manufactured,

1 constructed, produced, repaired, overhauled, rebuilt,
 2 reconditioned, or restored in conformity with appli-
 3 cable standards specified by law, regulation, or con-
 4 tract.

5 “(2) AIRCRAFT.—The term ‘aircraft’ means
 6 any civil, military, or public contrivance invented,
 7 used, or designed to navigate, fly, or travel in the
 8 air.

9 “(3) PART.—The term ‘part’ means frame, as-
 10 sembly, component, appliance, engine, propeller, ma-
 11 terial, part, spare part, piece, section, or related in-
 12 tegral or auxiliary equipment.

13 “(4) SPACE VEHICLE.—The term ‘space vehicle’
 14 means a man-made device, either manned or un-
 15 manned, designed for operation beyond the earth’s
 16 atmosphere.”; and

17 (2) by adding at the end the following new sec-
 18 tion:

19 **“SEC. 38. FRAUD INVOLVING AIRCRAFT OR SPACE VEHICLE**
 20 **PARTS IN INTERSTATE OR FOREIGN COM-**
 21 **MERCE.**

22 “(a) OFFENSES.—Whoever, in or affecting interstate
 23 or foreign commerce, knowingly or with reason to know—

24 “(1) falsifies or conceals a material fact; makes
 25 any materially fraudulent representation; or makes

1 or uses any materially false writing, entry, certifi-
2 cation, document, record, data plate, label or elec-
3 tronic communication, concerning any aircraft or
4 space vehicle part;

5 “(2) imports or introduces in the United States,
6 sells, trades, installs on or in any aircraft or space
7 vehicle any aircraft or space vehicle part using or by
8 means of fraudulent representations, documents,
9 records, certifications, depictions, data plates, labels
10 or electronic communications; or

11 “(3) attempts or conspires to commit any of-
12 fense described in subsections (a) (1) and (2) shall
13 be punished as provided for in subsection (b).

14 “(b) PENALTIES.—

15 “(1) A person convicted under subsection (a)
16 shall be fined not more than \$250,000 or imprisoned
17 not more than 15 years or both; provided, however—

18 “(2) if the fraud relates to the aviation quality
19 of the part and the part is actually installed in an
20 aircraft or space vehicle, then the maximum fine
21 shall be \$500,000 and the maximum term of impris-
22 onment shall be 25 years.

23 “(3) if, by reason of its failure to operate as
24 represented, the part to which the fraud is related
25 is the probable cause of a malfunction or failure that

1 results in the injury or death of any person, then the
2 maximum fine shall be \$1,000,000 and the maxi-
3 mum term of imprisonment shall be any term of
4 years or life; and

5 “(4) any person other than an individual con-
6 victed under subsection (a) shall be fined not more
7 than \$25,000,000.

8 “(c) CIVIL REMEDIES.—

9 “(1) The District Courts of the United States
10 shall have jurisdiction to prevent and restrain viola-
11 tions of this section by issuing appropriate orders,
12 including, but not limited to: ordering any person
13 convicted of any offense under this section to divest
14 himself of any interest, direct or indirect, in any en-
15 terprise, or to destroy, or to mutilate and sell as
16 scrap, aircraft material or part inventories or stocks;
17 imposing reasonable restrictions on the future activi-
18 ties or investments of any such person, including,
19 but not limited to, prohibiting engagement in the
20 same type of endeavor as used to perpetrate the of-
21 fense, or ordering dissolution or reorganization of
22 any enterprise, making due provisions for the rights
23 and interests of innocent persons.

24 “(2) The Attorney General may institute pro-
25 ceedings under this subsection. Pending final deter-

1 mination thereof, the court may at any time enter
2 such restraining orders or prohibitions, or take such
3 other actions, including the acceptance of satisfac-
4 tory performance bonds, as it shall deem proper.

5 “(3) A final judgment or decree rendered in
6 favor of the United States in any criminal proceed-
7 ing brought by the United States under this section
8 shall estop the defendant from denying the essential
9 allegation of the criminal offense in any subsequent
10 civil proceeding brought by the United States.

11 “(d) CRIMINAL FORFEITURE.—

12 “(1) Regardless of any provision of State law,
13 any person convicted of a violation under this section
14 shall forfeit to the United States—

15 “(A) any property constituting, or derived
16 from, any proceeds obtained, directly or indi-
17 rectly, as the result of such violation; and

18 “(B) any property used, or intended to be
19 used, in any manner or part, to commit or fa-
20 cilitate to commission of such violation.

21 “(2) The court, in imposing sentence on such a
22 person, shall order, in addition to any other sentence
23 imposed pursuant to this section, that the person
24 forfeit to the United States all property described in
25 this section.

1 “(3) Property subject to forfeiture under this
2 section, and seizure and disposition thereof by or
3 under the authority of the Attorney General or the
4 Secretary of the Treasury, and any administrative or
5 judicial proceeding in relation thereto, shall be gov-
6 erned by the provisions of 21 U.S.C. 853, except,
7 however, the Secretary of the Treasury shall forward
8 to the Treasurer of the United States for deposit
9 any amounts or such money and proceeds remaining
10 after payment of expenses in accordance with 31
11 U.S.C. 9703.

12 “(e) CONSTRUCTION WITH OTHER LAWS.—Unless
13 specifically otherwise provided, this Act shall not be con-
14 strued to preempt or displace any other remedies, whether
15 civil or criminal, provided by Federal, State, Common-
16 wealth, Possession, or Territory Law for the fraudulent
17 importation, sale, trade, installation, or introduction of
18 aircraft or space vehicle parts into commerce.

19 “(f) TERRITORIAL SCOPE.—

20 “(1) This section applies to conduct occurring
21 within the United States, and to conduct occurring
22 outside the United States if—

23 “(A) the offender is a United States per-
24 son; or

1 “any act which is indictable under any of the following
2 provisions of title 18, United States Code:” and “Section
3 201” the following: “Section 38 (relating to fraud involv-
4 ing aircraft or space vehicle parts in interstate or foreign
5 commerce),”.

6 **TITLE XIII—INTERNAL REVENUE**
7 **CODE AMENDMENTS**

8 **SEC. 1301. AMENDMENTS TO THE AIRPORT AND AIRWAY**
9 **TRUST FUND.**

10 Section 9502(d)(1) of the Internal Revenue Code of
11 1986 (relating to expenditures from Airport and Airway
12 Trust Fund) (26 U.S.C. 9502(d)(1)) is amended by:

13 (1) striking “1998” and inserting “2004”; and

14 (2) in paragraph (d)(1)(A), by inserting “or the
15 Federal Aviation Administration Authorization Act
16 of 1999” after “Federal Aviation Reauthorization
17 Act of 1996”.

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