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Part 1

AVIATION INVESTMENT AND REFORM ACT FOR THE 21ST CENTURY

MAY 28, 1999.—Ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

REPORT

[To accompany H.R. 1000]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1000) to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Aviation Investment and Reform Act for the 21st Century".

(b) TABLE OF CONTENTS.—

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

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

SEC. 3. APPLICABILITY.

Except as otherwise specifically provided, this Act and the amendments made by this Act shall apply only to fiscal years beginning after September 30, 1999.

SEC. 4. ADMINISTRATOR DEFINED.

In this Act, the term "Administrator" means the Administrator of the Federal Aviation Administration.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Funding

SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 is amended by striking "shall be" the last place it appears and all that follows through the period at the end and inserting the following: "shall be—

"(1) $2,410,000,000 for fiscal year 1999;
"(2) $2,475,000,000 for fiscal year 2000;
"(3) $4,000,000,000 for fiscal year 2001;
"(4) $4,100,000,000 for fiscal year 2002;
"(5) $4,250,000,000 for fiscal year 2003; and
"(6) $4,350,000,000 for fiscal year 2004.".

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "After" and all that follows through "1999," and inserting "After September 30, 2004,".

SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

(a) GENERAL AUTHORIZATION AND APPROPRIATIONS.—Effective September 30, 1999, section 48101(a) is amended by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) Such sums as may be necessary for fiscal year 2000.
"(2) $2,500,000,000 for fiscal year 2001.
"(3) $3,000,000,000 for each of fiscal years 2002 through 2004.".

(b) UNIVERSAL ACCESS SYSTEMS.—Section 48101 is amended by adding at the end the following:

"(d) UNIVERSAL ACCESS SYSTEMS.—Of the amounts appropriated under subsection (a) for fiscal year 2001, $8,000,000 may be used for the voluntary purchase and installation of universal access systems.".

SEC. 103. FAA OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FROM GENERAL FUND.—Effective September 30, 1999, section 106(k) is amended—

(1) by inserting "(1) IN GENERAL.—" before "There";

(2) in paragraph (1) (as designated by paragraph (1) of this subsection) by striking "the Administration" and all that follows through the period at the end and inserting the following: "the Administration—

"(A) such sums as may be necessary for fiscal year 2000;

"(B) $6,450,000,000 for fiscal year 2001;

"(C) $6,886,000,000 for fiscal year 2002;

"(D) $7,357,000,000 for fiscal year 2003; and

"(E) $7,860,000,000 for fiscal year 2004.";

(3) by adding at the end the following:

"(2) AUTHORIZED EXPENDITURES.—Of the amounts appropriated under paragraph (1) for fiscal years 2001 through 2004—

"(A) $450,000 per fiscal year may be used for wildlife hazard mitigation measures and management of the wildlife strike database of the Federal Aviation Administration;

"(B) such sums as may be necessary may be used to fund an office within the Federal Aviation Administration dedicated to supporting infrastructure systems development for both general aviation and the vertical flight industry;

"(C) such sums as may be necessary may be used to revise existing terminal and en route procedures and instrument flight rules to facilitate the takeoff, flight, and landing of tiltrotor aircraft and to improve the national airspace system by separating such aircraft from congested flight paths of fixed-wing aircraft;

"(D) such sums as may be necessary may be used to establish helicopter approach procedures using current technologies (such as the Global Positioning System) to support all-weather, emergency medical service for trauma patients;

"(E) $3,000,000 per fiscal year may be used to implement the 1998 airport surface operations safety action plan of the Federal Aviation Administration;

"(F) $2,000,000 per fiscal year may be used to support a university consortium established to provide an air safety and security management certificate program, working cooperatively with United States air carriers; except that funds under this subparagraph—

"(i) may not be used for the construction of a building or other facility; and

"(ii) may only be awarded on the basis of open competition; and

"(G) such sums as may be necessary may be used to develop or improve training programs (including model training programs and curriculum) for security screeners at airports."; and

(4) by indenting paragraph (1) (as designated by paragraph (1) of this subsection) and aligning such paragraph (1) with paragraph (2) (as added by paragraph (2) of this subsection).

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

(1) by striking subsection (b) and redesignating subsection (c) as subsection (b);

(2) in subsection (b) (as so redesignated)—

(A) by striking the subsection heading and inserting "GENERAL RULE: LIMITATION ON TRUST FUND AMOUNTS.—"; and

(B) in the matter preceding paragraph (1)—

(i) by striking "The amount" and inserting "Except as provided in subsection (c), the amount"; and

(ii) by striking "for each of fiscal years 1994 through 1998" and inserting "for fiscal year 2000 and each fiscal year thereafter"; and

(3) by adding at the end the following:

"(c) SPECIAL RULE FOR FISCAL YEARS 2000–2004.—

"(1) IN GENERAL.—If the amount appropriated under section 106(k) for any of fiscal years 2000 through 2004 less the amount that would be appropriated, but for this subsection, from the Trust Fund for the purposes of paragraphs (1) and

(2) of subsection (a) for such fiscal year is greater than the general fund cap, the amount appropriated from the Trust Fund for the purposes of paragraphs (1) and (2) of subsection (a) for such fiscal year shall equal the amount appropriated under section 106(k) for such fiscal year less the general fund cap.

"(2) GENERAL FUND CAP DEFINED.—In this subsection, the term 'general fund cap' means that portion of the amounts appropriated for programs of the Federal Aviation Administration for fiscal year 1998 that was derived from the general fund of the Treasury.

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—Section 48108 is amended by striking subsection (c).

SEC. 104. AIP FORMULA CHANGES.

(a) DISCRETIONARY FUND.—Section 47115 is amended by striking subsections (g) and (h) and inserting the following:

"(g) PRIORITY FOR LETTERS OF INTENT.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall fulfill intentions to obligate under section 47110(e) with amounts available in the fund established by subsection (a) and, if such amounts are not sufficient for a fiscal year, with amounts made available to carry out sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) on a pro rata basis.

"(2) PROCEDURE.—Before apportioning funds under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) of each fiscal year, the Secretary shall determine the amount of funds that will be necessary to fulfill intentions to obligate under section 47110(e) in such fiscal year. If such amount is greater than the amount of funds that will be available in the fund established by subsection (a) for such fiscal year, the Secretary shall reduce the amount to be apportioned under such sections for such fiscal year on a pro rata basis by an amount equal to the difference.".

(b) AMOUNTS APPORTIONED TO SPONSORS.—

(1) AMOUNTS TO BE APPORTIONED.—Effective October 1, 2000, section 47114(c)(1) is amended—

(A) in subparagraph (A) by striking clauses (i) through (v) and inserting the following:

"(i) $23.40 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

"(ii) $15.60 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

"(iii) $7.80 for each of the next 400,000 passenger boardings at the airport during the prior calendar year;

"(iv) $1.95 for each of the next 500,000 passenger boardings at the airport during the prior calendar year; and

"(v) $1.50 for each additional passenger boarding at the airport during the prior calendar year."; and

(B) in subparagraph (B) by striking "$500,000 nor more than $22,000,000" and inserting "$1,500,000".

(2) SPECIAL RULES.—Section 47114(c)(1) is amended by adding at the end the following:

"(C) Notwithstanding subparagraph (A), the Secretary shall apportion to an airport sponsor in a fiscal year an amount equal to the amount apportioned to that sponsor in the previous fiscal year if the Secretary finds that—

"(i) passenger boardings at the airport were less than 10,000 in the calendar year used to calculate the apportionment;

"(ii) the airport had at least 10,000 passenger boardings in the calendar year prior to the calendar year used to calculate the apportionment; and

"(iii) the cause of the decrease in passenger boardings was a temporary but significant interruption in service by an air carrier to that airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the airport.

"(D) Notwithstanding subparagraph (A), the Secretary shall apportion on the first day of the first fiscal year following the official opening of a new airport with scheduled passenger air transportation an amount equal to the minimum amount set forth in subparagraph (B) to the sponsor of such airport.".

(c) CARGO ONLY AIRPORTS.—Section 47114(c)(2)(A) is amended by striking "2.5 percent" and inserting "3 percent".

(d) ENTITLEMENT FOR GENERAL AVIATION AIRPORTS.—Effective October 1, 2000, section 47114(d) is amended—

(1) in the subsection heading by striking "TO STATES" and inserting "FOR GENERAL AVIATION AIRPORTS";

(2) in paragraph (1) by striking "(1) In this" and inserting "(1) DEFINITIONS.—In this";

(3) by indenting paragraph (1) and aligning paragraph (1) (and its subparagraphs) with paragraph (2) (as amended by paragraph (2) of this subsection); and

(4) by striking paragraph (2) and inserting the following:

"(2) APPORTIONMENTS.—The Secretary shall apportion 20 percent of the amount subject to apportionment for each fiscal year as follows:

"(A) To each airport, excluding primary airports but including reliever and nonprimary commercial service airports, in States the lesser of—

"(i) $200,000; or

"(ii) ⅕ of the most recently published estimate of the 5-year costs for airport improvement for the airport, as listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103.

"(B) Any remaining amount to States as follows:

"(i) 0.62 percent of the remaining amount to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.

"(ii) Except as provided in paragraph (3), 49.69 percent of the remaining amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (i) in the proportion that the population of each of those States bears to the total population of all of those States.

"(iii) Except as provided in paragraph (3), 49.69 percent of the remaining amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (i) in the proportion that the area of each of those States bears to the total area of all of those States.".

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

"(3) SPECIAL RULE.—An amount apportioned under paragraph (2) to Alaska, Puerto Rico, or Hawaii for airports in such State may be made available by the Secretary for any public airport in those respective jurisdictions.".

(f) USE OF STATE-APPORTIONED FUNDS FOR SYSTEM PLANNING.—Section 47114(d) is amended by adding at the end the following:

"(4) INTEGRATED AIRPORT SYSTEM PLANNING.—Notwithstanding paragraph (2), funds made available under this subsection may be used for integrated airport system planning that encompasses 1 or more primary airports.".

(g) FLEXIBILITY IN PAVEMENT CONSTRUCTION STANDARDS.—

Section 47114(d) is further amended by adding at the end the following:

"(5) FLEXIBILITY IN PAVEMENT CONSTRUCTION STANDARDS.—The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at nonprimary airports serving aircraft that do not exceed 60,000 pounds gross weight if the Secretary determines that—

"(A) safety will not be negatively affected; and

"(B) the life of the pavement will not be shorter than it would be if constructed using Federal Aviation Administration standards.".

(h) GRANTS FOR AIRPORT NOISE COMPATIBILITY PLANNING.—Section 47117(e)(1) is amended—

(1) in subparagraph (A) by striking "31 percent" each place it appears and inserting "34 percent"; and

(2) in subparagraph (B) by striking "At least" and all that follows through "sponsors of current" and inserting "At least 4 percent to sponsors of current".

(i) SUPPLEMENTAL APPORTIONMENT FOR ALASKA.—Effective October 1, 2000, section 47114(e) is amended—

(1) in the subsection heading by striking "ALTERNATIVE" and inserting "SUPPLEMENTAL";

(2) in paragraph (1)—

(A) by striking "Instead of apportioning amounts for airports in Alaska under" and inserting "IN GENERAL.—Notwithstanding";

(B) by striking "those airports" and inserting "airports in Alaska"; and

(C) by inserting before the period at the end of the first sentence "and by increasing the amount so determined for each of those airports by 3 times";

(3) in paragraph (2) by inserting "AUTHORITY FOR DISCRETIONARY GRANTS.—" before "This subsection";

(4) by striking paragraph (3) and inserting the following:

"(3) AIRPORTS ELIGIBLE FOR FUNDS.—An amount apportioned under this subsection may be used for any public airport in Alaska."; and

(5) by indenting paragraph (1) and aligning paragraph (1) (and its subparagraphs) and paragraph (2) with paragraph (3) (as amended by paragraph (4) of this subsection).

(j) REPEAL OF APPORTIONMENT LIMITATION ON COMMERCIAL SERVICE AIRPORTS IN ALASKA.—Section 47117 is amended by striking subsection (f) and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 105. PASSENGER FACILITY FEES.

(a) AUTHORITY TO IMPOSE HIGHER FEE.—Section 40117(b) is amended by adding at the end the following:

"(4) Notwithstanding paragraph (1), the Secretary may authorize under this section an eligible agency to impose a passenger facility fee in whole dollar amounts of more than $3 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, if the Secretary finds—

"(A) that the project will make a significant contribution to improving air safety and security, increasing competition among air carriers, reducing current or anticipated congestion, or reducing the impact of aviation noise on people living near the airport;

"(B) that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103; and

"(C) that the amount to be imposed is not more than twice that which may be imposed under paragraph (1).".

(b) LIMITATION ON APPROVAL OF CERTAIN APPLICATIONS.—Section 40117(d) is amended—

(1) by striking "and" at the end of paragraph (2);

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

(3) by adding at the end the following:

"(4) in the case of an application to impose a fee of more than $3 for a surface transportation or terminal project, the agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates.".

(c) REDUCING APPORTIONMENTS.—Section 47114(f) is amended—

(1) by striking "An amount" and inserting the following:

"(1) IN GENERAL.—An amount";

(2) by striking "an amount equal to" and all that follows through the period at the end and inserting the following: "an amount equal to—

"(A) in the case of a fee of $3 or less, 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section; and

"(B) in the case of a fee of more than $3, 75 percent of the projected revenues from the fee in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned under this section."; and

(3) by adding at the end the following:

"(2) EFFECTIVE DATE OF REDUCTION.—A reduction in an apportionment required by paragraph (1) shall not take effect until the first fiscal year following the year in which the collection of the fee imposed under section 40117 is begun.".

SEC. 106. BUDGET SUBMISSION.

The Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the annual budget estimates of the Federal Aviation Administration, including line item justifications, at the same time the annual budget estimates are submitted to the Committees on Appropriations of the Senate and the House of Representatives.

Subtitle B—Airport Development

SEC. 121. RUNWAY INCURSION PREVENTION DEVICES; EMERGENCY CALL BOXES.

(a) POLICY.—Section 47101(a)(11) is amended by inserting "(including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices)" after "technology".

(b) MAXIMUM USE OF SAFETY FACILITIES.—Section 47101(f) is amended—

(1) by striking "and" at the end of paragraph (9); and

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following:

"(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways.".

(c) INCLUSION OF UNIVERSAL ACCESS SYSTEMS AND EMERGENCY CALL BOXES AS AIRPORT DEVELOPMENT.—Section 47102(3)(B) is amended—

(1) in clause (ii)—

(A) by striking "and universal access systems," and inserting ", universal access systems, and emergency call boxes,"; and

(B) by inserting "and integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices" before the semicolon at the end; and

(2) by inserting before the semicolon at the end of clause (iii) the following: ", including closed circuit weather surveillance equipment".

SEC. 122. WINDSHEAR DETECTION EQUIPMENT.

Section 47102(3)(B) is further amended—

(1) by striking "and" at the end of clause (v);

(2) by striking the period at the end of clause (vi) and inserting a semicolon; and

(3) by adding at the end the following:

"(vii) windshear detection equipment; and".

SEC. 123. ENHANCED VISION TECHNOLOGIES.

(a) STUDY.—The Administrator shall conduct a study of the feasibility of requiring United States airports to install enhanced vision technologies to replace or enhance conventional landing light systems over the 10-year period following the date of completion of such study.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under subsection (a), together with such recommendations as the Administrator considers appropriate.

(c) INCLUSION OF INSTALLATION AS AIRPORT DEVELOPMENT.—Section 47102 is amended—

(1) in paragraph (3)(B) (as amended by this Act) by adding at the end the following:

"(viii) enhanced vision technologies that are certified by the Administrator of the Federal Aviation Administration and that are intended to replace or enhance conventional landing light systems."; and

(2) by adding at the end the following:

"(21) ENHANCED VISION TECHNOLOGIES.—The term 'enhanced vision technologies' means laser guidance, ultraviolet guidance, infrared, and cold cathode technologies.".

(d) CERTIFICATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall transmit to Congress a schedule for deciding whether or not to certify laser guidance equipment for use as approach lighting at United States airports and of cold cathode lighting equipment for use as runway and taxiway lighting at United States airports and as lighting at United States heliports.

SEC. 124. PAVEMENT MAINTENANCE.

(a) REPEAL OF PILOT PROGRAM.—

(1) IN GENERAL.—Section 47132 is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 471 is amended by striking the item relating to section 47132.

(b) ELIGIBILITY AS AIRPORT DEVELOPMENT.—Section 47102(3) is amended by adding at the end the following:

"(H) routine work to preserve and extend the useful life of runways, taxiways, and aprons at airports that are not primary airports, under guidelines issued by the Administrator.".

SEC. 125. COMPETITION PLANS.

(a) IN GENERAL.—Section 47106 is amended by adding at the end the following:

"(f) COMPETITION PLANS.—

"(1) PROHIBITION.—Beginning in fiscal year 2001, no passenger facility fee may be approved for a covered airport under section 40117 and no grant may be made under this subchapter for a covered airport unless the airport has submitted to the Secretary a written competition plan in accordance with this subsection.

"(2) CONTENTS.—A competition plan under this subsection shall include information on the availability of airport gates and related facilities, leasing and sub-leasing arrangements, gate-use requirements, patterns of air service, gate-assignment policy, financial constraints, airport controls over air- and ground-side capacity, whether the airport intends to build or acquire gates that would be used as common facilities, and airfare levels (as compiled by the Department of Transportation) compared to other large airports.

"(3) COVERED AIRPORT DEFINED.—In this subsection, the term 'covered airport' means a commercial service airport—

"(A) that has more than .25 percent of the total number of passenger boardings each year at all such airports; and

"(B) at which 1 or 2 air carriers control more than 50 percent of the passenger boardings.".

(b) CROSS REFERENCE.—Section 40117 is amended by adding at the end the following:

"(j) COMPETITION PLANS.—Beginning in fiscal year 2001, no eligible agency may impose a passenger facility fee under this section with respect to a covered airport (as such term is defined in section 47106(f)) unless the agency has submitted to the Secretary a written competition plan in accordance with such section. This subsection does not apply to passenger facility fees in effect before the date of enactment of this subsection.".

SEC. 126. MATCHING SHARE.

Section 47109(a) is amended—

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

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

"(2) not more than 90 percent for a project funded by a grant issued to and administered by a State under section 47128, relating to the State block grant program;";

(3) by striking "and" at the end of paragraph (3) (as so redesignated);

(4) by striking the period at the end of paragraph (4) (as so redesignated) and inserting "; and"; and

(5) by adding at the end the following:

"(5) 100 percent in fiscal year 2001 for any project—

"(A) at an airport other than a primary airport; or

"(B) at a primary airport having less than .05 percent of the total number of passenger boardings each year at all commercial service airports.".

SEC. 127. LETTERS OF INTENT.

Section 47110(e) is amended—

(1) by striking paragraph (2)(C) and inserting the following:

"(C) that meets the criteria of section 47115(d) and, if for a project at a commercial service airport having at least 0.25 percent of the boardings each year at all such airports, the Secretary decides will enhance system-wide airport capacity significantly."; and

(2) by striking paragraph (5) and inserting the following:

"(5) LETTERS OF INTENT.—The Secretary may not require an eligible agency to impose a passenger facility fee under section 40117 in order to obtain a letter of intent under this section.".

SEC. 128. GRANTS FROM SMALL AIRPORT FUND.

(a) SET-ASIDE FOR MEETING SAFETY TERMS IN AIRPORT OPERATING CERTIFICATES.—Section 47116 is amended by adding at the end the following:

"(e) SET-ASIDE FOR MEETING SAFETY TERMS IN AIRPORT OPERATING CERTIFICATES.—In the first fiscal year beginning after the effective date of regulations issued to carry out section 44706(b) with respect to airports described in section 44706(a)(2), and in each of the next 4 fiscal years, the lesser of $15,000,000 or 20 percent of the amounts that would otherwise be distributed to sponsors of airports under subsection (b)(2) shall be used to assist the airports in meeting the terms established by the regulations. If the Secretary publishes in the Federal Register a

finding that all the terms established by the regulations have been met, this subsection shall cease to be effective as of the date of such publication.".

(b) NOTIFICATION OF SOURCE OF GRANT.—Section 47116 is further amended by adding at the end the following:

"(f) NOTIFICATION OF SOURCE OF GRANT.—Whenever the Secretary makes a grant under this section, the Secretary shall notify the recipient of the grant, in writing, that the source of the grant is from the small airport fund.".

(c) TECHNICAL AMENDMENTS.—Section 47116(d) is amended—

(1) by striking "In making" and inserting the following:

"(1) CONSTRUCTION OF NEW RUNWAYS.—In making";

(2) by adding at the end the following:

"(2) AIRPORT DEVELOPMENT FOR TURBINE POWERED AIRCRAFT.—In making grants to sponsors described in subsection (b)(1), the Secretary shall give priority consideration to airport development projects to support operations by turbine powered aircraft, if the non-Federal share of the project is at least 40 percent."; and

(3) by aligning the remainder of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (2) of this subsection).

SEC. 129. DISCRETIONARY USE OF UNUSED APPORTIONMENTS.

Section 47117(f) (as redesignated by section 104(j) of this Act) is amended to read as follows:

"(f) DISCRETIONARY USE OF APPORTIONMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), if the Secretary finds that all or part of an amount of an apportionment under section 47114 is not required during a fiscal year to fund a grant for which the apportionment may be used, the Secretary may use during such fiscal year the amount not so required to make grants for any purpose for which grants may be made under section 48103. The finding may be based on the notifications that the Secretary receives under section 47105(f) or on other information received from airport sponsors.

"(2) RESTORATION OF APPORTIONMENTS.—

"(A) IN GENERAL.—If the fiscal year for which a finding is made under paragraph (1) with respect to an apportionment is not the last fiscal year of availability of the apportionment under subsection (b), the Secretary shall restore to the apportionment an amount equal to the amount of the apportionment used under paragraph (1) for a discretionary grant whenever a sufficient amount is made available under section 48103.

"(B) PERIOD OF AVAILABILITY.—If restoration under this paragraph is made in the fiscal year for which the finding is made or the succeeding fiscal year, the amount restored shall be subject to the original period of availability of the apportionment under subsection (b). If the restoration is made thereafter, the amount restored shall remain available in accordance with subsection (b) for the original period of availability of the apportionment, plus the number of fiscal years during which a sufficient amount was not available for the restoration.

"(3) NEWLY AVAILABLE AMOUNTS.—

"(A) RESTORED AMOUNTS TO BE UNAVAILABLE FOR DISCRETIONARY GRANTS.—Of an amount newly available under section 48103 of this title, an amount equal to the amounts restored under paragraph (2) shall not be available for discretionary grant obligations under section 47115.

"(B) USE OF REMAINING AMOUNTS.—Subparagraph (A) does not impair the Secretary's authority under paragraph (1), after a restoration under paragraph (2), to apply all or part of a restored amount that is not required to fund a grant under an apportionment to fund discretionary grants.

"(4) LIMITATIONS ON OBLIGATIONS APPLY.—Nothing in this subsection shall be construed to authorize the Secretary to incur grant obligations under section 47104 for a fiscal year in an amount greater than the amount made available under section 48103 for such obligations for such fiscal year.".

SEC. 130. DESIGNATING CURRENT AND FORMER MILITARY AIRPORTS.

(a) IN GENERAL.—Section 47118 is amended—

(1) in subsection (a) by striking "12" and inserting "12 for fiscal year 2000 and 20 for each fiscal year thereafter";

(2) by striking subsection (c) and redesignating subsections (d) through (f) as subsections (c) through (e), respectively;

(3) in subsection (c) (as so redesignated)—

(A) by striking "47117(e)(1)(E)" and inserting "47117(e)(1)(B)";

(B) by striking "5-fiscal-year periods" and inserting "periods, each not to exceed 5 fiscal years,"; and

(C) by striking "each such subsequent 5-fiscal-year period" and inserting "each such subsequent period"; and

(4) by adding at the end the following:

"(f) DESIGNATION OF GENERAL AVIATION AIRPORT.—Notwithstanding any other provision of this section, at least 3 of the airports designated under subsection (a) shall be general aviation airports that were former military installations closed or realigned under a section referred to in subsection (a)(1).".

(b) TERMINAL BUILDING FACILITIES.—Section 47118(d) (as redesignated by subsection (a)(2) of this section) is amended by striking "$5,000,000" and inserting "$7,000,000".

(c) ELIGIBILITY OF AIR CARGO TERMINALS.—Section 47118(e) (as redesignated by subsection (a)(2) of this section) is amended—

(1) in subsection heading by striking "AND HANGERS" and inserting "HANGERS, AND AIR CARGO TERMINALS";

(2) by striking "$4,000,000" and inserting "$7,000,000"; and

(3) by inserting after "hangers" the following: "and air cargo terminals of an area that is 50,000 square feet or less".

SEC. 131. CONTRACT TOWER COST-SHARING.

Section 47124(b) is amended by adding at the end the following:

"(3) CONTRACT AIR TRAFFIC CONTROL TOWER PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish a pilot program to contract for air traffic control services at Level I air traffic control towers, as defined by the Administrator of the Federal Aviation Administration, that do not qualify for the Contract Tower program established under subsection (a) and continued under paragraph (1) (hereafter in this paragraph referred to as the 'Contract Tower Program').

"(B) PROGRAM COMPONENTS.—In carrying out the pilot program established under subparagraph (A), the Administrator shall—

"(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Administrator;

"(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a 1 to 1 benefit-to-cost ratio, as required for eligibility under the Contract Tower Program; and

"(iii) approve for participation no more than 2 facilities willing to fund up to 50 percent, but not less than 25 percent, of construction costs for an air traffic control tower built by the airport operator and for each of such facilities the Federal share of construction cost does not exceed $1,100,000.

"(C) PRIORITY.—In selecting facilities to participate in the program under this paragraph, the Administrator shall give priority to the following:

"(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Administration has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

"(ii) Air traffic control towers that the Administrator determines have a benefit-to-cost ratio of at least .85.

"(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

"(iv) Air traffic control towers that are located at airports or points at which an air carrier is receiving compensation under the essential air service program under this chapter.

"(v) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

"(vi) Air traffic control towers that are located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

"(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic tower under the pilot program established under this paragraph exceed the benefits, the airport sponsor or State of local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefit.

"(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k), not to exceed $6,000,000 per fiscal year may be used to carry out this paragraph.".

SEC. 132. INNOVATIVE USE OF AIRPORT GRANT FUNDS.

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

"§ 47135. Innovative financing techniques

"(a) IN GENERAL.—The Secretary of Transportation may approve applications for not more than 25 airport development projects for which grants received under this subchapter may be used for innovative financing techniques. Such projects shall be located at airports that each year have less than .25 percent of the total number of passenger boardings each year at all commercial service airports.

"(b) PURPOSE.—The purpose of grants made under this section shall be to provide information on the benefits and difficulties of using innovative financing techniques for airport development projects.

"(c) LIMITATIONS.—

"(1) NO GUARANTEES.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

"(2) TYPES OF TECHNIQUES.—In this section, innovative financing techniques are limited to—

"(A) payment of interest;

"(B) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development; and

"(C) flexible non-Federal matching requirements.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 471 is amended by adding at the end the following:

"47135. Innovative financing techniques.".

SEC. 133. AVIATION SECURITY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding the following new section:

"§ 47136. Aviation security program

"(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than one project to test and evaluate innovative aviation security systems and related technology.

"(b) PRIORITY.—In carrying out this section, the Secretary shall give the highest priority to a request from an eligible sponsor for a grant to undertake a project that—

"(1) evaluates and tests the benefits of innovative aviation security systems or related technology, including explosives detection systems, for the purpose of improving aviation security, including aircraft physical security, access control, and passenger and baggage screening; and

"(2) provides testing and evaluation of airport security systems and technology in an operational, test bed environment.

"(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share of allowable project costs for a project under this section shall be 100 percent.

"(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

"(e) ELIGIBLE SPONSOR DEFINED.—In this section, the term 'eligible sponsor' means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

"(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than $5,000,000 for the purpose of carrying out this section.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 471 is further amended by adding at the end the following:

"47136. Aviation security program.".

SEC. 134. INHERENTLY LOW-EMISSION AIRPORT VEHICLE PILOT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

"§ 47137. Inherently low-emission airport vehicle pilot program

"(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 public-use airports under which the sponsors of such airports may use funds made available under section 48103 for use at such airports to carry out inherently low-emission vehicle activities. Notwithstanding any other provision of this subchapter, inherently low-emission vehicle activities shall for purposes of the pilot program be treated as eligible for assistance under this subchapter.

"(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(d)).

"(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

"(d) UNITED STATES GOVERNMENT'S SHARE.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under the pilot program shall be 50 percent.

"(e) MAXIMUM AMOUNT.—Not more than $2,000,000 may be expended under the pilot program at any single public-use airport.

"(f) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an evaluation of the effectiveness of the pilot program.

"(g) INHERENTLY LOW-EMISSION VEHICLE ACTIVITY DEFINED.—In this section, the term 'inherently low-emission vehicle activity' means—

"(1) the construction of infrastructure facilities necessary for the use of vehicles that are certified as inherently low-emission vehicles under title 40 of the Code of Federal Regulations, that are labeled in accordance with section 88.312–93(c) of such title, and that are located or primarily used at public-use airports;

"(2) the payment of that portion of the cost of acquiring such vehicles that exceeds the cost of acquiring other vehicles that would be used for the same purpose; or

"(3) the acquisition of technological equipment necessary for the use of vehicles described in paragraph (1).".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 471 is further amended by adding at the end the following:

"47137. Inherently low-emission airport vehicle pilot program.".

SEC. 135. TECHNICAL AMENDMENTS.

(a) CONTINUATION OF PROJECT FUNDING.—Section 47108 is amended by adding at the end the following:

"(e) CHANGE IN AIRPORT STATUS.—In the event that the status of a primary airport changes to a nonprimary airport at a time when a terminal development project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the agreement, subject to the availability of funds.".

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

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

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

(3) by adding at the end the following:

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

"(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carrier in the class constitutes not more than 1 percent of the total number of passengers enplaned annually at the airport at which the fee is imposed; or

"(B) passengers traveling to an airport—

"(i) that has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; and

"(ii) in a community which has a population of less than 10,000 and is not connected by a land highway to the land-connected National Highway System within a State.".

SEC. 136. CONVEYANCES OF AIRPORT PROPERTY FOR PUBLIC AIRPORTS.

(a) PROJECT GRANT ASSURANCES.—Section 47107(h) is amended by inserting "(including an assurance with respect to disposal of land by an airport owner or operator under subsection (c)(2)(B) without regard to whether or not the assurance or grant was made before December 29, 1987)" after "1987".

(b) CONVEYANCES OF UNITED STATES GOVERNMENT LAND.—Section 47125(a) is amended by adding at the end the following: "The Secretary may only release an option of the United States for a reversionary interest under this subsection after providing notice and an opportunity for public comment. The Secretary shall publish in the Federal Register any decision of the Secretary to release a reversionary interest and the reasons for the decision.".

(c) REQUESTS BY PUBLIC AGENCIES.—Section 47151 is amended by adding at the end the following:

"(d) REQUESTS BY PUBLIC AGENCIES.—Except with respect to a request made by another department, agency, or instrumentality of the executive branch of the United States Government, such a department, agency, or instrumentality shall give priority consideration to a request made by a public agency (as defined in section 47102) for surplus property described in subsection (a) for use at a public airport.".

(d) NOTICE AND PUBLIC COMMENT; PUBLICATION OF DECISIONS.—Section 47153(a) is amended—

(1) in paragraph (1) by inserting ", after providing notice and an opportunity for public comment," after "if the Secretary decides"; and

(2) by adding at the end the following:

"(3) PUBLICATION OF DECISIONS.—The Secretary shall publish in the Federal Register any decision to waive a term under paragraph (1) and the reasons for the decision.".

(e) CONSIDERATIONS.—Section 47153 is amended by adding at the end the following:

"(c) CONSIDERATIONS.—In deciding whether to waive a term required by section 47152 or add another term, the Secretary shall consider the current and future needs of the users of the airport.".

(f) REFERENCES TO GIFTS.—Chapter 471 is amended—

(1) in section 47151—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1) by striking "give" and inserting "convey to"; and

(ii) in paragraph (2) by striking "gift" and inserting "conveyance";

(B) in subsection (b)—

(i) by striking "giving" and inserting "conveying"; and

(ii) by striking "gift" and inserting "conveyance"; and

(C) in subsection (c)—

(i) in the subsection heading by striking "GIVEN" and inserting "CONVEYED"; and

(ii) by striking "given" and inserting "conveyed";

(2) in section 47152—

(A) in the section heading by striking "**gifts**" and inserting "**conveyances**"; and

(B) in the matter preceding paragraph (1) by striking "gift" and inserting "conveyance";

(3) in section 47153(a)(1)—

(A) by striking "gift" each place it appears and inserting "conveyance"; and

(B) by striking "given" and inserting "conveyed"; and

(4) in the analysis for such chapter by striking the item relating to section 47152 and inserting the following:

"47152. Terms of conveyances.".

Subtitle C—Miscellaneous

SEC. 151. TREATMENT OF CERTAIN FACILITIES AS AIRPORT-RELATED PROJECTS.

Section 40117(a)(3)(E) is amended—

(1) by striking "and" and inserting a comma; and

(2) by striking the period at the end and inserting the following: "(including structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door and roof systems, and building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service)), and aircraft fueling facilities adjacent to the gate.".

SEC. 152. TERMINAL DEVELOPMENT COSTS.

(a) WITH RESPECT TO PASSENGER FACILITY CHARGES.—Section 40117(a)(3) is further amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively; and

(2) by inserting after subparagraph (B) the following:

"(C) for costs of terminal development referred to in subparagraph (B) incurred after August 1, 1986, at an airport that did not have more than .25 percent of the total annual passenger boardings in the United States in the most recent calendar year for which data is available and at which total passenger boardings declined by at least 16 percent between calendar year 1989 and calendar year 1997;".

(b) REPAYING BORROWED MONEY.—Section 47119(a) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "0.05" and inserting "0.25"; and

(B) by striking "between January 1, 1992, and October 31, 1992," and inserting "between August 1, 1986, and September 30, 1990, or between June 1, 1991, and October 31, 1992,"; and

(2) in paragraph (1)(B) by striking "an airport development project outside the terminal area at that airport" and inserting "any needed airport development project affecting safety, security, or capacity".

(c) NONHUB AIRPORTS.—Section 47119(c) is amended by striking "0.05" and inserting "0.25".

(d) NONPRIMARY COMMERCIAL SERVICE AIRPORTS.—Section 47119 is amended by adding at the end the following:

"(d) DETERMINATION OF PASSENGER BOARDING AT COMMERCIAL SERVICE AIRPORT.—For the purpose of determining whether an amount may be distributed for a fiscal year from the discretionary fund in accordance with subsection (b)(2)(A) to a commercial service airport, the Secretary shall make the determination of whether or not a public airport is a commercial service airport on the basis of the number of passenger boardings and type of air service at the public airport in the calendar year that includes the first day of such fiscal year or the preceding calendar year, whichever is more beneficial to the airport.".

SEC. 153. GENERAL FACILITIES AUTHORITY.

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

(1) by striking "each of fiscal years 1995 and 1996" and inserting "each of fiscal years 1999 through 2004"; and

(2) by inserting "under new or existing contracts" after "including acquisition".

(b) LORAN-C NAVIGATION FACILITIES.—Section 44502(a) is amended by adding at the end the following:

"(5) MAINTENANCE AND UPGRADE OF LORAN-C NAVIGATION FACILITIES.—The Secretary shall maintain and upgrade Loran-C navigation facilities throughout the transition period to satellite-based navigation.".

SEC. 154. DENIAL OF AIRPORT ACCESS TO CERTAIN AIR CARRIERS.

Section 44706 is amended by adding at the end the following:

"(g) INCLUDED CHARTER AIR TRANSPORTATION.—For the purposes of subsection (a)(2), a scheduled passenger operation includes charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights.

"(h) AUTHORITY TO PRECLUDE SCHEDULED PASSENGER OPERATIONS.—The Administrator shall permit an airport that will be subject to certification under subsection (a)(2) to preclude scheduled passenger operations (including public charter operations described in subsection (g)) at the airport if the airport notifies the Administrator, in writing, that it does not intend to obtain an airport operating certificate.".

SEC. 155. CONSTRUCTION OF RUNWAYS.

Notwithstanding any provision of law that specifically restricts the number of runways at a single international airport, the Secretary of Transportation may obli-

gate funds made available under chapters 471 and 481 of title 49, United States Code, for any project to construct a new runway at such airport, unless this section is expressly repealed.

SEC. 156. USE OF RECYCLED MATERIALS.

(a) STUDY.—The Administrator shall conduct a study of the use of recycled materials (including recycled pavements, waste materials, and byproducts) in pavement used for runways, taxiways, and aprons and the specification standards in tests necessary for the use of recycled materials in such pavement. The primary focus of the study shall be on the long term physical performance, safety implications, and environmental benefits of using recycled materials in aviation pavement.

(b) CONTRACTING.—The Administrator may carry out the study under this section by entering into a contract with a university of higher education with expertise necessary to carry out the study.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under this section together with recommendations concerning the use of recycled materials in aviation pavement.

(d) FUNDING.—Of the amounts appropriated pursuant to section 106(k), not to exceed $1,500,000 in the aggregate may be used to carry out this section.

TITLE II—AIRLINE SERVICE IMPROVEMENTS

Subtitle A—Service to Airports Not Receiving Sufficient Service

SEC. 201. ACCESS TO HIGH DENSITY AIRPORTS.

(a) REPEAL OF SLOT RULE FOR CERTAIN AIRPORTS.—Effective March 1, 2000, the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations, are of no force and effect at an airport other than Ronald Reagan Washington National Airport. The Secretary of Transportation is authorized to undertake appropriate actions to effectuate an orderly termination of these requirements.

(b) SLOT EXEMPTIONS FOR SERVICE TO REAGAN NATIONAL AIRPORT.—Section 41714 is amended by striking subsections (e) and (f) and inserting the following:

"(e) SLOTS FOR AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—

"(1) EXEMPTIONS.—Notwithstanding chapter 491, the Secretary may by order grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable air carriers to provide nonstop air transportation using jet aircraft that comply with the stage 3 noise levels of part 36 of such title 14 between Ronald Reagan Washington National Airport and an airport that had less than 2,000,000 enplanements in the most recent year for which such enplanement data is available or between Ronald Reagan Washington National Airport and an airport that does not have nonstop transportation to Ronald Reagan Washington National Airport using such aircraft on the date on which the application for an exemption is filed.

"(2) LIMITATIONS.—

"(A) MAXIMUM NUMBER OF EXEMPTIONS.—No more than 2 exemptions per hour and no more than 6 exemptions per day may be granted under this subsection for slots at Ronald Reagan Washington National Airport.

"(B) MAXIMUM DISTANCE OF FLIGHTS.—An exemption may be granted under this subsection for a slot at Ronald Reagan Washington National Airport only if the flight utilizing such slot begins or ends within 1,250 miles of the Airport and a stage 3 aircraft is used for such flight.

"(3) APPLICATION.—An air carrier interested in an exemption under this subsection shall submit to the Secretary an application for such exemption. No application may be submitted to the Secretary before the last day of the 30-day period beginning on the date of the enactment of this paragraph.

"(4) DEADLINE FOR DECISION.—Notwithstanding any other provision of law, the Secretary shall make a decision with regard to granting an exemption under this subsection on or before the 120th day following the date of the application for the exemption. If the Secretary does not make the decision on or before such 120th day, the air carrier applying for the service may provide such service until the Secretary makes the decision or the Administrator of the Federal

Aviation Administration determines that providing such service would have an adverse effect on air safety.

"(5) PERIOD OF EFFECTIVENESS.—An exemption granted under this subsection shall remain in effect only while the air carrier for whom the exemption is granted continues to provide the nonstop air transportation for which the exemption is granted.

"(f) TREATMENT OF CERTAIN COMMUTER AIR CARRIERS.—The Secretary shall treat all commuter air carriers that have cooperative agreements, including code share agreements with other air carriers, equally for determining eligibility for exemptions under this section regardless of the form of the corporate relationship between the commuter air carrier and the other air carrier.".

(c) CONFORMING AMENDMENTS.—Effective March 1, 2000, section 41714 (as amended by subsection (b) of this section) is amended—

(1) by striking subsections (a), (b), (c), (g), and (i);

(2) by redesignating subsections (d), (e), (f), and (h) as subsections (a), (b), (c), and (d), respectively;

(3) in the heading for subsection (a) (as so redesignated) by striking "SPECIAL RULES FOR"; and

(4) by striking subsection (c) (as so redesignated) and inserting the following:

"(c) SLOT DEFINED.—The term 'slot' means a reservation for an instrument flight rule takeoff or landing by an air carrier or an aircraft in air transportation.".

SEC. 202. FUNDING FOR AIR CARRIER SERVICE TO AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.

(a) IN GENERAL.—Section 41742(a) is amended by striking "$50,000,000" and inserting "$60,000,000".

(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—Section 41742(b) of title 49, United States Code, is amended to read as follows:

"(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, from moneys credited to the account established under section 45303(a), including the funds derived from fees imposed under the authority contained in section 45301(a)—

"(A) not to exceed $50,000,000 for each fiscal year beginning after September 30, 1999, shall be used to carry out the small community air service program under this subchapter; and

"(B) not to exceed $10,000,000 for such fiscal year shall be used—

"(i) for assisting an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

"(ii) for assisting an underserved airport to obtain jet aircraft service (and to promote passenger use of that service) to and from the underserved airport; and

"(iii) for assisting an underserved airport to implement such other measures as the Secretary of Transportation, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

"(2) RURAL AIR SAFETY.—Any funds that are made available by paragraph (1) for a fiscal year and that the Secretary determines will not be obligated or expended before the last day of such fiscal year shall be available to the Administrator for use under this subchapter in improving rural air safety at airports with less than 100,000 annual boardings.

"(3) ALLOCATION OF ADDITIONAL FUNDING.—If, for a fiscal year beginning after September 30, 1999, more than $60,000,000 is made available under subsection (a) to carry out the small community air service program, ½ of the amounts in excess of $60,000,000 shall be used for the purposes specified in paragraph (1)(B), in addition to amounts made available for such purposes under paragraph (1)(B).

"(4) USE OF UNOBLIGATED AMOUNTS.—Any funds made available under paragraph (1)(A) for the small community air service program for a fiscal year that the Secretary determines will not be obligated or expended before the last day of such fiscal year shall be available for use by the Secretary for the purposes described in paragraph (1)(B).

"(5) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under paragraph (1), of the amounts appropriated pursuant to section 106(k) for a fiscal year beginning after September 30, 2000, not to exceed $15,000,000 may be used—

"(A) to provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

"(B) to provide assistance to an underserved airport to obtain jet aircraft service (and to promote passenger use of that service) to and from the underserved airport; and

"(C) to provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

"(6) PRIORITY CRITERIA FOR ASSISTING AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—In providing assistance to airports under paragraphs (1)(B) and (5), the Administrator shall give priority to those airports for which a community will provide, from local sources (other than airport revenues), a portion of the cost of the activity to be assisted.

"(7) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) UNDERSERVED AIRPORT.—The term 'underserved airport' means a nonhub airport or small hub airport (as such terms are defined in section 41731) that—

"(i) the Secretary determines is not receiving sufficient air carrier service; or

"(ii) has unreasonably high airfares.

"(B) UNREASONABLY HIGH AIRFARE.—The term 'unreasonably high airfare', as used with respect to an airport, means that the airfare listed in the table entitled 'Top 1,000 City-Pair Market Summarized by City', contained in the Domestic Airline Fares Consumer Report of the Department of Transportation, for one or more markets for which the airport is a part of has an average yield listed in such table that is more than 19 cents.".

(c) CONFORMING AMENDMENTS.—Chapter 417 is amended—

(1) in the heading for section 41742 by striking "**Essential**" and inserting "**Small community**";

(2) in each of subsections (a), (b), and (c) of section 41742 by striking "essential air" each place it appears and inserting "small community air"; and

(3) in the analysis for such chapter by striking the item relating to section 41742 and inserting the following:

"41742. Small community air service authorization.".

SEC. 203. WAIVER OF LOCAL CONTRIBUTION.

Section 41736(b) is amended by adding at the end the following:

"Paragraph (4) shall not apply to any place for which a proposal was approved or that was designated as eligible under this section in the period beginning on October 1, 1991, and ending on December 31, 1997.".

SEC. 204. POLICY FOR AIR SERVICE TO RURAL AREAS.

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

"(16) ensuring that consumers in all regions of the United States, including those in small communities and rural and remote areas, have access to affordable, regularly scheduled air service.".

SEC. 205. DETERMINATION OF DISTANCE FROM HUB AIRPORT.

The Secretary of Transportation shall not deny assistance with respect to a place under subchapter II of chapter 417 of title 49, United States Code, solely on the basis that the place is located within 70 highway miles of a hub airport (as defined by section 41731 of such title) if the most commonly used highway route between the place and the hub airport exceeds 70 miles.

Subtitle B—Regional Air Service Incentive Program

SEC. 211. ESTABLISHMENT OF REGIONAL AIR SERVICE INCENTIVE PROGRAM.

(a) IN GENERAL.—Chapter 417 is amended by adding at the end the following:

"SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM

"§ 41761. Purpose

"The purpose of this subchapter is to improve service by jet aircraft to underserved markets by providing assistance, in the form of Federal credit instruments, to commuter air carriers that purchase regional jet aircraft for use in serving those markets.

"§ 41762. Definitions

"In this subchapter, the following definitions apply:

"(1) AIR CARRIER.—The term 'air carrier' means any air carrier holding a certificate of public convenience and necessity issued by the Secretary of Transportation under section 41102.

"(2) AIRCRAFT PURCHASE.—The term 'aircraft purchase' means the purchase of commercial transport aircraft, including spare parts normally associated with the aircraft.

"(3) CAPITAL RESERVE SUBSIDY AMOUNT.—The term 'capital reserve subsidy amount' means the amount of budget authority sufficient to cover estimated long-term cost to the United States Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on government receipts or outlays in accordance with provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq).

"(4) COMMUTER AIR CARRIER.—The term 'commuter air carrier' means an air carrier that primarily operates aircraft designed to have a maximum passenger seating capacity of 75 or less in accordance with published flight schedules.

"(5) FEDERAL CREDIT INSTRUMENT.—The term 'Federal credit instrument' means a secured loan, loan guarantee, or line of credit authorized to be made under this subchapter.

"(6) FINANCIAL OBLIGATION.—The term 'financial obligation' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of an aircraft purchase, other than a Federal credit instrument.

"(7) LENDER.—The term 'lender' means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation) known as Rule 144A(a) of the Security and Exchange Commission and issued under the Security Act of 1933 (15 U.S.C. 77a et seq.)), including—

"(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

"(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

"(8) LINE OF CREDIT.—The term 'line of credit' means an agreement entered into by the Secretary with an obligor under section 41763(d) to provide a direct loan at a future date upon the occurrence of certain events.

"(9) LOAN GUARANTEE.—The term 'loan guarantee' means any guarantee or other pledge by the Secretary under section 41763(c) to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

"(10) NEW ENTRANT AIR CARRIER.—The term 'new entrant air carrier' means an air carrier that has been providing air transportation according to a published schedule for less than 5 years, including any person that has received authority from the Secretary to provide air transportation but is not providing air transportation.

"(11) NONHUB AIRPORT.—The term 'nonhub airport' means an airport that each year has less than .05 percent of the total annual boardings in the United States.

"(12) OBLIGOR.—The term 'obligor' means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

"(13) REGIONAL JET AIRCRAFT.—The term 'regional jet aircraft' means a civil aircraft—

"(A) powered by jet propulsion; and

"(B) designed to have a maximum passenger seating capacity of not less than 30 nor more than 75.

"(14) SECURED LOAN.—The term 'secured loan' means a direct loan funded by the Secretary in connection with the financing of an aircraft purchase under section 41763(b).

"(15) SMALL HUB AIRPORT.—The term 'small hub airport' means an airport that each year has at least .05 percent, but less than .25 percent, of the total annual boardings in the United States.

"(16) UNDERSERVED MARKET.—The term 'underserved market' means a passenger air transportation market (as defined by the Secretary) that—

"(A) is served (as determined by the Secretary) by a nonhub airport or a small hub airport;

"(B) is not within a 40-mile radius of an airport that each year has at least .25 percent of the total annual boardings in the United States; and

"(C) the Secretary determines does not have sufficient air service.

"§ 41763. Federal credit instruments

"(a) IN GENERAL.—Subject to this section, the Secretary of Transportation may enter into agreements with 1 or more obligors to make available Federal credit instruments, the proceeds of which shall be used to finance aircraft purchases.

"(b) SECURED LOANS.—

"(1) TERMS AND LIMITATIONS.—

"(A) IN GENERAL.—A secured loan under this section with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(B) MAXIMUM AMOUNT.—No secured loan may be made under this section—

"(i) that extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased; or

"(ii) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than $100,000,000 of outstanding credit to any single obligor.

"(C) FINAL PAYMENT DATE.—The final payment on the secured loan shall not be due later than 18 years after the date of execution of the loan agreement.

"(D) SUBORDINATION.—The secured loan may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

"(E) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the United States Government of making a secured loan under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

"(2) REPAYMENT.—

"(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from aircraft revenues and other repayment sources.

"(B) COMMENCEMENT.—Scheduled loan repayments of principal and interest on a secured loan under this section shall commence no later than 3 years after the date of execution of the loan agreement.

"(3) PREPAYMENT.—

"(A) USE OF EXCESS REVENUE.—After satisfying scheduled debt service requirements on all financial obligations and secured loans and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing financial obligations, the secured loan may be prepaid at anytime without penalty.

"(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from proceeds of refinancing from non-Federal funding sources.

"(c) LOAN GUARANTEES.—

"(1) IN GENERAL.—A loan guarantee under this section with respect to a loan made for an aircraft purchase shall be made in such form and on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(2) MAXIMUM AMOUNT.—No loan guarantee shall be made under this section—

"(A) that extends to more than the unpaid interest and 50 percent of the unpaid principal on any loan;

"(B) that, for any loan or combination of loans, extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased with the loan or loan combination;

"(C) on any loan with respect to which terms permit repayment more than 15 years after the date of execution of the loan; or

"(D) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than $100,000,000 of outstanding credit to any single obligor.

"(3) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the United States Government of making a loan guarantee under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

"(d) LINES OF CREDIT.—

"(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any aircraft purchase selected under this section.

"(2) TERMS AND LIMITATIONS.—

"(A) IN GENERAL.—A line of credit under this subsection with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

"(B) MAXIMUM AMOUNT.—

"(i) TOTAL AMOUNT.—The amount of any line of credit shall not exceed 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts.

"(ii) 1–YEAR DRAWS.—The amount drawn in any year shall not exceed 20 percent of the total amount of the line of credit.

"(C) DRAWS.—Any draw on the line of credit shall represent a direct loan.

"(D) PERIOD OF AVAILABILITY.—The line of credit shall be available not more than 5 years after the aircraft purchase date.

"(E) RIGHTS OF THIRD-PARTY CREDITORS.—

"(i) AGAINST UNITED STATES GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the United States Government with respect to any draw on the line of credit.

"(ii) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lender's behalf.

"(F) SUBORDINATION.—A direct loan under this subsection may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

"(G) FEES.—The Secretary may establish fees at a level sufficient to cover all of a portion of the costs to the United States Government of providing a line of credit under this subsection. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

"(3) REPAYMENT.—

"(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this subsection.

"(B) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a direct loan under this subsection shall commence no later than 3 years after the date of the first draw on the line of credit and shall be repaid, with interest, not later than 18 years after the date of the first draw.

"(e) RISK ASSESSMENT.—Before entering into an agreement under this section to make available a Federal credit instrument, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for the Federal credit instrument based on such credit evaluations as the Secretary deems necessary.

"(f) CONDITIONS.—Subject to subsection (h), the Secretary may only make a Federal credit instrument available under this section if the Secretary finds that—

"(1) the aircraft to be purchased with the Federal credit instrument is a regional jet aircraft needed to improve the service and efficiency of operation of a commuter air carrier or new entrant air carrier;

"(2) the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to use the aircraft to provide service to underserved markets; and

"(3) the prospective earning power of the commuter air carrier or new entrant air carrier, together with the character and value of the security pledged, including the collateral value of the aircraft being acquired and any other assets or pledges used to secure the Federal credit instrument, furnish—

"(A) reasonable assurances of the air carrier's ability and intention to repay the Federal credit instrument within the terms established by the Secretary—

"(i) to continue its operations as an air carrier; and

"(ii) to the extent that the Secretary determines to be necessary, to continue its operations as an air carrier between the same route or routes being operated by the air carrier at the time of the issuance of the Federal credit instrument; and

"(B) reasonable protection to the United States.

"(g) LIMITATION ON COMBINED AMOUNT OF FEDERAL CREDIT INSTRUMENTS.—The Secretary shall not allow the combined amount of Federal credit instruments available for any aircraft purchase under this section to exceed—

"(1) 50 percent of the cost of the aircraft purchase; or

"(2) $100,000,000 for any single obligor.

"(h) REQUIREMENT.—Subject to subsection (i), no Federal credit instrument may be made under this section for the purchase of any regional jet aircraft that does not comply with the stage 3 noise levels of part 36 of title 14 of the Code of Federal Regulations, as in effect on January 1, 1999.

"(i) OTHER LIMITATIONS.—No Federal credit instrument shall be made by the Secretary under this section for the purchase of a regional jet aircraft unless the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to provide scheduled passenger air transportation to the underserved market for which the aircraft is purchased for a period of not less than 36 consecutive months after the date that aircraft is placed in service.

"§ 41764. Use of Federal facilities and assistance

"(a) USE OF FEDERAL FACILITIES.—To permit the Secretary of Transportation to make use of such expert advice and services as the Secretary may require in carrying out this subchapter, the Secretary may use available services and facilities of other agencies and instrumentalities of the United States Government—

"(1) with the consent of the appropriate Federal officials; and

"(2) on a reimbursable basis.

"(b) ASSISTANCE.—The head of each appropriate department or agency of the United States Government shall exercise the duties and powers of that head in such manner as to assist in carrying out the policy specified in section 41761.

"(c) OVERSIGHT.—The Secretary shall make available to the Comptroller General of the United States such information with respect to any Federal credit instrument made under this subchapter as the Comptroller General may require to carry out the duties of the Comptroller General under chapter 7 of title 31.

"§ 41765. Administrative expenses

"In carrying out this subchapter, the Secretary shall use funds made available by appropriations to the Department of Transportation for the purpose of administration, in addition to the proceeds of any fees collected under this subchapter, to cover administrative expenses of the Federal credit instrument program under this subchapter.

"§ 41766. Funding

"Of the amounts appropriated under section 106(k) for each of fiscal years 2001 through 2004, such sums as may be necessary may be used to carry out this subchapter, including administrative expenses.

"§ 41767. Termination

"(a) AUTHORITY TO ISSUE FEDERAL CREDIT INSTRUMENTS.—The authority of the Secretary of Transportation to issue Federal credit instruments under section 41763 shall terminate on the date that is 5 years after the date of the enactment of this subchapter.

"(b) CONTINUATION OF AUTHORITY TO ADMINISTER PROGRAM FOR EXISTING FEDERAL CREDIT INSTRUMENTS.—On and after the termination date, the Secretary shall

continue to administer the program established under this subchapter for Federal credit instruments issued under this subchapter before the termination date until all obligations associated with such instruments have been satisfied.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by adding at the end the following:

"SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM

"Sec.
"41761. Purpose.
"41762. Definitions.
"41763. Federal credit instruments.
"41764. Use of Federal facilities and assistance.
"41765. Administrative expenses.
"41766. Funding.
"41767. Termination.".

TITLE III—FAA MANAGEMENT REFORM

SEC. 301. AIR TRAFFIC CONTROL SYSTEM DEFINED.

Section 40102(a) is amended—

(1) by redesignating paragraphs (5) through (41) as paragraphs (6) through (42), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) 'air traffic control system' means the combination of elements used to safely and efficiently monitor, direct, control, and guide aircraft in the United States and United States-assigned airspace, including—

"(A) allocated electromagnetic spectrum and physical, real, personal, and intellectual property assets making up facilities, equipment, and systems employed to detect, track, and guide aircraft movement;

"(B) laws, regulations, orders, directives, agreements, and licenses;

"(C) published procedures that explain required actions, activities, and techniques used to ensure adequate aircraft separation; and

"(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control.".

SEC. 302. AIR TRAFFIC CONTROL OVERSIGHT BOARD.

(a) ESTABLISHMENT.—

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

"§ 113. Air Traffic Control Oversight Board

"(a) ESTABLISHMENT.—There is established within the Department of Transportation an 'Air Traffic Control Oversight Board' (in this section referred to as the 'Oversight Board').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Oversight Board shall be composed of 9 members, as follows:

"(A) Six members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

"(B) One member shall be the Secretary of Transportation or, if the Secretary so designates, the Deputy Secretary of the Transportation.

"(C) One member shall be the Administrator of the Federal Aviation Administration.

"(D) One member shall be an individual who is appointed by the President, by and with the advice and consent of the Senate, from among individuals who are the leaders of their respective unions of air traffic control system employees.

"(2) QUALIFICATIONS AND TERMS.—

"(A) QUALIFICATIONS.—Members of the Oversight Board described in paragraph (1)(A) shall—

"(i) have a fiduciary responsibility to represent the public interest;

"(ii) be citizens of the United States; and

"(iii) be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in 1 or more of the following areas:

"(I) Management of large service organizations.

"(II) Customer service.

"(III) Management of large procurements.

"(IV) Information and communications technology.
"(V) Organizational development.
"(VI) Labor relations.

At least 3 members of the Oversight Board appointed under paragraph (1)(A) should have knowledge of, or a background in, aviation. At least one of such members should have a background in managing large organizations successfully. In the aggregate, such members should collectively bring to bear expertise in all of the areas described in subclauses (I) through (VI) of clause (iii).

"(B) PROHIBITIONS.—No member of the Oversight Board described in paragraph (1)(A) may—

"(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise;

"(ii) engage in another business related to aviation or aeronautics; or

"(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.

"(C) TERMS FOR AIR TRAFFIC CONTROL REPRESENTATIVES.—A member appointed under paragraph (1)(D) shall be appointed for a term of 3 years, except that the term of such individual shall end whenever the individual no longer meets the requirements of paragraph (1)(D).

"(D) TERMS FOR NONFEDERAL OFFICERS OR EMPLOYEES.—A member appointed under paragraph (1)(A) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

"(i) 2 members shall be appointed for a term of 3 years;
"(ii) 2 members shall be appointed for a term of 4 years; and
"(iii) 2 members shall be appointed for a term of 5 years.

"(E) REAPPOINTMENT.—An individual may not be appointed under paragraph (1)(A) to more than two 5-year terms on the Oversight Board.

"(F) VACANCY.—Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

"(3) ETHICAL CONSIDERATIONS.—

"(A) FINANCIAL DISCLOSURE.—During the entire period that an individual appointed under subparagraph (A) or (D) of paragraph (1) is a member of the Oversight Board, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act, except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

"(B) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, an individual appointed under subparagraph (A) or (D) of paragraph (1) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Board, except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

"(C) WAIVER.—At the time the President nominates an individual for appointment as a member of the Oversight Board under paragraph (1)(D), the President may waive for the term of the member any appropriate provision of chapter 11 of title 18, to the extent such waiver is necessary to allow the member to participate in the decisions of the Board while continuing to serve as a full-time Federal employee or a representative of employees. Any such waiver shall not be effective unless a written intent of waiver to exempt such member (and actual waiver language) is submitted to the Senate with the nomination of such member.

"(4) QUORUM.—Five members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

"(5) REMOVAL.—Any member of the Oversight Board appointed under subparagraph (A) or (D) of paragraph (1) may be removed for cause by the President.

"(6) CLAIMS.—

"(A) IN GENERAL.—A member of the Oversight Board appointed under subparagraph (A) or (D) of paragraph (1) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from

an act or omission by such member within the scope of service as a member of the Oversight Board.

"(B) EFFECT ON OTHER LAW.—This paragraph shall not be construed—

"(i) to affect any other immunity or protection that may be available to a member of the Oversight Board under applicable law with respect to such transactions;

"(ii) to affect any other right or remedy against the United States under applicable law; or

"(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

"(c) GENERAL RESPONSIBILITIES.—

"(1) OVERSIGHT.—The Oversight Board shall oversee the Federal Aviation Administration in its administration, management, conduct, direction, and supervision of the air traffic control system.

"(2) CONFIDENTIALITY.—The Oversight Board shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

"(d) SPECIFIC RESPONSIBILITIES.—The Oversight Board shall have the following specific responsibilities:

"(1) STRATEGIC PLANS.—To review, approve, and monitor achievements under a strategic plan of the Federal Aviation Administration for the air traffic control system, including the establishment of—

"(A) a mission and objectives;

"(B) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

"(C) annual and long-range strategic plans.

"(2) MODERNIZATION AND IMPROVEMENT.—To review and approve—

"(A) methods of the Federal Aviation Administration to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control; and

"(B) procurements of air traffic control equipment by the Federal Aviation Administration in excess of $100,000,000.

"(3) OPERATIONAL PLANS.—To review the operational functions of the Federal Aviation Administration, including—

"(A) plans for modernization of the air traffic control system;

"(B) plans for increasing productivity or implementing cost-saving measures; and

"(C) plans for training and education.

"(4) MANAGEMENT.—To—

"(A) review and approve the Administrator's appointment of a Chief Operating Officer under section 106(r);

"(B) review the Administrator's selection, evaluation, and compensation of senior executives of the Federal Aviation Administration who have program management responsibility over significant functions of the air traffic control system;

"(C) review and approve the Administrator's plans for any major reorganization of the Federal Aviation Administration that would impact on the management of the air traffic control system;

"(D) review and approve the Administrator's cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation; and

"(E) review the performance and cooperation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets.

"(5) BUDGET.—To—

"(A) review and approve the budget request of the Federal Aviation Administration related to the air traffic control system prepared by the Administrator;

"(B) submit such budget request to the Secretary of Transportation; and

"(C) ensure that the budget request supports the annual and long-range strategic plans.

The Secretary shall submit the budget request referred to in paragraph (5)(B) for any fiscal year to the President who shall submit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year.

"(e) REPORTING OF OVERTURNING OF BOARD DECISIONS.—If the Secretary or Administrator overturns a decision of the Oversight Board, the Secretary or Adminis-

trator, as appropriate shall report such action to the President, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

"(f) BOARD PERSONNEL MATTERS.—

"(1) COMPENSATION OF MEMBERS.—

"(A) IN GENERAL.—Each member of the Oversight Board who—

"(i) appointed under subsection (b)(1)(A); or

"(ii) appointed under subsection (b)(1)(D) and is not otherwise a Federal officer or employee,

shall be compensated at a rate of $30,000 per year. All other members shall serve without compensation for such service.

"(B) CHAIRPERSON.—Notwithstanding subparagraph (A), the chairperson of the Oversight Board shall be compensated at a rate of $50,000 per year.

"(2) TRAVEL EXPENSES.—

"(A) IN GENERAL.—The members of the Oversight Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, to attend meetings of the Oversight Board and, with the advance approval of the chairperson of the Oversight Board, while otherwise away from their homes or regular places of business for purposes of duties as a member of the Oversight Board.

"(B) REPORT.—The Oversight Board shall include in its annual report under subsection (g)(3)(A) information with respect to the travel expenses allowed for members of the Oversight Board under this paragraph.

"(3) STAFF.—

"(A) IN GENERAL.—The chairperson of the Oversight Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

"(B) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairperson of the Oversight Board, a Federal agency shall detail a United States Government employee to the Oversight Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

"(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5.

"(g) ADMINISTRATIVE MATTERS.—

"(1) CHAIR.—

"(A) TERM.—The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

"(B) POWERS.—Except as otherwise provided by a majority vote of the Oversight Board, the powers of the chairperson shall include—

"(i) establishing committees;

"(ii) setting meeting places and times;

"(iii) establishing meeting agendas; and

"(iv) developing rules for the conduct of business.

"(2) MEETINGS.—The Oversight Board shall meet at least quarterly and at such other times as the chairperson determines appropriate.

"(3) REPORTS.—

"(A) ANNUAL.—The Oversight Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

"(B) ADDITIONAL REPORT.—Upon a determination by the Oversight Board under subsection (c)(1) that the organization and operation of the Federal Aviation Administration's air traffic control system are not allowing the Federal Aviation Administration to carry out its mission, the Oversight Board shall report such determination to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(C) COMPTROLLER GENERAL'S REPORT.—Not later than April 30, 2004, the Comptroller General of the United States shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the success of the Oversight Board in improving the performance of the air traffic control system.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 is amended by adding at the end the following:

"113. Air Traffic Control Oversight Board.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of enactment of this Act.

(2) INITIAL NOMINATIONS TO AIR TRAFFIC CONTROL OVERSIGHT BOARD.—The President shall submit the initial nominations of the air traffic control oversight board to the Senate not later than 3 months after the date of enactment of this Act.

(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF OVERSIGHT BOARD.—Nothing in this section shall be construed to invalidate the actions and authority of the Federal Aviation Administration prior to the appointment of the members of the Air Traffic Control Oversight Board.

SEC. 303. CHIEF OPERATING OFFICER.

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

"(r) CHIEF OPERATING OFFICER.—

"(1) IN GENERAL.—

"(A) APPOINTMENT.—There shall be a Chief Operating Officer for the air traffic control system to be appointed by the Administrator, with approval of the Air Traffic Control Oversight Board established by section 113. The Chief Operating Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

"(B) QUALIFICATIONS.—The Chief Operating Officer shall have a demonstrated ability in management and knowledge of or experience in aviation.

"(C) TERM.—The Chief Operating Officer shall be appointed for a term of 5 years.

"(D) REMOVAL.—The Chief Operating Officer shall serve at the pleasure of the Administrator, except that the Administrator shall make every effort to ensure stability and continuity in the leadership of the air traffic control system.

"(E) VACANCY.—Any individual appointed to fill a vacancy in the position of Chief Operating Officer occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

"(2) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief Operating Officer, in consultation with the Air Traffic Control Oversight Board, shall enter into an annual performance agreement that sets forth measurable organization and individual goals for the Chief Operating Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

"(3) ANNUAL PERFORMANCE REPORT.—The Chief Operating Officer shall prepare and submit to the Secretary of Transportation and Congress an annual management report containing such information as may be prescribed by the Secretary.".

SEC. 304. FEDERAL AVIATION MANAGEMENT ADVISORY COUNCIL.

(a) MEMBERSHIP.—Section 106(p)(2)(C) is amended to read as follows:

"(C) 13 members representing aviation interests, appointed by—

"(i) in the case of initial appointments to the Council, the President by and with the advice and consent of the Senate; and

"(ii) in the case of subsequent appointments to the Council, the Secretary of Transportation.".

(b) TERMS OF MEMBERS.—Section 106(p)(6)(A)(i) is amended by striking "by the President".

SEC. 305. ENVIRONMENTAL STREAMLINING.

(a) COORDINATED ENVIRONMENTAL REVIEW PROCESS.—

(1) DEVELOPMENT AND IMPLEMENTATION.—The Secretary shall develop and implement a coordinated environmental review process for aviation infrastructure projects that require—

(A) the preparation of an environmental impact statement or environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), except that the Secretary may decide not to apply this section to the preparation of an environmental assessment under such Act; or

(B) the conduct of any other environmental review, analysis, opinion, or issuance of an environmental permit, license, or approval by operation of Federal law.

(2) MEMORANDUM OF UNDERSTANDING.—

(A) IN GENERAL.—The coordinated environmental review process for each project shall ensure that, whenever practicable (as specified in this section), all environmental reviews, analyses, opinions, and any permits, licenses, or approvals that must be issued or made by any Federal agency for the project concerned shall be conducted concurrently and completed within a cooperatively determined time period. Such process for a project or class of project may be incorporated into a memorandum of understanding between the Department of Transportation and Federal agencies (and, where appropriate, State agencies).

(B) ESTABLISHMENT OF TIME PERIODS.—In establishing the time period referred to in subparagraph (A), and any time periods for review within such period, the Department and all such agencies shall take into account their respective resources and statutory commitments.

(b) ELEMENTS OF COORDINATED ENVIRONMENTAL REVIEW PROCESS.—For each project, the coordinated environmental review process established under this section shall provide, at a minimum, for the following elements:

(1) FEDERAL AGENCY IDENTIFICATION.—The Secretary shall, at the earliest possible time, identify all potential Federal agencies that—

(A) have jurisdiction by law over environmental-related issues that may be affected by the project and the analysis of which would be part of any environmental document required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(B) may be required by Federal law to independently—

(i) conduct an environmental-related review or analysis; or

(ii) determine whether to issue a permit, license, or approval or render an opinion on the environmental impact of the project.

(2) TIME LIMITATIONS AND CONCURRENT REVIEW.—The Secretary and the head of each Federal agency identified under paragraph (1)—

(A)(i) shall jointly develop and establish time periods for review for—

(I) all Federal agency comments with respect to any environmental review documents required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the project; and

(II) all other independent Federal agency environmental analyses, reviews, opinions, and decisions on any permits, licenses, and approvals that must be issued or made for the project;

whereby each such Federal agency's review shall be undertaken and completed within such established time periods for review; or

(ii) may enter into an agreement to establish such time periods for review with respect to a class of project; and

(B) shall ensure, in establishing such time periods for review, that the conduct of any such analysis, review, opinion, and decision is undertaken concurrently with all other environmental reviews for the project, including the reviews required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); except that such review may not be concurrent if the affected Federal agency can demonstrate that such concurrent review would result in a significant adverse impact to the environment or substantively alter the operation of Federal law or would not be possible without information developed as part of the environmental review process.

(3) FACTORS TO BE CONSIDERED.—Time periods for review established under this section shall be consistent with the time periods established by the Council on Environmental Quality under sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations.

(4) EXTENSIONS.—The Secretary shall extend any time periods for review under this section if, upon good cause shown, the Secretary and any Federal agency concerned determine that additional time for analysis and review is needed as a result of new information that has been discovered that could not reasonably have been anticipated when the Federal agency's time periods for review were established. Any memorandum of understanding shall be modified to incorporate any mutually agreed-upon extensions.

(c) DISPUTE RESOLUTION.—When the Secretary determines that a Federal agency which is subject to a time period for its environmental review or analysis under this section has failed to complete such review, analysis, opinion, or decision on issuing any permit, license, or approval within the established time period or within any agreed-upon extension to such time period, the Secretary may, after notice and con-

sultation with such agency, close the record on the matter before the Secretary. If the Secretary finds, after timely compliance with this section, that an environmental issue related to the project that an affected Federal agency has jurisdiction over by operation of Federal law has not been resolved, the Secretary and the head of the Federal agency shall resolve the matter not later than 30 days after the date of the finding by the Secretary.

(d) PARTICIPATION OF STATE AGENCIES.—For any project eligible for assistance under chapter 471 of title 49, United States Code, a State, by operation of State law, may require that all State agencies that have jurisdiction by State or Federal law over environmental-related issues that may be affected by the project, or that are required to issue any environmental-related reviews, analyses, opinions, or determinations on issuing any permits, licenses, or approvals for the project, be subject to the coordinated environmental review process established under this section unless the Secretary determines that a State's participation would not be in the public interest. For a State to require State agencies to participate in the review process, all affected agencies of the State shall be subject to the review process.

(e) ASSISTANCE TO AFFECTED FEDERAL AGENCIES.—

(1) IN GENERAL.—The Secretary may approve a request by a State or other recipient of assistance under chapter 471 of title 49, United States Code, to provide funds made available from the Airport and Airway Trust Fund to the State or recipient for an aviation project subject to the coordinated environmental review process established under this section to affected Federal agencies to provide the resources necessary to meet any time limits established under this section.

(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—

(A) for the additional amounts that the Secretary determines are necessary for the affected Federal agencies to meet the time limits for environmental review; and

(B) if such time limits are less than the customary time necessary for such review.

(f) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

(1) JUDICIAL REVIEW.—Nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States or in the court of any State.

(2) SAVINGS CLAUSE.—Nothing in this section shall affect the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

(g) FEDERAL AGENCY DEFINED.—In this section, the term "Federal agency" means any Federal agency or any State agency carrying out affected responsibilities required by operation of Federal law.

SEC. 306. CLARIFICATION OF REGULATORY APPROVAL PROCESS.

Section 106(f)(3)(B)(i) is amended—

(1) by striking "$100,000,000" each place it appears and inserting "$250,000,000";

(2) by striking "Air Traffic Management System Performance Improvement Act of 1996" and inserting "Aviation Investment and Reform Act for the 21st Century";

(3) in subclause (I)—

(A) by inserting "substantial and" before "material"; and

(B) by inserting "or" after the semicolon at the end; and

(4) by striking subclauses (II), (III), and (IV) and inserting the following:

"(II) raise novel or significant legal or policy issues arising out of legal mandates that may substantially and materially affect other transportation modes.".

SEC. 307. INDEPENDENT STUDY OF FAA COSTS AND ALLOCATIONS.

(a) INDEPENDENT ASSESSMENT.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct the assessments described in this section. To conduct the assessments, the Inspector General may use the staff and resources of the Inspector General or contract with 1 or more independent entities.

(2) ASSESSMENT OF ADEQUACY AND ACCURACY OF FAA COST DATA AND ATTRIBUTIONS.—

(A) IN GENERAL.—The Inspector General shall conduct an assessment to ensure that the method for calculating the overall costs of the Federal Aviation Administration and attributing such costs to specific users is appropriate, reasonable, and understandable to the users.

(B) COMPONENTS.—In conducting the assessment under this paragraph, the Inspector General shall assess the following:

(i) The Federal Aviation Administration's cost input data, including the reliability of the Federal Aviation Administration's source documents and the integrity and reliability of the Federal Aviation Administration's data collection process.

(ii) The Federal Aviation Administration's system for tracking assets.

(iii) The Federal Aviation Administration's bases for establishing asset values and depreciation rates.

(iv) The Federal Aviation Administration's system of internal controls for ensuring the consistency and reliability of reported data.

(v) The Federal Aviation Administration's definition of the services to which the Federal Aviation Administration ultimately attributes its costs.

(vi) The cost pools used by the Federal Aviation Administration and the rationale for and reliability of the bases which the Federal Aviation Administration proposes to use in allocating costs of services to users.

(C) REQUIREMENTS FOR ASSESSMENT OF COST POOLS.—In carrying out subparagraph (B)(vi), the Inspector General shall—

(i) review costs that cannot reliably be attributed to specific Federal Aviation Administration services or activities (called "common and fixed costs" in the Federal Aviation Administration Cost Allocation Study) and consider alternative methods for allocating such costs; and

(ii) perform appropriate tests to assess relationships between costs in the various cost pools and activities and services to which the costs are attributed by the Federal Aviation Administration.

(3) COST EFFECTIVENESS.—

(A) IN GENERAL.—The Inspector General shall assess the progress of the Federal Aviation Administration in cost and performance management, including use of internal and external benchmarking in improving the performance and productivity of the Federal Aviation Administration.

(B) ANNUAL REPORTS.—Not later than December 31, 2000, and annually thereafter until December 31, 2004, the Inspector General shall transmit to Congress an updated report containing the results of the assessment conducted under this paragraph.

(C) INFORMATION TO BE INCLUDED IN FAA FINANCIAL REPORT.—The Administrator shall include in the annual financial report of the Federal Aviation Administration information on the performance of the Administration sufficient to permit users and others to make an informed evaluation of the progress of the Administration in increasing productivity.

(b) FUNDING.—Of the amounts appropriated pursuant to section 106(k) of title 49, United States Code, for fiscal year 2000, not to exceed $1,500,000 may be used to carry out this section.

TITLE IV—FAMILY ASSISTANCE

SEC. 401. RESPONSIBILITIES OF NATIONAL TRANSPORTATION SAFETY BOARD.

(a) PROHIBITION ON UNSOLICITED COMMUNICATIONS.—

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

(A) by striking "transportation," and inserting "transportation and in the event of an accident involving a foreign air carrier that occurs within the United States,";

(B) by inserting after "attorney" the following: "(including any associate, agent, employee, or other representative of an attorney)"; and

(C) by striking "30th day" and inserting "45th day".

(2) ENFORCEMENT.—Section 1151 is amended by inserting "1136(g)(2)," before "or 1155(a)" each place it appears.

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

"(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director

determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.".

(c) INCLUSION OF NONREVENUE PASSENGERS IN FAMILY ASSISTANCE COVERAGE.—Section 1136(h)(2) is amended to read as follows:

"(2) PASSENGER.—The term 'passenger' includes—

"(A) an employee of an air carrier or foreign air carrier aboard an aircraft; and

"(B) any other person aboard the aircraft without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the flight.".

(d) LIMITATION ON STATUTORY CONSTRUCTION.—Section 1136 is amended by adding at the end the following:

"(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.".

SEC. 402. AIR CARRIER PLANS.

(a) CONTENTS OF PLANS.—

(1) FLIGHT RESERVATION INFORMATION.—Section 41113(b) is amended by adding at the end the following:

"(14) An assurance that, upon request of the family of a passenger, the air carrier will inform the family of whether the passenger's name appeared on a preliminary passenger manifest for the flight involved in the accident.".

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

"(15) An assurance that the air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.".

(3) CONSULTATION ON CARRIER RESPONSE NOT COVERED BY PLAN.—Section 41113(b) is further amended by adding at the end the following:

"(16) An assurance that the air carrier, in the event that the air carrier volunteers assistance to United States citizens within the United States in the case of an aircraft accident outside the United States involving major loss of life, the air carrier will consult with the Board and the Department of State on the provision of the assistance.".

(4) SUBMISSION OF UPDATED PLANS.—The amendments made by paragraphs (1), (2), and (3) shall take effect on the 180th day following the date of enactment of this Act. On or before such 180th day, each air carrier holding a certificate of public convenience and necessity under section 41102 of title 49, United States Code, shall submit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board an updated plan under section 41113 of such title that meets the requirement of the amendments made by paragraphs (1), (2), and (3).

(5) CONFORMING AMENDMENTS.—Section 41113 is amended—

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

(B) in subsection (c) by striking "After the date that is 6 months after the date of the enactment of this section, the Secretary" and inserting "The Secretary".

(b) LIMITATION ON LIABILITY.—Section 41113(d) is amended by inserting ", or in providing information concerning a flight reservation," before "pursuant to a plan".

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Section 41113 is amended by adding at the end the following:

"(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.".

SEC. 403. FOREIGN AIR CARRIER PLANS.

(a) INCLUSION OF NONREVENUE PASSENGERS IN FAMILY ASSISTANCE COVERAGE.—Section 41313(a)(2) is amended to read as follows:

"(2) PASSENGER.—The term 'passenger' has the meaning given such term by section 1136 of this title.".

(b) ACCIDENTS FOR WHICH PLAN IS REQUIRED.—Section 41313(b) is amended by striking "significant" and inserting "major".

(c) CONTENTS OF PLANS.—

(1) IN GENERAL.—Section 41313(c) is amended by adding at the end the following:

"(15) TRAINING OF EMPLOYEES AND AGENTS.—An assurance that the foreign air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

"(16) CONSULTATION ON CARRIER RESPONSE NOT COVERED BY PLAN.—An assurance that the foreign air carrier, in the event that the foreign air carrier volunteers assistance to United States citizens within the United States in the case of an aircraft accident outside the United States involving major loss of life, the foreign air carrier will consult with the Board and the Department of State on the provision of the assistance.".

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

SEC. 404. APPLICABILITY OF DEATH ON THE HIGH SEAS ACT.

(a) IN GENERAL.—Section 40120(a) is amended by inserting "(including the Act entitled 'An Act relating to the maintenance of actions for death on the high seas and other navigable waters', approved March 30, 1920, commonly known as the Death on the High Seas Act (46 U.S.C. App. 761–767; 41 Stat. 537–538))" after "United States".

(b) APPLICABILITY.—The amendment made by subsection (a) applies to civil actions commenced after the date of enactment of this Act and to civil actions that are not adjudicated by a court of original jurisdiction or settled on or before such date of enactment.

TITLE V—SAFETY

SEC. 501. CARGO COLLISION AVOIDANCE SYSTEMS DEADLINES.

(a) IN GENERAL.—The Administrator shall require by regulation that, no later than December 31, 2002, equipment be installed, on each cargo aircraft with a maximum certificated takeoff weight in excess of 15,000 kilograms, that provides protection from mid-air collisions using technology that provides—

(1) cockpit based collision detection and conflict resolution guidance, including display of traffic; and

(2) a margin of safety of at least the same level as provided by the collision avoidance system known as TCAS–II.

(b) EXTENSION OF DEADLINE.—The Administrator may extend the deadline established by subsection (a) by not more than 2 years if the Administrator finds that the extension is needed to promote—

(1) a safe and orderly transition to the operation of a fleet of cargo aircraft equipped with collision avoidance equipment; or

(2) other safety or public interest objectives.

SEC. 502. RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.

Section 44936(f) is amended—

(1) in paragraph (1)(B) by inserting "(except a branch of the United States Armed Forces, the National Guard, or a reserve component of the United States Armed Forces)" after "person" the first place it appears;

(2) in paragraph (1)(B)(ii) by striking "individual" the first place it appears and inserting "individual's performance as a pilot";

(3) in paragraph (14)(B) by inserting "or from a foreign government or entity that employed the individual" after "exists"; and

(4) by adding at the end the following:

"(15) ELECTRONIC ACCESS TO FAA RECORDS.—For the purpose of increasing timely and efficient access to Federal Aviation Administration records described in paragraph (1), the Administrator may allow, under terms established by the Administrator, a designated individual to have electronic access to a specified database containing information about such records.".

SEC. 503. WHISTLEBLOWER PROTECTION FOR FAA EMPLOYEES.

Section 347(b)(1) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (49 U.S.C. 106 note; 109 Stat. 460) is amended by inserting before the semicolon at the end the following: ", including the provisions for investigation and enforcement as provided in chapter 12 of title 5, United States Code".

SEC. 504. SAFETY RISK MITIGATION PROGRAMS.

Section 44701 is further amended by adding at the end the following:

"(g) SAFETY RISK MANAGEMENT PROGRAM GUIDELINES.—The Administrator shall issue guidelines and encourage the development of air safety risk mitigation programs throughout the aviation industry, including self-audits and self-disclosure programs.".

SEC. 505. FLIGHT OPERATIONS QUALITY ASSURANCE RULES.

Not later than 30 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to develop procedures to protect air carriers and their employees from civil enforcement actions under the program known as Flight Operations Quality Assurance. Not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator shall issue a final rule establishing such procedures.

SEC. 506. SMALL AIRPORT CERTIFICATION.

Not later than 60 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking on implementing section 44706(a)(2) of title 49, United States Code, relating to issuance of airport operating certificates for small scheduled passenger air carrier operations. Not later than 1 year after the last day of the period for public comment provided for in the notice of proposed rulemaking, the Administrator shall issue a final rule on implementing such program.

SEC. 507. LIFE-LIMITED AIRCRAFT PARTS.

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

"§ 44725. Life-limited aircraft parts

"(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to require the safe disposition of life-limited parts removed from an aircraft. The rulemaking proceeding shall ensure that the disposition deter installation on an aircraft of a life-limited part that has reached or exceeded its life limits.

"(b) SAFE DISPOSITION.—For the purposes of this section, safe disposition includes any of the following methods:

"(1) The part may be segregated under circumstances that preclude its installation on an aircraft.

"(2) The part may be permanently marked to indicate its used life status.

"(3) The part may be destroyed in any manner calculated to prevent reinstallation in an aircraft.

"(4) The part may be marked, if practicable, to include the recordation of hours, cycles, or other airworthiness information. If the parts are marked with cycles or hours of usage, that information must be updated when the part is retired from service.

"(5) Any other method approved by the Administrator.

"(c) DEADLINES.—In conducting the rulemaking proceeding under subsection (a), the Administrator shall—

"(1) not later than 180 days after the date of enactment of this section, issue a notice of proposed rulemaking; and

"(2) not later than 180 days after the close of the comment period on the proposed rule, issue a final rule.

"(d) PRIOR-REMOVED LIFE-LIMITED PARTS.—No rule issued under subsection (a) shall require the marking of parts removed before the effective date of the rules issued under subsection (a), nor shall any such rule forbid the installation of an otherwise airworthy life-limited part.".

(b) CIVIL PENALTY.—Section 46301(a)(3) is amended—

(1) in subparagraph (A) by striking "or" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(C) a violation of section 44725, relating to the safe disposal of life-limited aircraft parts; or".

(c) CONFORMING AMENDMENT.—The analysis for chapter 447 is further amended by adding at the end the following:

"44725. Life-limited aircraft parts.".

SEC. 508. FAA MAY FINE UNRULY PASSENGERS.

(a) IN GENERAL.—Chapter 463 is amended—

(1) by redesignating section 46316 as section 46317; and

(2) by inserting after section 46315 the following:

"§ 46316. Interference with cabin or flight crew

"An individual who interferes with the duties or responsibilities of the flight crew or cabin crew of a civil aircraft, or who poses an imminent threat to the safety of the aircraft or other individuals on the aircraft, is liable to the United States Government for a civil penalty of not more than $25,000.".

(b) COMPROMISE AND SETOFF.—Section 46301(f)(1)(A)(i) is amended by inserting "46316," before "or 47107(b)".

(c) CONFORMING AMENDMENT.—The analysis for chapter 463 is amended by striking the item relating to section 46316 and inserting after the item relating to section 46315 the following:

"46316. Interference with cabin or flight crew.
"46317. General criminal penalty when specific penalty not provided.".

SEC. 509. REPORT ON AIR TRANSPORTATION OVERSIGHT SYSTEM.

Not later than March 1, 2000, and annually thereafter for the next 5 years, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the progress of the Federal Aviation Administration in implementing the air transportation oversight system. At a minimum, the report shall indicate—

(1) any funding or staffing constraints that would adversely impact the Administration's ability to fully develop and implement such system;

(2) progress in integrating the aviation safety data derived from such system's inspections with existing aviation data of the Administration in the safety performance analysis system of the Administration; and

(3) the Administration's efforts in collaboration with the aviation industry to develop and validate safety performance measures and appropriate risk weightings for the air transportation oversight system.

SEC. 510. AIRPLANE EMERGENCY LOCATORS.

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

"(b) NONAPPLICATION.—Subsection (a) does not apply to—

"(1) aircraft when used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

"(2) aircraft when used in training operations conducted entirely within a 50-mile radius of the airport from which the training operations begin;

"(3) aircraft when used in flight operations related to the design and testing, manufacture, preparation, and delivery of aircraft;

"(4) aircraft when used in research and development if the aircraft holds a certificate from the Administrator of the Federal Aviation Administration to carry out such research and development;

"(5) aircraft when used in showing compliance with regulations crew training, exhibition, air racing, or market surveys;

"(6) aircraft when used in the aerial application of a substance for an agricultural purpose;

"(7) aircraft with a maximum payload capacity of more than 7,500 pounds when used in air transportation; or

"(8) aircraft capable of carrying only one individual.".

(b) COMPLIANCE.—Section 44712 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following:

"(c) COMPLIANCE.—An aircraft meets the requirement of subsection (a) if it is equipped with an emergency locator transmitter that transmits on the 121.5/243 megahertz frequency or the 406 megahertz frequency, or with other equipment approved by the Secretary for meeting the requirement of subsection (a).".

(c) EFFECTIVE DATE; REGULATIONS.—

(1) REGULATIONS.—The Secretary of Transportation shall issue regulations under section 44712(b) of title 49, United States Code, as amended by this section not later than January 1, 2002.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

TITLE VI—WHISTLEBLOWER PROTECTION

SEC. 601. PROTECTION OF EMPLOYEES PROVIDING AIR SAFETY INFORMATION.

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

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"§ 42121. Protection of employees providing air safety information

"(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

"(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

"(3) testified or is about to testify in such a proceeding; or

"(4) assisted or participated or is about to assist or participate in such a proceeding.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Federal Aviation Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

"(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) un-

less the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

"(i) take affirmative action to abate the violation;

"(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

"(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

"(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $5,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to

grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, contractor, or subcontractor who, acting without direction from such air carrier, contractor, or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

"(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for an air carrier.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 421 is amended by adding at the end the following:

"SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

"42121. Protection of employees providing air safety information.".

SEC. 602. CIVIL PENALTY.

Section 46301(a)(1)(A) is amended by striking "subchapter II of chapter 421" and inserting "subchapter II or III of chapter 421".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. DUTIES AND POWERS OF ADMINISTRATOR.

Section 106(g)(1)(A) is amended by striking "40113(a), (c), and (d)," and all that follows through "45302–45304," and inserting "40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40119, chapter 445 (except sections 44501(b), 44502(a)(2), 44502(a)(3), 44502(a)(4), 44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a), 44718(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".

SEC. 702. PUBLIC AIRCRAFT.

(a) RESTATEMENT OF DEFINITION OF PUBLIC AIRCRAFT WITHOUT SUBSTANTIVE CHANGE.—Section 40102(a)(38) (as redesignated by section 301 of this Act) is amended to read as follows:

"(38) 'public aircraft' means an aircraft—

"(A) used only for the United States Government, and operated under the conditions specified by section 40125(b) if owned by the Government;

"(B) owned by the United States Government, operated by any person for purposes related to crew training, equipment development, or demonstration, and operated under the conditions specified by section 40125(b);

"(C) owned and operated by the government of a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of one of these governments, under the conditions specified by section 40125(c); or

"(D) exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of one of these governments, under the conditions specified by section 40125(c).".

(b) QUALIFICATIONS FOR PUBLIC AIRCRAFT STATUS.—

(1) IN GENERAL.—Chapter 401 is amended by adding at the end the following:

"§ 40125. Qualifications for public aircraft status

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) COMMERCIAL PURPOSES.—The term 'commercial purposes' means the transportation of persons or property for compensation or hire, but does not include the operation of an aircraft by one government on behalf of another government under a cost reimbursement agreement if the government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation is necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet the threat.

"(2) GOVERNMENTAL FUNCTION.—The term 'governmental function' means an activity undertaken by a government, such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management.

"(3) QUALIFIED NON-CREWMEMBER.—The term 'qualified non-crewmember' means an individual, other than a member of the crew, aboard an aircraft—

"(A) operated by the armed forces or an intelligence agency of the United States Government; or

"(B) whose presence is required to perform, or is associated with the performance of, a governmental function.

"(b) AIRCRAFT OWNED BY THE UNITED STATES.—An aircraft described in subparagraph (A) or (B) of section 40102(a)(38), if owned by the Government, qualifies as a public aircraft except when it is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

"(c) AIRCRAFT OWNED BY STATE AND LOCAL GOVERNMENTS.—An aircraft described in subparagraph (C) or (D) of section 40102(a)(38) qualifies as a public aircraft except when it is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 401 is amended by adding at the end the following:

"40125. Qualifications for public aircraft status.".

SEC. 703. PROHIBITION ON RELEASE OF OFFEROR PROPOSALS.

Section 40110 is amended by adding at the end the following:

"(d) PROHIBITION ON RELEASE OF OFFEROR PROPOSALS.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), a proposal in the possession or control of the Administrator may not be made available to any person under section 552 of title 5.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a proposal of an offeror the disclosure of which is authorized by the Administrator pursuant to procedures published in the Federal Register. The Administrator shall provide an opportunity for public comment on the procedures for a period of not less than 30 days beginning on the date of such publication in order to receive and consider the views of all interested parties on the procedures. The procedures shall not take effect before the 60th day following the date of such publication.

"(3) PROPOSAL DEFINED.—In this subsection, the term 'proposal' means information contained in or originating from any proposal, including a technical, management, or cost proposal, submitted by an offeror in response to the requirements of a solicitation for a competitive proposal.".

SEC. 704. MULTIYEAR PROCUREMENT CONTRACTS.

Section 40111 is amended—

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

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

"(b) TELECOMMUNICATIONS SERVICES.—Notwithstanding section 1341(a)(1)(B) of title 31, the Administrator may make a contract of not more than 10 years for telecommunication services that are provided through the use of a satellite if the Administrator finds that the longer contract period would be cost beneficial.".

SEC. 705. FEDERAL AVIATION ADMINISTRATION PERSONNEL MANAGEMENT SYSTEM.

(a) MEDIATION.—Section 40122(a)(2) is amended by adding at the end the following: "The 60-day period shall not include any period during which Congress has adjourned sine die.".

(b) RIGHT TO CONTEST ADVERSE PERSONNEL ACTIONS.—Section 40122 is amended by adding at the end the following:

"(g) RIGHT TO CONTEST ADVERSE PERSONNEL ACTIONS.—An employee of the Federal Aviation Administration who is the subject of a major adverse personnel action may contest the action either through any contractual grievance procedure that is applicable to the employee as a member of the collective bargaining unit or through

the Administration's internal process relating to review of major adverse personnel actions of the Administration, known as Guaranteed Fair Treatment or under section 347(c) of the Department of Transportation and Related Agencies Appropriations Act, 1996.

"(h) ELECTION OF FORUM.—Where a major adverse personnel action may be contested through more than one of the indicated forums (such as the contractual grievance procedure, the Federal Aviation Administration's internal process, or that of the Merit Systems Protection Board), an employee must elect the forum through which the matter will be contested. Nothing in this section is intended to allow an employee to contest an action through more than one forum unless otherwise allowed by law.

"(i) DEFINITION.—For purposes of this section, the term 'major adverse personnel action' means a suspension of more than 14 days, a reduction in pay or grade, a removal for conduct or performance, a nondisciplinary removal, a furlough of 30 days or less (but not including placement in a nonpay status as the result of a lapse of appropriations or an enactment by Congress), or a reduction in force action.".

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

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following:

"(8) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board.".

(d) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Section 347(c) of the Department of Transportation and Related Agencies Appropriations Act, 1996 is amended to read as follows:

"(c) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Under the new personnel management system developed and implemented under subsection (a), an employee of the Federal Aviation Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996.".

SEC. 706. NONDISCRIMINATION IN AIRLINE TRAVEL.

(a) DISCRIMINATORY PRACTICES.—Section 41310(a) is amended to read as follows:

"(a) PROHIBITIONS.—

"(1) IN GENERAL.—An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

"(2) DISCRIMINATION AGAINST PERSONS.—An air carrier or foreign air carrier may not subject a person in foreign air transportation to discrimination on the basis of race, color, national origin, religion, or sex.".

(b) INTERSTATE AIR TRANSPORTATION.—Section 41702 is amended—

(1) by striking "An air carrier" and inserting "(a) SAFE AND ADEQUATE AIR TRANSPORTATION.—An air carrier"; and

(2) by adding at the end the following:

"(b) DISCRIMINATION AGAINST PERSONS.—An air carrier may not subject a person in interstate air transportation to discrimination on the basis of race, color, national origin, religion, or sex.".

(c) DISCRIMINATION AGAINST HANDICAPPED INDIVIDUALS.—Section 41705 is amended by inserting "or foreign air carrier" after "air carrier".

(d) CIVIL PENALTY FOR VIOLATIONS OF PROHIBITION ON DISCRIMINATION AGAINST THE HANDICAPPED.—Section 46301(a)(3) is further amended by adding at the end the following:

"(D) a violation of section 41705, relating to discrimination against handicapped individuals.".

(e) INTERNATIONAL AVIATION STANDARDS FOR ACCOMMODATING THE HANDICAPPED.—The Secretary of Transportation shall work with appropriate international organizations and the aviation authorities of other nations to bring about the establishment of higher standards, if appropriate, for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code share with domestic air carriers.

SEC. 707. JOINT VENTURE AGREEMENT.

Section 41716(a)(1) is amended by striking "an agreement entered into by a major air carrier" and inserting "an agreement entered into between 2 or more major air carriers".

SEC. 708. EXTENSION OF WAR RISK INSURANCE PROGRAM.

Section 44310 is amended by striking "after" and all that follows and inserting "after December 31, 2004.".

SEC. 709. GENERAL FACILITIES AND PERSONNEL AUTHORITY.

Section 44502(a) is further amended by adding at the end the following:

"(6) IMPROVEMENTS ON LEASED PROPERTIES.—The Administrator may make improvements to real property leased for no or nominal consideration for an air navigation facility, regardless of whether the cost of making the improvements exceeds the cost of leasing the real property, if—

"(A) the improvements primarily benefit the Government;

"(B) the improvements are essential for accomplishment of the mission of the Federal Aviation Administration; and

"(C) the interest of the Government in the improvements is protected.".

SEC. 710. IMPLEMENTATION OF ARTICLE 83 BIS OF THE CHICAGO CONVENTION.

Section 44701 is amended by—

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

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

"(e) BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.—

"(1) IN GENERAL.—Notwithstanding the provisions of this chapter, the Administrator, pursuant to Article 83 bis of the Convention on International Civil Aviation and by a bilateral agreement with the aeronautical authorities of another country, may exchange with that country all or part of their respective functions and duties with respect to registered aircraft under the following articles of the Convention: Article 12 (Rules of the Air); Article 31 (Certificates of Airworthiness); or Article 32a (Licenses of Personnel).

"(2) RELINQUISHMENT AND ACCEPTANCE OF RESPONSIBILITY.—The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) for United States-registered aircraft described in paragraph (4)(A) transferred abroad and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad and described in paragraph (4)(B) that are transferred to the United States.

"(3) CONDITIONS.—The Administrator may predicate, in the agreement, the transfer of functions and duties under this subsection on any conditions the Administrator deems necessary and prudent, except that the Administrator may not transfer responsibilities for United States registered aircraft described in paragraph (4)(A) to a country that the Administrator determines is not in compliance with its obligations under international law for the safety oversight of civil aviation.

"(4) REGISTERED AIRCRAFT DEFINED.—In this subsection, the term 'registered aircraft' means—

"(A) aircraft registered in the United States and operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in another country; or

"(B) aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in the United States.".

SEC. 711. PUBLIC AVAILABILITY OF AIRMEN RECORDS.

Section 44703 is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

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

"(c) PUBLIC INFORMATION.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, the information contained in the records of contents of any airman certificate issued under this section that is limited to an airman's name, address, date of birth, and ratings held shall be made available to the public after the 120th day following the date of enactment of the Aviation Investment and Reform Act for the 21st Century.

"(2) OPPORTUNITY TO WITHHOLD INFORMATION.—Before making any information concerning an airman available to the public under paragraph (1), the air-

man shall be given an opportunity to elect that the information not be made available to the public.

"(3) DEVELOPMENT AND IMPLEMENTATION OF PROGRAM.—Not later than 60 days after the date of enactment of the Aviation Investment and Reform Act for the 21st Century, the Administrator shall develop and implement, in cooperation with representatives of the aviation industry, a one-time written notification to airmen to set forth the implications of making information concerning an airman available to the public under paragraph (1) and to carry out paragraph (2).".

SEC. 712. APPEALS OF EMERGENCY REVOCATIONS OF CERTIFICATES.

Section 44709(e) is amended to read as follows:

"(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if a person files an appeal with the Board under section (d), the order of the Administrator is stayed.

"(2) EMERGENCIES.—If the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately, the order is effective, except that a person filing an appeal under subsection (d) may file a written petition to the Board for an emergency stay on the issues of the appeal that are related to the existence of the emergency. The Board shall have 10 days to review the materials. If any 2 members of the Board determine that sufficient grounds exist to grant a stay, an emergency stay shall be granted. If an emergency stay is granted, the Board must meet within 15 days of the granting of the stay to make a final disposition of the issues related to the existence of the emergency.

"(3) FINAL DISPOSITION OF APPEAL.—In all cases, the Board shall make a final disposition of the merits of the appeal not later than 60 days after the Administrator advises the Board of the order.".

SEC. 713. GOVERNMENT AND INDUSTRY CONSORTIA.

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

"(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Administrator may establish at individual airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered Federal advisory committees.".

SEC. 714. PASSENGER MANIFEST.

Section 44909(a)(2) is amended by striking "shall" and inserting "should".

SEC. 715. COST RECOVERY FOR FOREIGN AVIATION SERVICES.

Section 45301 is amended—

(1) by striking subsection (a)(2) and inserting the following:

"(2) Services (other than air traffic control services) provided to a foreign government or to any entity obtaining services outside the United States, except that the Administrator shall not impose fees in any manner for production-certification related service performed outside the United States pertaining to aeronautical products manufactured outside the United States."; and

(2) by adding at the end the following:

"(d) PRODUCTION-CERTIFICATION RELATED SERVICE DEFINED.—In this section, the term 'production-certification related service' has the meaning given that term in appendix C of part 187 of title 14, Code of Federal Regulations.".

SEC. 716. TECHNICAL CORRECTIONS TO CIVIL PENALTY PROVISIONS.

Section 46301 is amended—

(1) in subsection (a)(1)(A) by striking "46302, 46303, or";

(2) in subsection (d)(7)(A) by striking "an individual" the first place it appears and inserting "a person"; and

(3) in subsection (g) by inserting "or the Administrator" after "Secretary".

SEC. 717. WAIVER UNDER AIRPORT NOISE AND CAPACITY ACT.

(a) WAIVERS FOR AIRCRAFT NOT COMPLYING WITH STAGE 3 NOISE LEVELS.—Section 47528(b)(1) is amended in the first sentence by inserting "or foreign air carrier" after "air carrier".

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

(1) in subsection (a) by inserting "or (f)" after "(b)"; and

(2) by adding at the end the following:

"(f) AIRCRAFT MODIFICATION OR DISPOSAL.—After December 31, 1999, the Secretary may provide a procedure under which a person may operate a stage 1 or stage 2 aircraft in nonrevenue service to or from an airport in the United States in order to—

"(1) sell the aircraft outside the United States;

"(2) sell the aircraft for scrapping; or

"(3) obtain modifications to the aircraft to meet stage 3 noise levels.".

(c) LIMITED OPERATION OF CERTAIN AIRCRAFT.—Section 47528(e) is amended by adding at the end the following:

"(4) An air carrier operating stage 2 aircraft under this subsection may operate stage 2 aircraft to or from the 48 contiguous States on a nonrevenue basis in order to—

"(A) perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or

"(B) conduct operations within the limitations of paragraph (2)(B).".

SEC. 718. METROPOLITAN WASHINGTON AIRPORT AUTHORITY.

(a) EXTENSION OF APPLICATION APPROVALS.—Section 49108 is amended by striking "2001" and inserting "2004".

(b) ELIMINATION OF DEADLINE FOR APPOINTMENT OF MEMBERS TO BOARD OF DIRECTORS.—Section 49106(c)(6) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

SEC. 719. ACQUISITION MANAGEMENT SYSTEM.

Section 348 of the Department of Transportation and Related Agencies Appropriations Act, 1996 (49 U.S.C. 106 note; 109 Stat. 460) is amended by striking subsection (c) and inserting the following:

"(c) CONTRACTS EXTENDING INTO A SUBSEQUENT FISCAL YEAR.—Notwithstanding subsection (b)(3), the Administrator may enter into contracts for procurement of severable services that begin in one fiscal year and end in another if (without regard to any option to extend the period of the contract) the contract period does not exceed 1 year.".

SEC. 720. CENTENNIAL OF FLIGHT COMMISSION.

(a) MEMBERSHIP.—

(1) APPOINTMENT.—Section 4(a)(5) of the Centennial of Flight Commemoration Act (36 U.S.C. 143 note; 112 Stat. 3487) is amended by inserting ", or his designee," after "prominence".

(2) STATUS.—Section 4 of such Act (112 Stat. 3487) is amended by adding at the end the following:

"(g) STATUS.—The members of the Commission described in paragraphs (1), (3), (4), and (5) of subsection (a) shall not be considered to be officers or employees of the United States.".

(b) DUTIES.—Section 5(a)(7) of such Act (112 Stat. 3488) is amended to read as follows:

"(7) as a nonprimary purpose, publish popular and scholarly works related to the history of aviation or the anniversary of the centennial of powered flight.".

(c) CONFLICTS OF INTEREST.—Section 6 of such Act (112 Stat. 3488–3489) is amended by adding at the end the following:

"(e) CONFLICTS OF INTEREST.—At its second business meeting, the Commission shall adopt a policy to protect against possible conflicts of interest involving its members and employees. The Commission shall consult with the Office of Government Ethics in the development of such a policy and shall recognize the status accorded its members under section 4(g).".

(d) EXECUTIVE DIRECTOR.—The first sentence of section 7(a) of such Act (112 Stat. 3489) is amended by striking the period at the end and inserting the following: "or represented on the First Flight Centennial Advisory Board under subparagraphs (A) through (E) of section 12(b)(1).".

(e) EXCLUSIVE RIGHT TO NAME, LOGOS, EMBLEMS, SEALS, AND MARKS.—

(1) USE OF FUNDS.—Section 9(d) of such Act (112 Stat. 3490) is amended by striking the period at the end and inserting the following: ", except that the Commission may transfer any portion of such funds that is in excess of the funds necessary to carry out such duties to any Federal agency or the National Air and Space Museum of the Smithsonian Institution to be used for the sole purpose of commemorating the history of aviation or the centennial of powered flight.".

(2) DUTIES TO BE CARRIED OUT BY ADMINISTRATOR OF NASA.—Section 9 of such Act (112 Stat. 3490) is amended by adding at the end the following:

"(f) DUTIES TO BE CARRIED OUT BY ADMINISTRATOR OF NASA.—The duties of the Commission under this section shall be carried out by the Administrator of the National Aeronautics and Space Administration, in consultation with the Commission.".

SEC. 721. AIRCRAFT SITUATIONAL DISPLAY DATA.

(a) IN GENERAL.—A memorandum of agreement between the Administrator and any person that directly obtains aircraft situational display data from the Federal Aviation Administration shall require that—

(1) the person demonstrate to the satisfaction of the Administrator that such person is capable of selectively blocking the display of any aircraft-situation-display-to-industry derived data related to any identified aircraft registration number; and

(2) the person agree to block selectively the aircraft registration numbers of any aircraft owner or operator upon the Administration's request.

(b) EXISTING MEMORANDA TO BE CONFORMED.—The Administrator shall conform any memoranda of agreement, in effect on the date of enactment of this Act, between the Administration and a person under which that person obtains aircraft situational display data to incorporate the requirements of subsection (a) within 30 days after that date.

SEC. 722. ELIMINATION OF BACKLOG OF EQUAL EMPLOYMENT OPPORTUNITY COMPLAINTS.

(a) HIRING OF ADDITIONAL PERSONNEL.—For fiscal year 2000, the Secretary of Transportation may hire or contract for such additional personnel as may be necessary to eliminate the backlog of pending equal employment opportunity complaints to the Department of Transportation and to ensure that investigations of complaints are completed not later than 180 days after the date of initiation of the investigation.

(b) FUNDING.—Of the amounts appropriated pursuant to section 106(k) of title 49, United States Code, for fiscal year 2000, $2,000,000 may be used to carry out this section.

SEC. 723. NEWPORT NEWS, VIRGINIA.

(a) AUTHORITY TO GRANT WAIVERS.—Notwithstanding section 16 of the Federal Airport Act (as in effect on May 14, 1947) or section 47125 of title 49, United States Code, the Secretary shall, subject to section 47153 of such title (as in effect on June 1, 1998), and subsection (b) of this section, waive with respect to airport property parcels that, according to the Federal Aviation Administration approved airport layout plan for Newport News/Williamsburg International Airport, are no longer required for airport purposes from any term contained in the deed of conveyance dated May 14, 1947, under which the United States conveyed such property to the Peninsula Airport Commission for airport purposes of the Commission.

(b) CONDITIONS.—Any waiver granted by the Secretary under subsection (a) shall be subject to the following conditions:

(1) The Peninsula Airport Commission shall agree that, in leasing or conveying any interest in the property with respect to which waivers are granted under subsection (a), the Commission will receive an amount that is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by the Secretary).

(2) Peninsula Airport Commission shall use any amount so received only for the development, improvement, operation, or maintenance of Newport News/Williamsburg International Airport.

SEC. 724. GRANT OF EASEMENT, LOS ANGELES, CALIFORNIA.

The City of Los Angeles Department of Airports may grant an easement to the California Department of Transportation to lands required to provide sufficient right-of-way to facilitate the construction of the California State Route 138 bypass, as proposed by the California Department of Transportation.

SEC. 725. REGULATION OF ALASKA GUIDE PILOTS.

(a) IN GENERAL.—Beginning on the date of enactment of this Act, flight operations conducted by Alaska guide pilots shall be regulated under the general operating and flight rules contained in part 91 of title 14, Code of Regulations.

(b) RULEMAKING PROCEEDING.—

(1) IN GENERAL.—The Administrator shall conduct a rulemaking proceeding and issue a final rule to modify the general operating and flight rules referred to in subsection (a) by establishing special rules applicable to the flight operations conducted by Alaska guide pilots.

(2) CONTENTS OF RULES.—A final rule issued by the Administrator under paragraph (1) shall require Alaska guide pilots—

(A) to operate aircraft inspected no less often than after 125 hours of flight time;

(B) to participate in an annual flight review, as described in section 61.56 of title 14, Code of Federal Regulations;

(C) to have at least 500 hours of flight time as a pilot;

(D) to have a commercial rating, as described subpart F of part 61 of such title;

(E) to hold at least a second-class medical certificate, as described in subpart C of part 67 of such title;

(F) to hold a current letter of authorization issued by the Administrator; and

(G) to take such other actions as the Administrator determines necessary for safety.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) LETTER OF AUTHORIZATION.—The term "letter of authorization" means a letter issued by the Administrator once every 5 years to an Alaska guide pilot certifying that the pilot is in compliance with general operating and flight rules applicable to the pilot. In the case of a multi-pilot operation, at the election of the operating entity, a letter of authorization may be issued by the Administrator to the entity or to each Alaska guide pilot employed by the entity.

(2) ALASKA GUIDE PILOT.—The term "Alaska guide pilot" means a pilot who—

(A) conducts aircraft operations over or within the State of Alaska;

(B) operates single engine, fixed wing aircraft on floats, wheels, or skis, providing commercial hunting, fishing, or other guide services and related accommodations in the form of camps or lodges; and

(C) transports clients by such aircraft incidental to hunting, fishing, or other guide services, or uses air transport to enable guided clients to reach hunting or fishing locations.

SEC. 726. AIRCRAFT REPAIR AND MAINTENANCE ADVISORY PANEL.

(a) ESTABLISHMENT OF PANEL.—The Secretary of Transportation—

(1) shall establish an Aircraft Repair and Maintenance Advisory Panel to review issues related to the use and oversight of aircraft and aviation component repair and maintenance facilities (in this section referred to as "aircraft repair facilities") located within, or outside of, the United States; and

(2) may seek the advice of the panel on any issue related to methods to increase safety by improving the oversight of aircraft repair facilities.

(b) MEMBERSHIP.—The panel shall consist of—

(1) 9 members appointed by the Secretary as follows:

(A) 3 representatives of labor organizations representing aviation mechanics;

(B) 1 representative of cargo air carriers;

(C) 1 representative of passenger air carriers;

(D) 1 representative of aircraft repair facilities;

(E) 1 representative of aircraft manufacturers;

(F) 1 representative of on-demand passenger air carriers and corporate aircraft operations; and

(G) 1 representative of regional passenger air carriers;

(2) 1 representative from the Department of Commerce, designated by the Secretary of Commerce;

(3) 1 representative from the Department of State, designated by the Secretary of State; and

(4) 1 representative from the Federal Aviation Administration, designated by the Administrator.

(c) RESPONSIBILITIES.—The panel shall—

(1) determine the amount and type of work that is being performed by aircraft repair facilities located within, and outside of, the United States; and

(2) provide advice and counsel to the Secretary with respect to the aircraft and aviation component repair work performed by aircraft repair facilities and air carriers, staffing needs, and any balance of trade or safety issues associated with that work.

(d) DOT TO REQUEST INFORMATION FROM AIR CARRIERS AND REPAIR FACILITIES.—

(1) COLLECTION OF INFORMATION.—The Secretary, by regulation, shall require air carriers, foreign air carriers, domestic repair facilities, and foreign repair facilities to submit such information as the Secretary may require in order to assess balance of trade and safety issues with respect to work performed on aircraft used by air carriers, foreign air carriers, United States corporate operators, and foreign corporate operators.

(2) DRUG AND ALCOHOL TESTING INFORMATION.—Included in the information the Secretary requires under paragraph (1) shall be information on the existence and administration of employee drug and alcohol testing programs in place at the foreign repair facilities, if applicable. The Secretary, if necessary, shall work with the International Civil Aviation Organization to increase the number and improve the administration of employee drug and alcohol testing programs at the foreign repair facilities.

(3) DESCRIPTION OF WORK DONE.—Included in the information the Secretary requires under paragraph (1) shall be information on the amount and type of work performed on aircraft registered in and outside of the United States.

(e) DOT TO FACILITATE COLLECTION OF INFORMATION ABOUT AIRCRAFT MAINTENANCE.—The Secretary shall facilitate the collection of information from the National Transportation Safety Board, the Federal Aviation Administration, and other appropriate agencies regarding maintenance performed by aircraft repair facilities.

(f) DOT TO MAKE INFORMATION AVAILABLE TO PUBLIC.—The Secretary shall make any relevant information received under subsection (c) available to the public, consistent with the authority to withhold trade secrets or commercial, financial, and other proprietary information under section 552 of title 5, United States Code.

(g) TERMINATION.—The panel established under subsection (a) shall terminate on the earlier of—

(1) the date that is 2 years after the date of enactment of this Act; or

(2) December 31, 2001.

(h) DEFINITIONS.—The definitions contained in section 40102 of title 49, United States Code, shall apply to this section.

SEC. 727. OPERATIONS OF AIR TAXI INDUSTRY.

(a) STUDY.—The Administrator, in consultation with the National Transportation Safety Board and other interested persons, shall conduct a study of air taxi operators regulated under part 135 of title 14, Code of Federal Regulations.

(b) CONTENTS.—The study shall include an analysis of the size and type of the aircraft fleet, relevant aircraft equipment, hours flown, utilization rates, safety record by various categories of use and aircraft type, sales revenues, and airports served by the air taxi fleet.

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

SEC. 728. SENSE OF CONGRESS CONCERNING COMPLETION OF COMPREHENSIVE NATIONAL AIRSPACE REDESIGN.

It is the sense of Congress that, as soon as is practicable, the Administrator should complete and begin implementation of the comprehensive national airspace redesign that is being conducted by the Administrator.

SEC. 729. COMPLIANCE WITH REQUIREMENTS.

Notwithstanding any other provision of law, in order to avoid unnecessary duplication of expense and effort, the Secretary of Transportation may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for new construction projects on the air operations area of an airport, if the completed assessment or study was for a project at the airport that is substantially similar in nature to the new project. Any such authorized use shall meet all requirements of Federal law for the completion of such an assessment or study.

SEC. 730. AIRCRAFT NOISE LEVELS AT AIRPORTS.

(a) DEVELOPMENT OF NEW STANDARDS.—The Secretary of Transportation shall continue to work to develop a new standard for aircraft and aircraft engines that will lead to a further reduction in aircraft noise levels.

(b) REPORT.—Not later than March 1, 2000, and annually thereafter, the Secretary shall transmit to Congress a report regarding the application of new standards or technologies to reduce aircraft noise levels.

SEC. 731. FAA CONSIDERATION OF CERTAIN STATE PROPOSALS.

The Administrator is encouraged to consider any proposal with a regional consensus submitted by a State aviation authority regarding the expansion of existing airport facilities or the introduction of new airport facilities.

TITLE VIII—NATIONAL PARKS AIR TOUR MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "National Parks Air Tour Management Act of 1999".

SEC. 802. FINDINGS.

Congress finds that—

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

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights of public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, commercial air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on the Group's consensus work product; and

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

SEC. 803. AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

(a) IN GENERAL.—Chapter 401 is further amended by adding at the end the following:

"§ 40126. Overflights of national parks

"(a) IN GENERAL.—

"(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park (including tribal lands) except—

"(A) in accordance with this section;

"(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

"(C) in accordance with any applicable air tour management plan for the park.

"(2) APPLICATION FOR OPERATING AUTHORITY.—

"(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park (including tribal lands), a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over the park.

"(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever an air tour management plan limits the number of commercial air tour operations over a national park during a specified time frame, the Administrator, in cooperation with the Director, shall issue operation specifications to commercial air tour operators that conduct such operations. The operation specifications shall include such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour operations over the park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

"(i) the safety record of the person submitting the proposal or pilots employed by the person;

"(ii) any quiet aircraft technology proposed to be used by the person submitting the proposal;

"(iii) the experience of the person submitting the proposal with commercial air tour operations over other national parks or scenic areas;

"(iv) the financial capability of the company;

"(v) any training programs for pilots provided by the person submitting the proposal; and

"(vi) responsiveness of the person submitting the proposal to any relevant criteria developed by the National Park Service for the affected park.

"(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

"(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator, in cooperation with the Director, shall develop an air tour management plan in accordance with subsection (b) and implement such plan.

"(3) EXCEPTION.—

"(A) IN GENERAL.—If a commercial air tour operator secures a letter of agreement from the Administrator and the superintendent for the national park that describes the conditions under which the commercial air tour operation will be conducted, then notwithstanding paragraph (1), the commercial air tour operator may conduct such operations over the national park under part 91 of title 14, Code of Federal Regulations, if such activity is permitted under part 119 of such title.

"(B) LIMIT ON EXCEPTIONS.—Not more than 5 flights in any 30-day period over a single national park may be conducted under this paragraph.

"(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (d), an existing commercial air tour operator shall apply, not later than 90 days after the date of enactment of this section, for operating authority under part 119, 121, or 135 of title 14, Code of Federal Regulations. A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park (including tribal lands). The Administrator shall act on any such application for a new entrant and issue a decision on the application not later than 24 months after it is received or amended.

"(b) AIR TOUR MANAGEMENT PLANS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Administrator, in cooperation with the Director, shall establish an air tour management plan for any national park (including tribal lands) for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (4).

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

"(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) (including a finding of no significant impact, an environmental assessment, and an environmental impact statement) and the record of decision for the air tour management plan.

"(3) CONTENTS.—An air tour management plan for a national park—

"(A) may limit or prohibit commercial air tour operations;

"(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour operation routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of adverse noise, visual, or other impacts;

"(C) may apply to all commercial air tour operations;

"(D) shall include incentives (such as preferred commercial air tour operation routes and altitudes and relief from flight caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations over the park;

"(E) shall provide a system for allocating opportunities to conduct commercial air tours if the air tour management plan includes a limitation on the number of commercial air tour operations for any time period; and

"(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E) and include such justifications in the record of decision.

"(4) PROCEDURE.—In establishing an air tour management plan for a national park (including tribal lands), the Administrator and the Director shall—

"(A) hold at least one public meeting with interested parties to develop the air tour management plan;

"(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

"(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with the regulations, the Federal Aviation Administration shall be the lead agency and the National Park Service is a cooperating agency); and

"(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park, as a cooperating agency under the regulations referred to in subparagraph (C).

"(5) JUDICIAL REVIEW.—An air tour management plan developed under this subsection shall be subject to judicial review.

"(6) AMENDMENTS.—The Administrator, in cooperation with the Director, may make amendments to an air tour management plan. Any such amendments shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

"(c) DETERMINATION OF COMMERCIAL AIR TOUR OPERATION STATUS.—In making a determination of whether a flight is a commercial air tour operation, the Administrator may consider—

"(1) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

"(2) whether a narrative that referred to areas or points of interest on the surface below the route of the flight was provided by the person offering the flight;

"(3) the area of operation;

"(4) the frequency of flights conducted by the person offering the flight;

"(5) the route of flight;

"(6) the inclusion of sightseeing flights as part of any travel arrangement package offered by the person offering the flight;

"(7) whether the flight would have been canceled based on poor visibility of the surface below the route of the flight; and

"(8) any other factors that the Administrator considers appropriate.

"(d) INTERIM OPERATING AUTHORITY.—

"(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this subsection to a commercial air tour operator for commercial air tour operations over a national park (including tribal lands) for which the operator is an existing commercial air tour operator.

"(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

"(A) shall provide annual authorization only for the greater of—

"(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of this section; or

"(ii) the average number of flights per 12-month period used by the operator to provide such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

"(B) may not provide for an increase in the number of commercial air tour operations conducted during any time period by the commercial air tour operator above the number that the air tour operator was originally granted unless such an increase is agreed to by the Administrator and the Director;

"(C) shall be published in the Federal Register to provide notice and opportunity for comment;

"(D) may be revoked by the Administrator for cause;

"(E) shall terminate 180 days after the date on which an air tour management plan is established for the park or the tribal lands;

"(F) shall promote protection of national park resources, visitor experiences, and tribal lands;

"(G) shall promote safe operations of the commercial air tour;
"(H) shall promote the adoption of quiet technology, as appropriate; and
"(I) shall allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

"(e) EXEMPTIONS.—
"(1) IN GENERAL.—Except as provided by paragraph (2), this section shall not apply to—
"(A) the Grand Canyon National Park;
"(B) tribal lands within or abutting the Grand Canyon National Park; or
"(C) any unit of the National Park System located in Alaska or any other land or water located in Alaska.
"(2) EXCEPTION.—This section shall apply to the Grand Canyon National Park if section 3 of Public Law 100–91 (16 U.S.C. 1a–1 note; 101 Stat. 674–678) is no longer in effect.

"(f) DEFINITIONS.—In this section, the following definitions apply:
"(1) COMMERCIAL AIR TOUR OPERATOR.—The term 'commercial air tour operator' means any person who conducts a commercial air tour operation.
"(2) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term 'existing commercial air tour operator' means a commercial air tour operator that was actively engaged in the business of providing commercial air tour operations over a national park at any time during the 12-month period ending on the date of enactment of this section.
"(3) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term 'new entrant commercial air tour operator' means a commercial air tour operator that—
"(A) applies for operating authority as a commercial air tour operator for a national park; and
"(B) has not engaged in the business of providing commercial air tour operations over the national park (including tribal lands) in the 12-month period preceding the application.
"(4) COMMERCIAL AIR TOUR OPERATION.—The term 'commercial air tour operation' means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park, within ½ mile outside the boundary of any national park, or over tribal lands, during which the aircraft flies—
"(A) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or
"(B) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).
"(5) NATIONAL PARK.—The term 'national park' means any unit of the National Park System.
"(6) TRIBAL LANDS.—The term 'tribal lands' means Indian country (as that term is defined in section 1151 of title 18) that is within or abutting a national park.
"(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Aviation Administration.
"(8) DIRECTOR.—The term 'Director' means the Director of the National Park Service.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 401 is further amended by adding at the end the following:

"40126. Overflights of national parks.".

SEC. 804. ADVISORY GROUP.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks.

(b) MEMBERSHIP.—
(1) IN GENERAL.—The advisory group shall be composed of—
(A) a balanced group of—
(i) representatives of general aviation;
(ii) representatives of commercial air tour operators;
(iii) representatives of environmental concerns; and
(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and
(C) a representative of the National Park Service.

(2) EX OFFICIO MEMBERS.—The Administrator (or the designee of the Administrator) and the Director (or the designee of the Director) shall serve as ex officio members.

(3) CHAIRPERSON.—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) DUTIES.—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title and the amendments made by this title;

(2) on commonly accepted quiet aircraft technology for use in commercial air tour operations over national parks (including tribal lands), which will receive preferential treatment in a given air tour management plan;

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

(4) at request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park (including tribal lands).

(d) COMPENSATION; SUPPORT; FACA.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

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

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

SEC. 805. REPORTS.

(a) OVERFLIGHT FEE REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the effects overflight fees are likely to have on the commercial air tour operation industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of any overflight fees charged by the National Park Service; and

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

(b) QUIET AIRCRAFT TECHNOLOGY REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator and the Director shall jointly transmit a report to Congress on the effectiveness of this title in providing incentives for the development and use of quiet aircraft technology.

SEC. 806. EXEMPTIONS.

This title shall not apply to—

(1) any unit of the National Park System located in Alaska; or

(2) any other land or water located in Alaska.

SEC. 807. DEFINITIONS.

In this title, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) DIRECTOR.—The term "Director" means the Director of the National Park Service.

TITLE IX—TRUTH IN BUDGETING

SEC. 901. SHORT TITLE.

This title may be cited as the "Truth in Budgeting Act".

SEC. 902. BUDGETARY TREATMENT OF AIRPORT AND AIRWAY TRUST FUND.

Notwithstanding any other provision of law, the receipts and disbursements of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986—

(1) shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(A) the budget of the United States Government as submitted by the President,

(B) the congressional budget (including allocations of budget authority and outlays provided therein), or

(C) the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

SEC. 903. SAFEGUARDS AGAINST DEFICIT SPENDING OUT OF AIRPORT AND AIRWAY TRUST FUND.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

"§ 47138. Safeguards against deficit spending

"(a) ESTIMATES OF UNFUNDED AVIATION AUTHORIZATIONS AND NET AVIATION RECEIPTS.—Not later than March 31 of each year, the Secretary of Transportation, in consultation with the Secretary of the Treasury, shall estimate—

"(1) the amount which would (but for this section) be the unfunded aviation authorizations at the close of the first fiscal year that begins after that March 31, and

"(2) the net aviation receipts to be credited to the Airport and Airway Trust Fund during the fiscal year.

"(b) PROCEDURE IF EXCESS UNFUNDED AVIATION AUTHORIZATIONS.—If the Secretary of Transportation determines for any fiscal year that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of such excess.

"(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

"(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines that there is an excess referred to in subsection (b) for a fiscal year, the Secretary shall determine the percentage which—

"(A) such excess, is of

"(B) the total of the amounts authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year.

"(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines a percentage under paragraph (1), each amount authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year shall be reduced by such percentage.

"(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

"(1) ADJUSTMENT OF AUTHORIZATIONS.—If, after a reduction has been made under subsection (c)(2), the Secretary determines that the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2) or that the excess referred to in subsection (b) is less than the amount previously determined, each amount authorized to be appropriated that was reduced under subsection (c)(2) shall be increased, by an equal percentage, to the extent the Secretary determines that it may be so increased without causing the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2) (but not by more than the amount of the reduction).

"(2) APPORTIONMENT.—The Secretary shall apportion amounts made available for apportionment by paragraph (1).

"(3) PERIOD OF AVAILABILITY.—Any funds apportioned under paragraph (2) shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned under paragraph (2).

"(e) REPORTS.—Any estimate under subsection (a) and any determination under subsection (b), (c), or (d) shall be reported by the Secretary to Congress.

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

"(1) NET AVIATION RECEIPTS.—The term 'net aviation receipts' means, with respect to any period, the excess of—

"(A) the receipts (including interest) of the Airport and Airway Trust Fund during such period, over

"(B) the amounts to be transferred during such period from the Airport and Airway Trust Fund under section 9502(d) of the Internal Revenue Code of 1986 (other than paragraph (1) thereof).

"(2) UNFUNDED AVIATION AUTHORIZATIONS.—The term 'unfunded aviation authorization' means, at any time, the excess (if any) of—

"(A) the total amount authorized to be appropriated from the Airport and Airway Trust Fund which has not been appropriated, over

"(B) the amount available in the Airport and Airway Trust Fund at such time to make such appropriation (after all other unliquidated obligations at such time which are payable from the Airport and Airway Trust Fund have been liquidated).".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 471 is further amended by adding at the end the following:

"47138. Safeguards against deficit spending.".

SEC. 904. APPLICABILITY.

This title (including the amendments made by this Act) shall apply to fiscal years beginning after September 30, 2000.

TITLE X—ADJUSTMENT OF TRUST FUND AUTHORIZATIONS

SEC. 1001. ADJUSTMENT OF TRUST FUND AUTHORIZATIONS.

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

"CHAPTER 483—ADJUSTMENT OF TRUST FUND AUTHORIZATIONS

"Sec.
"48301. Definitions.
"48302. Adjustments to align aviation authorizations with revenues.
"48303. Adjustment to AIP program funding.
"48304. Estimated aviation income.

"§ 48301. Definitions

"In this chapter, the following definitions apply:

"(1) BASE YEAR.—The term 'base year' means the second fiscal year before the fiscal year for which the calculation is being made.

"(2) AIP PROGRAM.—The term 'AIP program' means the programs for which amounts are made available under section 48103.

"(3) AVIATION INCOME.—The term 'aviation income' means the tax receipts credited to the Airport and Airway Trust Fund and any interest attributable to the Fund.

"§ 48302. Adjustment to align aviation authorizations with revenues

"(a) AUTHORIZATION OF APPROPRIATIONS.—Beginning with fiscal year 2003, if the actual level of aviation income for the base year is greater or less than the estimated aviation income level specified in section 48304 for the base year, the amounts authorized to be appropriated (or made available) for the fiscal year under each of sections 106(k), 48101, 48102, and 48103 are adjusted as follows:

"(1) If the actual level of aviation income for the base year is greater than the estimated aviation income level specified in section 48304 for the base year, the amount authorized to be appropriated (or made available) for such section is increased by an amount determined by multiplying the amount of the excess by the ratio for such section set forth in subsection (b).

"(2) If the actual level of aviation income for the base year is less than the estimated aviation income level specified in section 48304 for the base year, the amount authorized to be appropriated (or made available) for such section is decreased by an amount determined by multiplying the amount of the shortfall by the ratio for such section set forth in subsection (b).

"(b) RATIO.—The ratio referred to in subsection (a) with respect to section 106(k), 48101, 48102, or 48103, as the case may be, is the ratio that—

"(1) the amount authorized to be appropriated (or made available) under such section for the fiscal year; bears to

"(2) the total sum of amounts authorized to be appropriated (or made available) under all of such sections for the fiscal year.

"(c) PRESIDENT'S BUDGET.—When the President submits a budget for a fiscal year under section 1105 of title 31, United States Code, the Director of the Office of Man-

agement and Budget shall calculate and the budget shall report any increase or decrease in authorization levels resulting from this section.

"§ 48303. Adjustment to AIP program funding

"On the effective date of a general appropriations Act providing appropriations for a fiscal year beginning after September 30, 2000, for the Federal Aviation Administration, the amount made available for a fiscal year under section 48103 shall be increased by the amount, if any, by which—

"(1) the total sum of amounts authorized to be appropriated under all of sections 106(k), 48101, and 48102 for such fiscal year, including adjustments made under section 48302; exceeds

"(2) the amounts appropriated for programs funded under such sections for such fiscal year.

Any contract authority made available by this section shall be subject to an obligation limitation.

"§ 48304. Estimated aviation income

"For purposes of section 48302, the estimated aviation income levels are as follows:

"(1) $10,734,000,000 for fiscal year 2001.
"(2) $11,603,000,000 for fiscal year 2002.
"(3) $12,316,000,000 for fiscal year 2003.
"(4) $13,062,000,000 for fiscal year 2004.".

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle VII of such title is amended by inserting after the item relating to chapter 482 the following:

"483. ADJUSTMENT OF TRUST FUND AUTHORIZATIONS ..... 48301".

SEC. 1002. BUDGET ESTIMATES.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall not make any estimates under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 of changes in direct spending outlays and receipts for any fiscal year resulting from this title and title IX, including the amendments made by such titles.

SEC. 1003. SENSE OF CONGRESS ON FULLY OFFSETTING INCREASED AVIATION SPENDING.

It is the sense of Congress that—

(1) air passengers and other users of the air transportation system pay aviation taxes into a trust fund dedicated solely to improve the safety, security, and efficiency of the aviation system;

(2) from fiscal year 2001 to fiscal year 2004, air passengers and other users will pay more than $14.3 billion more in aviation taxes into the Airport and Airway Trust Fund than the concurrent resolution on the budget for fiscal year 2000 provides from such Fund for aviation investment under historical funding patterns;

(3) the Aviation Investment and Reform Act for the 21st Century provides $14.3 billion of aviation investment above the levels assumed in that budget resolution for such fiscal years; and

(4) this increased funding will be fully offset by recapturing unspent aviation taxes and reducing the $778 billion general tax cut assumed in that budget resolution by the appropriate amount.

INTRODUCTION

Programs providing federal aid to airports began in 1946 and have been modified several times. The current Airport Improvement Program (AIP) began in 1982.

AIP is funded entirely by the Airport & Airway Trust Fund. The Trust Fund, in turn, is supported entirely by user taxes. Users have been paying such taxes since at least the 1940s. However, the Trust Fund was not created until 1970. The types and amount of taxes paid into this Trust Fund have changed frequently. Currently, aviation users pay the following taxes:

8% passenger ticket tax (decreasing to 7.5% by 2000);
$2 passenger flight segment fee (increasing to $3 by 2002)
6.25% freight waybill tax;

$12 international departure tax and the same international arrival tax;
Frequent flyer award tax; and
Aviation fuel taxes as follows:
4.3 cents on commercial aviation;
19.3 cents on general aviation gasoline; and
21.8 cents on general aviation jet fuel.

For rural airports (those with less than 100,000 passengers) the passenger ticket tax is 7.5% and there is no passenger flight segment fee.

These taxes are expected to raise more than $10 billion in fiscal year 1999 in the following amounts:

$5.1 billion from the passenger ticket taxes;
$1.2 billion from the passenger flight segment fee;
$439 million from the freight waybill tax;
$828 million from the various aviation fuel taxes;
$1.2 billion from the international departure and arrival taxes;
$134 million from frequent flyer award tax; and
There is also a one-time timing change this year.

The Aviation Trust Fund continues to earn interest on its cash balance, which is now approaching $12 billion. Interest revenue in 1999 is expected to be about $666 million.

In addition to AIP, the Trust Fund also fully funds the Federal Aviation Administration's air traffic control facilities & equipment (F&E) modernization program and its aviation research program. The Fund partially pays for the salaries, expenses, and operations of the FAA. In 1999, these programs will receive the following amounts from the Trust Fund:

Airport Improvement Program—$1.95 billion
Facilities and Equipment—$2.1 billion
Research and Development—$150 million
FAA Operations—$4.1 billion from the Trust Fund (of the $5.6 appropriated for FAA operations).

Total obligations from the Trust Fund will therefore be about $8.2 billion. This represents 100% of FAA's capital budget and about 85% of FAA's total budget of $9.7 billion.

As should be obvious, the more than $10 billion that the Trust Fund is expected to take in greatly exceeds the $8.2 billion that it is paying out. If this trend continues, the uncommitted balance in the Trust Fund will balloon to $61 billion in 10 years according to the Congressional Budget Office.

The following spreadsheet shows how the Trust Fund balance increases over the next 10 years if current trends continue.

AIRPORT AND AIRWAY TRUST FUND (AATF) PROJECTION OF TRUST FUND BALANCES

[Dollars in millions, by fiscal year]

	actual 1998	Estimated—										
		1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
AATF BALANCES												
Start of Year Cash Balance	6,358	9,140	12,018	15,538	19,574	24,594	30,504	37,446	45,486	54,781	65,409	77,565
Governmental Receipts (taxes)	8,111	10,158	9,245	9679	10,415	11,015	11,670	12,361	13,104	13,850	14,634	15,467
Outlays	−5,872	−7,947	−6,579	−6,714	−6,720	−6,757	−6,767	−6,767	−6,767	−6,767	−6,767	−6,767
Subtotal	8,597	11,351	14,684	18,503	23,269	28,852	35,407	43,040	51,823	61,864	73,276	86,265
Interest Rate (percent)	.....	6.3	6.2	6.1	6.0	6.0	6.0	5.9	5.9	5.9	6.0	6.0
Interest	543	666	854	1,071	1,325	1,653	2,039	2,446	2,958	3,546	4,289	5,067
Total (Revenue (taxes+interest)	8,654	10,824	10,099	10,750	11,740	12,668	13,709	14,807	16,062	17,396	18,923	20,534
End of Year Cash Balance	9,140	12,018	15,538	19,574	24,594	30,504	37,446	45,486	54,781	65,409	77,565	91,332
Change in Cash Balance	2,782	2,878	3,520	4,036	5,020	5,911	6,941	8,040	9,295	10,628	12,156	13,767
UNCOMMITTED BALANCES												
Start of Year Unpaid Authority	5,032	4,801	5,552	6,171	6,684	7,191	7,661	8,121	8,581	9,041	9,501	9,961
New Budget (Authority (BA)	5,641	8,668	7,227	7,227	7,227	7,227	7,227	7,227	7,227	7,227	7,227	7,227
Outlays	5,872	7,947	6,579	6,714	6,757	6,767	6,767	6,767	6,767	6,767	6,767	6,767
End of Year Unpaid Authority	4,801	5,522	6,171	6,684	7,191	7,661	8,121	8,581	9,041	9,501	9,961	10,421
End of Year Cash Balance	9,140	12,018	15,538	19,574	24,594	30,504	37,446	45,486	54,781	65,409	77,565	91,332
End of Yr Uncommitted Balances	4,339	6,495	9,367	12,890	17,403	22,844	29,325	36,905	45,740	55,908	67,604	80,911

Budget Authority (BA): authority provided by the Congress to enter into contracts committing funds.

Unpaid Authority: unspent BA: all budget authority that has been provided but not yet expended, including contract authority in excess of obligation limitations.

Uncommitted Balance: portion of cash balance of which the Congress has not yet provided BA. Negative numbers in this line denote a shortfall.

End of Year Cash Balance: cash available in trust fund at the end of the year. The FY98 end of year/FY99 start of year cash balance based on p. 745 of the FY2000 Budget Appendix.

Change in Cash Balance: total revenues to AATF—outlays.

Governmental receipts (tax revenues) reflect the amounts deposited in the AATF during the fiscal year. For FY96 actual deposits, see p. 745 of FY2000 Budget Appendix.

Note.—FY99 tax revenue line includes an $87M intergovernmental transfer from the Y2K emergency supplement appropriation (P.L. 105–277). [pp.745 and 950, FY200 Budget Appendix] Spending of that Y2K transfer appears in the facilities and equipment (F&E) account.

How the Current AIP Program Works

There are more than 18,000 airports in the U.S. but only 3,304 are eligible for Federal funding under the Airport Improvement Program (AIP).

Unlike some of the Committee's other programs, the AIP has not traditionally included special earmarks. Instead, the money is distributed by formulas that are set forth in the law. These formulas are described below.

The law divides AIP money into two broad categories. They are entitlement funds and discretionary funds. Entitlement funds are further divided into four sub-categories. They are—

Primary airport entitlements;
Cargo airport entitlements;
State entitlements; and
Alaskan airport entitlements.

Primary airports.—If a public airport has commercial air service with at least 10,000 passenger boardings per year, it is considered a primary airport. These airports are entitled to receive AIP money each year in accordance with the following formula:

$7.80 for each of the first 50,000 passengers boarded;
$5.20 for each of the next 50,000 passengers boarded there;
$2.60 for each of the next 400,000 passengers boarded;
65 cents for each of the next 500,000 passengers; and
50 cents for each additional passenger boarded.

Regardless of the number of passengers boarded, the minimum entitlement is $500,000 per year and no primary airport is entitled to more than $22 million per year. Large and medium hub[1] airports that choose to collect a passenger facility charge (PFC) receive only half their entitlement.

To receive the money, an airport must have a project, such as a runway, terminal, or noise abatement project, that is eligible for AIP funding under the law. A hub airport can retain the right to receive its entitlement money for 2 years and a non-hub can keep it for 3 years. Entitlement money deferred to a later year is referred to as carryover entitlement.

Cargo entitlement.—Cargo service airports are airports that are served by cargo-only (freighter) aircraft whose total weight are more than 100 million tons and other airports that FAA finds will be served primarily by freighter aircraft. These airports are entitled to share in a pool of money that equals 2.5% of total AIP funds. A cargo service airport shares in this pool in the proportion to which the total weight of cargo-only aircraft landing there is to the total weight of cargo aircraft at all other airports. No airport may receive more than 8% of this 2.5%.

State entitlement.—The States, territories, and possessions share entitlement funds that are equal to 18.5% of total AIP funds. Each State's share of this entitlement is based on a formula that takes into account the population and area of the State. Money from this entitlement goes to general aviation airports (airports used by private planes) and to airports with less than 10,000 passengers per year.

[1] It should be noted that the reference to hubs here and elsewhere refers to the number of passengers at that airport, not to whether an airline uses the airport as a connecting complex.

General aviation airports that are seeking AIP money from this entitlement usually apply directly to the FAA. Some States require their airports to channel their AIP applications through the State aviation agency. The FAA then makes the grants to individual airports. Nine States (Illinois, Michigan, Missouri, New Jersey, North Carolina, Pennsylvania, Tennessee, Texas, and Wisconsin) participate in the State Block Grant program. Under this program, the FAA gives the State aviation agency responsibility to manage its AIP allocation and the State, not the FAA, decides which general aviation airports will receive a grant.

Alaska entitlement.—By law, Alaskan airports are entitled to receive at least the same amount of money that they received in 1980. This year, they will receive $10.5 million. The $10.5 million is in addition to whatever those airports will receive under the above entitlements.

Discretionary fund.—Any money left over after the above entitlements are funded can be spent by the FAA at its own discretion. However, this discretionary fund is subject to two set-asides:

(1) *Noise set-aside.*—Current law sets aside 31% of this discretionary fund for noise projects. These could include such things as buying property for a noise buffer or soundproofing buildings.

(2) *Military airports.*—Under the military airport program (MAP), FAA selects 12 current or former military airports to share in a set-aside that is equal to 4% of the discretionary fund. The purpose of this program is to increase overall system capacity by promoting joint civilian-military use of military airports or by converting former military airports to civilian use.

Pure discretionary.—After the entitlements and set-asides are funded, the remaining money can be spent as the FAA sees fit. This is often referred to as pure discretionary AIP money. Even here, however, there are restrictions. The law requires that 75% of this discretionary money be spent on airport projects that will enhance capacity, safety, or security, or reduce noise.

Until recently, total AIP funding had been declining. At the same time, FAA had been issuing letters of intent (LOIs) to several airports. An LOI is a commitment to pay a certain amount of AIP money to an airport over a specified number of years to fund an important project. These commitments are predominantly funded from the discretionary portion of AIP.

In the past, as the overall AIP program declined, much of the money was allocated to the entitlements and set-asides. This left little discretionary money and prompted concerns that the FAA would be unable to meet its LOI commitments or fund other important projects from the discretionary fund.

As a result, the law imposes a floor on the discretionary fund of $148 million per year plus the amount needed to fund outstanding LOIs issued before January 1, 1996. If the above-described entitlement and set-aside formulas would not leave at least that amount in the discretionary fund, all entitlements and set-asides must be cut by a proportionate amount. In the past, this has resulted in across-the-board cuts in entitlements and set asides of as much as 23% to ensure the required minimum discretionary fund.

As a corollary to the minimum discretionary fund, the law sets a cap on the discretionary fund as well. Under this provision, if

total AIP funding is high enough so that the discretionary fund is more than the cap, any amount in that fund above the cap would be divided 1/3 to general aviation airports, 1/3 to military airports, and 1/3 to noise abatement programs.

In 1998, total AIP money was high enough so that the discretionary fund's cap was exceeded. Although, the Appropriations Act limited the additional money for military airports and noise abatement programs,[2] it did allow an additional $29.9 million to be spent on general aviation airports. The discretionary cap has since been repealed by Public Law 106–6.

Federal share.—As a general rule, the Federal share of an AIP project cost is 90%. However, at medium and large hub airports (defined as airports that enplane .25% of the total annual enplanements in the U.S.) the Federal share is 75%. In the case of a project involving an airport terminal building, the Federal share is 85% at non-hubs (defined as airports with .05% or less of the total annual enplanements in the U.S.) and 75% at hubs.

Passenger facility charge.—In 1990, the Committee became concerned that the AIP program would not be able to meet the future infrastructure needs of U.S. airports. Consequently, the 1990 AIP reauthorization law[3] permitted an airport to assess a fee on passengers. This is known as the passenger facility charge (PFC). PFCs are collected by the airlines and paid directly to the airport without going through the Federal treasury. They are intended to supplement AIP funds by providing more money for runways, taxiways, terminals, gates and other airport improvements.

No airport may charge a PFC of more than $3 per passenger and no passenger has to pay more than $12 in PFCs per round-trip regardless of the number of airports through which the passenger connects. No airport can charge a PFC until FAA approves it.

At the beginning of this year, FAA had approved PFCs at 301 airports and 273 were actually collecting money. The total approved collections are over $23 billion. This year, FAA estimates that airports will collect $1.44 billion in PFCs.

If a medium or large hub airport charges a PFC, it must turn back up to 50% of its AIP entitlement. These foregone entitlements are distributed as follows:

50% to non-hub airports;
25% to general aviation airports;
12.5% to small hub airports; and
12.5% to the discretionary fund.

AIP distribution.—According to the FAA, during the fiscal years between 1982 and 1996, the AIP money was spent by project type as follows:

52.76% for runways; taxiways; and aprons;
11.2% on noise control projects;
7.82% for land purchases;
6.03% on safety and security;
5.2% on buildings;
4.78% on airport roads; and

[2] Public Law 105–66, 111 Stat. 1431, October 27, 1997.
[3] Public Law 101–508, 104 Stat. 1388–357, November 5, 1990.

the remainder on miscellaneous projects such as lighting and planning.

According to the General Accounting Office (GAO), in 1997, AIP money was distributed by airport size as follows:

25% to the 2,764 general aviation airports;
24% to the 29 large hub airports;
17% to the 42 medium hub airports;
16% to the 70 small hub airports; and
19% to the 272 nonhub airports.

TREND IN AIP SPENDING

Total AIP spending has increased recently after several years of decline. In 1982, $450 million was authorized and appropriated for AIP. AIP spending peaked at $1.9 billion in 1992, dropped to a low of $1.45 billion in 1995, and has begun to slowly climb since then.

Last year, the Committee approved legislation (H.R. 4057, H. Rept. 105–639) that would have reauthorized AIP and provided contract authority of $2.347 billion for the AIP program. This legislation passed the House on August 4, 1998. However, it was not enacted because it could not be reconciled with companion Senate legislation (S. 2279) before Congress adjourned.

To ensure that the AIP program did not lapse, a short-term extension was included in the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (P.L. 105–277, See H. Rept. 105–825, at 608). This legislation provided contract authority for the AIP program for only 6 months and conditioned obligation beyond $975 million on additional contract authority.

The 6-month AIP reauthorization meant that FAA would not be able to issue airport grants after March 31, 1999. It also cut in half the funds that would otherwise be available for such grants.

The practical effect of the Omnibus bill was to limit AIP spending to $975 million. This was a dramatic reduction from the $1.7 billion available in 1998 for AIP grants and the $1.95 billion that would be available in 1999 if the program were authorized for a full year.

To prevent a lapse in the program, the Committee approved H.R. 99 on January 7, 1999 (H. Rept. 106–3). This bill would have reauthorized and provided contract authority for the FAA's 1999 AIP program for the 6 months remaining in the fiscal year. It passed the House on February 3, 1999. However, the Senate insisted on only a 2-month extension of the AIP program, which was ultimately enacted (P.L. 106–6).

Enactment of this legislation allowed FAA to make grants for airport improvements until May 31, 1999 and provided $325 million more for AIP. This raised the amount available to $1.3 billion. More recently, legislation was enacted to extend the program until August 6, 1999 and make more money available. However, the amount available is still less than the $1.95 billion that would be available for AIP if the program were fully authorized. This $1.95 billion represented the highest funding level that AIP has ever received. However, it would still not fully utilize the money that is available in the aviation trust fund and collected in aviation taxes.

Nor would it come anywhere near to meeting our nation's airport infrastructure needs as identified by GAO and others.

The Committee remains very concerned that users are paying increasing levels of taxes into the Trust Fund but that available money is not being used for the needed upgrades and expansion of our airport and air traffic control infrastructure.

THE NEED FOR TRUST FUND REFORM

During the past decade, aviation taxes have increased dramatically. In 1990, airline passengers and other users of the air transportation system paid $3.7 billion in taxes and fees for their use of that system. By 1995, taxes had increased to $5.5 billion. Now, in 1999, it is estimated that aviation users will pay over $10 billion in aviation taxes and fees, almost triple the amount that they paid at the beginning of the decade and almost double what they paid just 4 years ago.

Taxes have increased both because of the increase in passengers and aviation activity and because aviation tax rates were dramatically increased in the Taxpayer Relief Act of 1997 (Public Law 105–34, 111 Stat. 929).

All the aviation taxes collected go into a trust fund that was created in 1970. When this aviation trust fund was created, it was supposed to pay for improvements in the aviation infrastructure, such as airport improvements and the modernization of air traffic control equipment.

While tax revenues have increased, spending has not necessarily followed. Expenditures from the trust fund have consistently been less than the revenues.

Last year, $7.7 billion in aviation tax revenue was collected but only $5.7 billion was spent, and only $3.8 billion was spent on infrastructure (airports and air traffic control). This year, $10.1 billion will be collected and $8.2 billion will be spent but only half of this on infrastructure improvements.

The problem is that this trust fund is part of the unified budget. As a result, it does not operate like a true trust fund. Under current budget rules, there is no assurance that tax revenues deposited in the trust fund will actually be spent on aviation infrastructure needs. Arbitrary budget caps often limit the amount that can be spent.

In fact, over time, aviation infrastructure needs have been dramatically under-funded. And, on occasion, money has been taken out of the aviation trust fund to meet general budget needs.[4] More often, the money is not spent in order to allow increased spending under the budget caps for other programs unrelated to aviation.

As a result, by the end of this year, the Congressional Budget Office (CBO) projects that the uncommitted balance in the trust fund will be $6.5 billion and the cash balance will be $12 billion. It would be even higher if not for the fact that the taxes temporarily expired a few years ago.

In 10 years, if nothing is done, CBO projects that the uncommitted balance will balloon to $61 billion and the cash balance to $71.5 billion!

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[4] Section 502 of Public Law 102–581, 106 Stat. 4898, October 31, 1992.

This is clearly unacceptable. If the government is not going to spend the money, then it should not be collecting the tax. The only thing worse than actually paying the taxes is not getting the promised benefit from it.

Last year, the Committee confronted the same problem in surface transportation. People who used the roads were paying gas taxes into a trust fund with no assurance that the money would be spent. That problem was fixed in the TEA–21 legislation (Public Law 105–178) by creating budget "firewalls" to ensure that all the gas tax money would be spent on road and transit improvements.

Now, the reported bill would do essentially the same thing for aviation that was done for surface transportation last year. It unlocks the trust fund to ensure that the money can be spent to meet aviation infrastructure needs.

And the needs are clearly significant. Consider the following:

The number of people flying has increased significantly. In 1998, there were 643 million passenger enplanements in the U.S. This is a 25% increase from just 5 years ago. FAA estimates that passenger enplanements will increase 43% in the next 10 years to 917 million by 2008 and approach 1 billion by 2010.[5]

Increased travel has strained our aviation system and has increased delays. In 1997, FAA reported that 27 airports experienced over 20,000 hours of aircraft delays. If infrastructure improvements are not made, the number of airports experiencing such delays is expected to increase to 31 by 2007.[6]

In 1997, delays caused by FAA's inability to handle the air traffic increased 10% from the previous year. Delays caused by problems with air traffic control equipment increased 9%.[7]

Although aircraft technology continues to improve, the time to fly between several major cities has increased over the past 10 years simply due to the increased traffic and the inability of the current infrastructure to handle it. To account for delays, airlines have increased scheduled flight times on nearly 75% of the 200 highest-volume domestic routes.[8] Nevertheless, in 1998, 23% of major air carrier flights were delayed.[9]

The Air Transport Association (ATA), which represents the major air carriers, estimated that delay cost to the airlines exceeded $2.4 billion in 1997.[10] And this does not even include the cost and inconvenience to passengers. American Airlines has estimated that by 2014 it expects delays to increase by a factor of three, bringing its hub and spoke system to its knees!

ATA also estimates that the potential benefits from FAA's Free Flight program (which would allow airlines more freedom to choose their air routes and thereby increase efficiencies and reduce delays)

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[5] Federal Aviation Administration, Aerospace Forecasts Fiscal years 1999—2010, X–13 (March 1999) [Hereinafter cited as FAA Forecasts]. These enplanements numbers actually understate the true level of aviation activity since they do not include enplanements on charter airlines (which totaled about 11 million in 1998) or those on foreign airlines departing the U.S. (which totaled about 50 million).

[6] Federal Aviation Administration, 1998 Aviation Capacity Enhancement Plan, 1–31 (December 1998) [Hereinafter cited as FAA Capacity Enhancement Plan].

[7] Id, at 1–27.

[8] Audit Report, Office of Inspector General, Department of Transportation, "Air Carrier Departure Data", CE–1999–054, 8, ft 11, February 5, 1999.

[9] Department of Transportation, Air Travel Consumer Report, 5 (February 1999).

[10] FAA Capacity Enhancement Plan, Supra note 6, at 1–32.

could save the industry $3.5 billion annually by 2015. If the Free Flight program is delayed due to funding constraints, the benefits will be delayed as well.

Air traffic control inefficiencies are only part of the problem.

Airports report, and the GAO agrees, that airport needs equal $10 billion a year.[11] Airport resources (bonds, passenger facility charges, airport fees, and AIP grants) only equal $7 billion a year.[12] The result is a $3 billion annual funding gap that needs to be closed. It has been reported that one reason for growing delays is that of the 100 top U.S. airports, 59 have proposed runway construction but such projects often get held up for lack of money.[13]

The average cost of a new 10,000-foot commercial runway ranges from $100 to $300 million. The cost of building new or extending existing runways can change dramatically depending on the surrounding landscape and the requirements for environmental mitigation. The 12,000-foot runway at Salt Lake City that opened in 1995 cost $120 million. In contrast, the new 8,500 runway proposed for the Seattle Airport is estimated to cost $587 million due to the need for significant amounts of fill dirt. A proposed runway in San Francisco may cost more than $2 billion.

New or longer runways can make the most dramatic impact on airport capacity. The $342 million 8,500 foot runway that opened at the Dallas/Fort Worth International Airport (DFW) in 1996 means that the airport has nearly equal capacity during good and bad weather, thereby reducing delays at DFW and around the nation.[14]

The international airports in Philadelphia, San Francisco, St. Louis, and Seattle all have closely spaced parallel runways, which means that capacity is cut in half during bad weather. New runway construction is proposed for all four of these airports.

FAA says that financing constraints and the need to study and address environmental concerns can mean that new runways and runway extensions may take more than 10 years from proposal to completion.

According to a recent General Accounting Office (GAO) report, assuming today's AIP funding levels, airports will need $2.37 billion more simply to maintain current runways over the next 10 years.[15]

It is not only the large airports that need infrastructure investment. Indeed, although the funding shortfall tends to be greater in dollar terms at the large airports, it is greater in percentage terms at the smaller airports. According to GAO, the gap between infrastructure funding needs and the airports' financial ability to meet those needs is $1.5 billion and 29% at large hub airports but $250 million and 44% at non-hub airports. The gap balloons to $860 million and 53% at general aviation airports.[16]

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[11] U.S. General Accounting Office, "Airport Development Needs Estimating Future Costs" (April 1997).

[12] U.S. General Accounting Office, "Airport Financing: Funding Sources for Airport Development" (March 1998) [Hereinafter cited as GAO Airport Financing Report].

[13] FAA Capacity Enhancement Plan, supra note 6, at 3–47 and "Wall Street Journal," February 10, 1999.

[14] Id.

[15] U.S. General Accounting Office, "Airfield Pavement: Keeping Nation's Runways in Good Condition Could Require Substantially Higher Spending" 4 (July 1998).

[16] GAO Airport Financing Report, Supra Note 12.

The nation's 71 largest airports accounted for nearly 80% of the $7 billion raised annually for airport infrastructure needs. By contrast, the 3,233 smaller airports have approximately $1.4 billion for infrastructure investment, half of which is from AIP. Smaller airport needs are twice as great as their funding sources.[17]

Smaller airports are often served by regional or commuter airlines flying aircraft with 60 seats or fewer and by general aviation or business aircraft. One of the roles of smaller airports is to provide feeder service to large hubs served by the major commercial air carriers.

In 1997, the regional/commuter traffic grew 3% from the previous year—almost the same as that of larger commercial air carriers. Business aircraft hours are also estimated to increase. From 1996 to 1997, the number of hours flown by turbine-powered jets (often used by businesses and at smaller airports) increased 14.9%. FAA believes that business turbine-powered aircraft hours will increase nearly 60% by 2010.[18]

However, investment is needed not only to ensure the more efficient movement of cargo and passengers. It is also crucial to safety.

The air traffic control system includes 32,500 facilities and systems. Several of those facilities are over 20 years old. The air traffic control equipment in the facilities controlling high altitude flight are over 30 years old. FAA is in the process of replacing or upgrading many of these expensive systems.

The FAA is still using computers that are so old that they are no longer used anywhere else in the world and replacement parts are no longer manufactured. It has been reported that FAA maintenance workers must "search the streets" to find parts for jury-rigged repairs.[19] When the old equipment breaks down, flights must be delayed to avoid endangering passengers.

In 1998, the FAA experienced 101 significant system outages (more than 10 minutes), where air traffic controllers lost some or all of the primary systems that help them track aircraft location and flight information. Forty-three of these outages lasted longer than an hour, and one lasted 5 days.

GAO has stated that FAA will still need $17 billion from 1999 through fiscal 2004 to modernize the air traffic control system.[20] That is an average of $2.8 billion a year. FAA only received $2.1 billion in 1999.

The FAA is trying to expand airport capacity and modernize the air traffic control system. But this will take money, in many cases, a great deal of money. That money is in the aviation trust fund and could be used if it were not for the current budget caps that are unrelated to the trust fund revenue.

Just in the past decade, two separate Presidential Commissions have warned of impending aviation gridlock and have called for Trust Fund reforms. In 1993, the National Commission to Ensure a Strong Competitive Airline Industry urged, at page 9, the "removal of current [aviation] expenditures and revenues from the

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[17] Id.

[18] FAA Forecasts, Supra Note 5, at pages V–18 to V–21.

[19] "USA Today," January 29, 1999.

[20] U.S. General Accounting Office, "Air Traffic Control: Status of FAA's Modernization Program," 2 (December 1998).

federal budget." And, in 1997, the National Civil Aviation Review Commission recommended, at page I–4, that "the FAA's funding and financing system receive a federal budget treatment ensuring that revenues from aviation users and spending on aviation services are directly linked and shielded from discretionary budget caps."

The reported bill answers the call of these Presidential Commissions and meets the aviation needs described above by taking the aviation trust fund off budget and continuing the current general fund payment. Once the trust fund is off budget, the receipts and disbursements of the fund would no longer be counted as new budget authority, outlays, receipts, deficit or surplus for purposes of the President's Budget, the congressional budget, or the Balanced Budget and Emergency Deficit Control Act of 1985, nor would they be subject to any general budget limitation imposed by statute. Expenditures from the fund would still be made available through annual appropriations. Funding levels for aviation operations, capital and research programs would continue to be determined annually in appropriations acts, up to the amount authorized for each program. However, with the trust fund off-budget, the appropriators would no longer have an incentive to underspend aviation trust fund monies in order to overspend on non-aviation programs. This budget treatment should ensure a closer match between income to the trust fund and the spending from that fund. In short, it will allow the trust fund to operate as it was originally intended and as most people believe it should.

The increased aviation spending in the reported bill would not come at the expense of other Federal programs, nor would it touch the Social Security surplus. The bill provides $14 billion in spending above historic baseline levels, with the increases occurring entirely in fiscal years 2001 through 2004. This increased spending would be paid for outside the budget caps from the $14 billion in aviation taxes that, under historic funding patterns, would be collected but not spent during this time period, and would otherwise be used to finance general tax cuts. It is wrong to use aviation taxes to finance a general tax cut, as proposed in the concurrent resolution on the budget for fiscal year 2000. The Committee believes that these aviation taxes should be used for the aviation improvements in the reported bill which would reduce the proposed $778 billion general tax cut to $764 billion.

This is an issue of basic tax fairness. If the House decides not to spend the aviation taxes for aviation improvements, then the aviation taxes should be reduced accordingly. Under this scenario, aviation users, rather than general taxpayers, should receive a tax cut.

AIRPORT AND AIRWAY IMPROVEMENTS

Authorized funding levels.—As a result of taking the trust fund off budget, the reported bill is able to fully fund the various aviation programs and thereby ensure that the needs of the system are met. The bill reauthorizes AIP, F&E, and FAA operations for the remainder of this year and for the 5 years thereafter, as follows:

$2.475 billion in FY 2000 for the Airport Improvement Program increasing to $4 billion in FY 2001 when the budgetary

changes in reported bill take effect and growing to $4.35 billion by FY 2004;

$2.5 billion in fiscal year 2001 for Facilities and Equipment, increasing to $3 billion for each year thereafter;

$6.45 billion for FAA operations in FY 2001, increasing by 6.8% for each year thereafter.

General fund payment.—Under the reported bill, the funding for AIP and F&E will continue to come entirely from the trust fund and there will continue to be a general fund payment to partially support FAA operations. That payment will continue to be based on the formula in existing law with one modification. The current law formula is designed to encourage full funding of the capital programs. The formula limits the trust fund share of FAA operations to half of the amount spent on the capital programs or enough so that the trust fund supports 72.5% of the FAA's total budget, whichever is less. The amount not paid for by the trust fund is covered by the general fund payment.

As a result of this formula, the FAA has historically received about 39% of its budget from the U.S. Treasury's general fund. Over the last 5 years, 32% of the FAA's budget was funded with general fund monies.

To ensure that any future growth in aviation spending comes from the trust fund, the reported bill caps the general fund payment at the amount that was appropriated in 1998, the last year that the above described formula was in effect. In that year, the payment was $3.351 billion.

The Airport and Airway Trust Fund was originally established as a means for supporting aviation capital needs. The intent was that, if there was money left over after the capital needs were met, it could be used to help pay for FAA operating expenses.

In its first few years, the trust fund was often exclusively used for the capital programs. The FAA's operating budget was supported entirely by the general fund. Over time, the principal that the trust fund would be used exclusively for capital has been eroded. In recent years, more money from the trust fund has been used to pay FAA salaries and expenses. However, the law has always limited the amount of trust fund monies that could be used for that purpose, 49 U.S.C. 48104(c). The difference was made up by the general fund payment which, as noted above, has usually been somewhat more than 30% of the FAA capital and operating budget.

The Committee continues to believe that a general fund payment is necessary and appropriate. The general fund payment is justified by the variety of services the agency provides including, aviation safety and security, the costs of the military's use of the air traffic system, and the aviation benefits provided to the society as a whole.

Aviation plays a central role in providing for the general health and safety of our communities. These services include agricultural application, cattle management, air ambulance services, medical evacuation, oil and gas pipeline patrol, airborne law enforcement, environmental analysis, topographical surveys, and news and traffic reporting. These services have widespread public benefits to our society. The aviation industry has contributed to the general fund

in the past through fuel taxes and continues to contribute through its payment of personal and corporate income taxes.

Both Presidential Commissions mentioned above called for a continued general fund contribution. The 1993 Commission recommended, at page 16, that the general fund payment be 30% "in recognition of the overpayment by airline users, and the public benefits of aviation." The National Civil Aviation Review Commission stated that "the cost of safety regulation and certification should be borne by a general fund contribution as these activities are consistent with the government's traditional role of providing for the general welfare of the citizens and are clearly in the broad public interest."

The general fund is necessary to support aviation security because terrorist attacks against aviation are actually targeted at our nation, not an airline. As concluded by the White House Commission on Aviation Safety and Security "* * * terrorist attacks on civil aviation are directed at the United States, and that there should be an ongoing federal commitment to reducing the threats that they pose."

Military aircraft and government aircraft use the aviation system; however, they do not pay taxes. The general fund payment represents their payment in lieu of taxes. The FAA also plays an active role in national air defense by jointly monitoring U.S. airspace with the Defense Department for signs of hostility.

Given the important contributions that a safe and efficient air transportation system makes to our nation and its economy, it seems only fair that the general taxpayer bear some of the regulatory costs.

Passenger Facility Charge (PFC).—The PFC program was created in 1990 to supplement AIP funding. The Committee continues to believe that this program should play an important role. Accordingly, the reported bill gives new flexibility to local communities to levy PFCs above the current $3 cap.

Even at the higher funding levels in this bill, there will be airports, particularly large ones, that will be unable to fund projects with AIP dollars alone. Many of these projects could make a significant contribution to safety, security, increased competition, reduced congestion, and reduced noise. With the higher PFC in the reported bill, those projects will now be able to move forward.

The Committee does remain concerned, however, that PFCs are not always used for the highest priority projects. According to the FAA, in 1996, the $1.1 billion in PFC funds were authorized, as follows:

35% for airside projects such as runways, taxi-ways and safety related projects;
30% for landside projects, primarily terminal buildings;
17% to pay interest on bonds;
11% for noise abatement projects; and
6% for roads.

To ensure that the higher PFC is used for important airside projects in the first instance, the reported bill directs the FAA not to approve PFC applications for road, transit, or terminal projects unless it finds that the airport is taking care of the airside needs of the airport.

These additional restrictions, applicable only to proposed PFCs for more than $3, mean that FAA will have more responsibility to fully review an application for a higher PFC than it does for the existing $3 PFC where approval tends to be almost automatic.

Those medium and large hub airports that are approved for the higher PFC would have to give up 75% of their entitlement. This PFC turn-back would continue to go into the small airport fund. This 75% is more than the 50% turn-back that will still be required of those medium or large hub airports that charge a PFC of $3 or less.

Specific authorizations.—The Committee encourages FAA to review the costs and benefits of investing in innovative technologies for airport use. This should include, but is not limited to, using adjustable lighting extensions during and after airport facility construction and anti-skid material and reflector strips for airport uses. These and similar low-cost products and technologies could be very cost-beneficial for airports.

The reported bill also includes specific authorizations for universal access security systems at airports, wildlife hazard mitigation measures, an office dedicated to infrastructure development for both general and helicopter aviation, and the development of air traffic control infrastructure for the new tilt-rotor aircraft. Specific authorizations are included for these items to demonstrate the Committee's interest in these issues. They are discussed further below.

Universal access systems (UAS).—Two million dollars was appropriated in 1993 for the development of a Universal Access System "to cover the initial costs for implementing a standardized [airport access control] computer-based system." The impetus for this expenditure came as a result of increased security requirements and problems associated with implementation of airport automated access control under 14 CFR Part 107.14. One of these problems, identified in a 1995 GAO report, is that of ensuring that future access control system installations are standardized to realize greater efficiency. FAA initially estimated that access control system costs would total $211 million from 1989–1998. The industry, utilizing AIP and other funds, actually spent about $654 million, more than three times the FAA's estimate.

Another problem pertains to transient airline employees, such as flight crews, who are not issued access control cards at each airport to which they travel, thereby necessitating that they either go through screening or utilize other methods of reaching secured areas to which they have authorization.

A joint industry task force was created under the guidance of the Aviation Security Advisory Committee (ASAC) to develop and test a UAS prototype at three airports with three participant air carriers. The test was successfully conducted in 1996. UAS technical documents have been approved by the FAA, which is publishing them for use by the aviation industry.

To create the standardized access control system that is needed, the reported bill authorizes $8 million for the purchase, set up, operation and maintenance costs associated with the UAS Central Data Base, plus installation of the necessary equipment at large airports. This would include UAS portals for employees at each air-

port, performance of necessary engineering work and providing software upgrades.

Wildlife hazard mitigation.—Since 1995, 74 people have been killed in collisions worldwide between aircraft and birds and four larger aircraft have been destroyed. One of these accidents resulted from a USAF AWACs E–3 (modified B707) striking a flock of geese in Elmendorf Air Force Base in Alaska in September 1995, which resulted in the loss of 24 lives. By the FAA's estimate, over $250 million a year is lost to U.S. aviation due to conflicts with wildlife.

Resident/non-migratory goose populations tripled from 1985–1995. Goose collisions with aircraft have doubled since 1990. From 1992–1996, commercial aviation accounted for 75% of the 1,727 strikes. Experts have determined that there is a 25% chance of a hull loss by the year 2006 due to a bird strike.

The FAA's regulations require certificated airports to conduct ecological studies when air carriers experience multiple bird strikes, have damaging collisions with wildlife, or observe wildlife in size or numbers that could cause collisions. When such an event occurs, the FAA requires action but does not have ample wildlife management staff expertise to assist the airports. Therefore, FAA often refers airports to the U.S. Department of Agriculture's Wildlife Services biologists who have the expertise, but are not funded, to provide these services. USDA has developed wildlife hazard evaluations and management plans, and implemented these plans for some airports with the costs being fully reimbursed by the airports. As a result, wildlife-aircraft strikes have been reduced significantly at specific locations. For example, at John F. Kennedy International Airport, bird and deer strikes have been reduced by 70 and 100 percent, respectively. However, many airports have ongoing wildlife problems that have not been addressed in such a proactive manner.

To address this problem, the reported bill authorizes $450,000 for wildlife hazard mitigation measures and management of the wildlife strike data base.

Helicopters and tilt-rotor.—Emergency Medical Service (EMS) helicopters are responsible for saving thousands of lives annually by transporting patients to trauma centers for emergency care. It is often imperative that the patient arrive within one hour to provide a high probability of survival. In good weather conditions, this is usually not a problem. The difficulty arises when the weather is poor. Due to the absence of adequate IFR helicopter infrastructure to and from trauma centers, patient transport must be to airports with subsequent ground transport. This process often exceeds an hour, thereby reducing the chances of patient survival. Therefore the Committee urges the FAA to look into establishing a prototype helicopter infrastructure to support all-weather EMS for trauma patients including the use of current technologies such as the Global Positioning System (GPS). The FAA should also consider using private companies that are capable of developing the approach plates.

The FAA has begun the process of revising its policies and procedures to make effective use of the capabilities of rotorcraft. The Committee is hopeful that the Air Traffic Control (ATC) System will in the future be able to provide dispatch reliability, or instru-

ment flight rules (IFR) capability, for both helicopters and the newest rotorcraft technology—tiltrotor aircraft.

The military tiltrotor, the V–22 Osprey, is now in production, and the first civil tiltrotor, the BB609, is in development. Both the V–22 and the BB609 will be in service soon and other tiltrotor variants will follow. Given the growing importance of rotorcraft in the U.S. air transport system, the Committee recommends that the FAA proceed with much-needed procedural and infrastructure improvements in a timely fashion and allocate the financial, administrative, and personnel resources necessary to implement and oversee these actions. These improvements could lead to increases in capacity, especially in short-haul markets in congested areas such as the northeast U.S.

Runway incursions.—Runway incursions have increased during the last few years. Therefore, the reported bill specifically makes runway incursion prevention devices eligible for AIP funding.

At a previous hearing, the Aviation Subcommittee became concerned that FAA's efforts to install sophisticated runway incursion prevention devices could experience delays.[21] This was happening at the same time that the number of runway incursions was increasing. Yet relatively low-tech, inexpensive devices were discussed at that hearing that have been deployed successfully and could be used to help address this problem. The Committee urges the FAA to use the eligibility provided here to fund these devices at airports that will not receive Airport Surface Detection Equipment (ASDE) or the Airport Movement Area Safety System (AMASS) or to supplement those systems at the airports that will receive them.

The reported bill (section 121) encourages FAA, in allocating discretionary grants, to give higher priority to installation of integrated in-pavement lighting systems and other runway and taxiway incursion prevention devices. Section 121(a) makes it a national policy to address the risk of runway incursions. Section 121(b) lists integrated in-pavement lighting systems, and other runway and taxiway incursion prevention devices, among the types of safety devices of which airports are encouraged to make maximum use.

In addition, FAA is directed to classify proposals for the installation of integrated ("smart") in-pavement lighting systems for runways and taxiways, and other runway and taxiway incursion prevention devices using components meeting FAA specifications, as Safety/Security for determining "Purpose Points" and as Runway/Taxiway signs for determining "Type Points" in the general provisions formula published in 62 Fed. Reg. 45007–45010 (August 25, 1997).

AIP formula.—In order to utilize the higher funding levels in the reported bill and meet the needs of all airports, both large and small, the following changes to the AIP distribution formula are made by the reported bill—

A tripling of the entitlement for primary airports beginning in FY 2001;

[21] "The Increasing number of Mishaps on our Nation's Runways": Hearings Before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, 105–47, 105th Congress, 1st Session (November 13, 1997).

A tripling of the minimum entitlement for small airports to $1.5 million per year beginning in FY 2001;

A tripling of the supplemental funding for Alaska beginning in FY 2001;

Removal of the $22 million cap on annual entitlements for large airports beginning in FY 2001;

An increase in the cargo entitlement from 2.5% to 3%;

An increase in the State/general aviation airport entitlement from 18.5% to 20% beginning in FY 2001;

A new entitlement for general aviation airports (beginning in FY 2001) that is based on the needs of those airports as set forth in the FAA's National Plan of Integrated Airport Systems [22] (This will total about $345 million per year);

An increase in the noise set-aside from 31% of the discretionary fund to 34% of that fund;

An elimination of both the floor and the cap on the discretionary fund, except that letters of intent are protected; and

The cap on the number of airports that can be included in the military airport program is increased, beginning in 2001, from 12 to 20, three of which must be a general aviation airport.

Small airport fund.—The higher funding levels in the bill, the tripling of primary airport entitlement, and the increase in the PFC turn-back from large airports charging the higher PFC will result in a dramatic increase in the small airport fund. This is the fund created when large airports charging a PFC are required to turn back some of their entitlement. However, the Committee has become concerned that many small airports seem to believe that money in the small airport fund is not being distributed to them as intended. The FAA insists that grants are being made to small airports from this fund in accordance with the law. To help resolve this discrepancy, the reported bill requires FAA to notify the recipient of a grant of the source of that grant when the source is the small airport fund.

The reported bill (section 128) sets aside some money from the small airport fund to help non-hub airports meet the requirements of the new certification rules that will be imposed on them. Another section of the reported bill (section 506) establishes a deadline for the FAA to issue those requirements. The purpose of section 128 is to fund what would otherwise be the unfunded mandate in section 506.

The following spreadsheets show how the AIP money will be distributed among the various entitlements and set asides with the changes described above to the AIP distribution formula.

Est. AIP Funding for Fiscal Year 2000	$2,475,000,000
Appropriation Limitation:	
Primary Airports	530,447,948
Cargo (3%)	74,250,000
Alaska Supplemental	10,672,557
States (18.5%)	457,875,000

[22] Federal Aviation Administration, National Plan of Integrated Airport Systems (NPIAS) (1998–2002), (March 1999).

Carryover Entitlement	94,818,379
Subtotal Entitlements	1,168,063,884
Small Airport Fund:	
Non Hub Airports	83,155,004
Non Commercial Svc	41,577,502
Small Hubs	20,788,751
Subtotal	145,521,257
Subtotal Non Discretionary	1,313,585,141
Noise (34% of disc)	394,881,052
MAP (4% of Disc)	46,456,594
Subtotal Disc Set-asides	441,337,646
C/S/S/N	540,057,909
Remaining Discretionary	180,019,303
Subtotal Other Discretionary	720,077,213
Subtotal Discretionary	1,161,414,859
Grand Total	2,475,000,000

Notes.—Funding level increased to $2.475 billion; Cargo Increased to 3%; Noise Increased to 34%.

Est. AIP Funding for Fiscal Year 2000	$4,000,000,000
Appropriation Limitation:	
Primary Airports	1,591,343,845
Cargo (3%)	120,000,000
Alaska Supplemental	32,017,671
States (20%)	800,000,000
Carryover Entitlement	94,818,379
Subtotal Entitlements	2,638,179,895
Small Airport Fund:	
Non Hub Airports	249,465,011
Non Commercial Svc	124,732,506
Small Hubs	62,366,253
Subtotal	436,563,770
Subtotal Non Discretionary	3,074,743,665
Noise (34% of disc)	314,587,154
MAP (4% of Disc)	37,010,253
Subtotal Disc Set-asides	351,597,407
C/S/S/N	430,244,196
Remaining Discretionary	143,414,732
Subtotal Other Discretionary	573,658,928
Subtotal Discretionary	925,256,335
Grand Total	4,000,000,000

Notes.—Funding level increased to $4 billion; Passenger entitlements and Alaska Supplemental Tripled; Cargo Increased to 3%; State apportionment increased to 20%; Noise Increased to 34%.

Est. AIP Funding for Fiscal Year 2000	$4,100,000,000
Appropriation Limitation:	
Primary Airports	1,591,343,845
Cargo (3%)	123,000,000
Alaska Supplemental	32,017,671
States (20%)	820,000,000
Carryover Entitlements	94,818,379
Subtotal Entitlements	2,661,179,895
Small Airport Fund:	
Non Hub Airports	249,465,011
Non Commercial Svc	124,732,506
Small Hubs	62,366,253
Subtotal	436,563,770
Subtotal Non Discretionary	3,097,743,665
Noise (34% of disc)	340,767,154
MAP (4% of Disc)	40,090,253
Subtotal Disc Set-asides	380,857,407
C/S/S/N	466,049,196
Remaining Discretionary	155,349,732
Subtotal Other Discretionary	621,398,928
Subtotal Discretionary	1,002,256,335
Grand Total	4,100,000,000

Notes.—Funding level increased to $4.1 billion; Passenger entitlements and Alaska Supplemental Tripled; Cargo Increased to 3%; State apportionment increased to 20%; Noise Increased to 34%.

Est. AIP Funding for Fiscal Year 2000	$4,250,000,000
Appropriation Limitation:	
Primary Airports	1,591,343,845
Cargo (3%)	127,500,000
Alaska Supplemental	32,017,671
States (20%)	850,000,000
Carryover Entitlement	94,818,379
Subtotal Entitlements	2,695,679,895
Small Airport Fund:	
Non Hub Airports	249,465,011
Non Commercial Svc	124,732,506
Small Hubs	62,366,253
Subtotal	436,563,770
Subtotal Non Discretionary	3,132,253,665
Noise (34% of disc)	380,037,154
MAP (4% of Disc)	44,710,253
Subtotal Disc Set-asides	424,747,407
C/S/S/N	519,756,696

Remaining Discretionary	173,252,232
Subtotal Other Discretionary	693,008,928
Subtotal Discretionary	1,117,756,335
Grand Total	4,250,000,000

Notes.—Funding level increased to $4.25 billion; Passenger entitlements and Alaska Supplemental Tripled; Cargo Increased to 3%; State apportionment increased to 20%; Noise Increased to 34%.

Est. AIP Funding for Fiscal Year 2000	$4,350,000,000
Appropriation Limitation:	
Primary Airports	1,591,343,845
Cargo (3%)	130,500,000
Alaska Supplemental	32,017,671
States (20%)	870,000,000
Carryover Entitlement	94,818,379
Subtotal Entitlements	2,718,679,895
Small Airport Fund:	
Non Hub Airports	249,465,011
Non Commercial Svc	124,732,506
Small Hubs	62,366,253
Subtotal	436,563,770
Subtotal Non Discretionary	3,155,243,665
Noise (34% of disc)	406,217,154
MAP (4% of Disc)	47,790,253
Subtotal Disc Set-asides	454,007,407
C/S/S/N	555,561,696
Remaining Discretionary	185,187,232
Subtotal Other Discretionary	740,748,928
Subtotal Discretionary	1,194,756,335
Grand Total	4,350,000,000

Notes.—Funding level increased to $4.35 billion; Passenger entitlements and Alaska Supplemental Tripled; Cargo Increased to 3%; State apportionment increased to 20%; Noise Increased to 34%.

PFC eligibility.—When the PFC program was created,[23] one of the purposes was to build facilities, including gates, to help enhance competition at airports. However, in many cases, additional gates cannot be built unless related areas are built as well. Current section 40117(a)(3)(E) recognizes this by making the construction of "gates and related areas" eligible for funding with PFCs. However, the term "related areas" is not well defined. Section 151 of the reported bill addresses this problem by making clear that "related areas" includes the underlying structure of the building, but not the tenant finish-out.

This section also permits "aircraft fueling facilities adjacent to an airport terminal building" to be built with PFC funds. This pro-

[23] Section 9110 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, 104 Stat. 1388–357 (November 5, 1990); House Report 101–581 at p. 15.

vides flexibility for airports in determining what type of fueling facility/line/hydrant is used but does not make the construction of fuel farms eligible.

MANAGEMENT REFORM

The reported bill provides substantially more money for all FAA accounts including the Facilities & Equipment account, which pays for the air traffic control modernization program. This program has been criticized for cost overruns and delays. While the Committee believes that more funding is justified, management of FAA acquisition must be improved.

Oversight Board.—The Committee does not want to simply provide more money to the FAA given the agency's past inability to adequately manage its funds. Therefore, Title III of the reported bill contains a number of reforms to improve the performance of the FAA, especially with regard to the performance of the air traffic control system.

Section 301 creates an Air Traffic Control Oversight Board (Board) to oversee the FAA in its administration, management, conduct, direction, and supervision of the air traffic control system. The Board's oversight would include both the personnel and equipment necessary for the operation of the air traffic control system. This would include the air traffic services, the research and acquisitions lines of business, as well as the appropriate personnel in the regulation and certification line of business. Specifically, the Board will ensure that FAA meets the mission and objectives of its strategic plan; improves its ability to manage and accelerate air traffic control capacity and safety equipment purchase and installation; holds its managers more accountable for performance while providing more opportunities for training and education programs; and increases the efficiency and cost-effectiveness of air traffic control system operations.

The Board will be composed of nine members. Six members will be appointed by the President and confirmed by the Senate and have expertise in customer service, management of large procurements, and other disciplines. At least one Board member should have a background in managing large organizations successfully. In addition, the head of one of the air traffic control employees' unions would be appointed by the President and confirmed by the Senate to sit on the Board. The Committee feels strongly about this provision because it will help ensure that FAA involves its employees more proactively in the acquisitions process as well as guaranteeing more employee accountability for specific procurement decisions. The final two members of the Board would be the Secretary of Transportation and the FAA Administrator.

The Committee believes bringing this collective experience and expertise to bear will help improve FAA's management of large procurements and the efficiency of its operations. To further these goals, a position of chief operating officer will be created to implement the policies of the Board and meet the performance goals established by the Administrator and the Board.

The Board created by section 301 is similar in structure to one established last Congress for oversight of the Internal Revenue

Service.[24] It is also consistent with the recommendations of the National Civil Aviation Review Commission which believed that an oversight board would help provide stability, continuity of leadership, and better business-like management to the FAA.

The Board will be responsible for reviewing and approving that portion of the FAA's budget that relates to the air traffic control system. To ensure more effective congressional oversight, the reported bill requires the President to submit the Board-approved budget to Congress together with the President's annual budget request for the FAA. The annual budget request would include the Administration's request for the air traffic control portion of the FAA. This may differ from the Board-approved budget for air traffic control. By receiving both, Congress will be in a better position to evaluate the financial needs of the air traffic control system.

The Committee continues to be frustrated by the failure of the Administration to nominate the Management Advisory Council (MAC) members. The Oversight Board serves a different purpose than the MAC, which was created to provide more industry input into agency decision-making. The Committee expects the Administration to move forward expeditiously with the MAC nominations.

Cost accounting study.—The reported bill also mandates a cost accounting study to ensure (1) that the costs of operating the FAA are reasonable and (2) that these costs have been accurately measured and fairly attributed to FAA's services and users.

The Committee recognizes that the FAA has lacked the internal cost data necessary both to improve its efficiency and to assign costs accurately to services and/or users. Moreover, because the FAA has a monopoly on the provision of air traffic control and safety regulatory services—services whose consumption is also mandated by law—it is not generally possible for users to reduce their consumption of the services provided by the FAA. As a result, the FAA lacks many of the normal market incentives to operate efficiently. Under these circumstances, the Committee believes that the availability of accurate and reliable cost and performance data will make it far easier to identify and fix the FAA's funding, management and operational problems.

Section 307 of the reported bill calls for the completion of independent assessments to test, validate, and thus help assure the Congress, the Administrator, and the users that the FAA's costs are comprehensively captured, accurately measured and fairly attributed to specific services and, ultimately, to specific users. In addition, the legislation calls for an independent comparison of FAA costs against certain internal and external benchmarks in order to help the Congress, the Administrator, and users identify those areas where FAA's efficiency and cost effectiveness could be improved.

AIR SERVICE AND COMPETITION

The Airline Deregulation Act was enacted just over 20 years ago.[25] This legislation phased out 40 years of government regulation, permitting airlines to fly where passenger demand dictated

[24] Public Law 105–206, 112 Stat. 691, July 22, 1998.
[25] Public Law 95–504, 92 Stat. 1705, October 24, 1978

and charge fares that could be justified under free market conditions.

As a result of this legislation, passengers have enjoyed enormous benefits. Three hundred sixty-four million more passengers fly each year now than flew when the airlines were regulated.[26] The number of scheduled departures has increased by 50% at smaller airports and 68% at larger ones.[27] In addition, a review of annual reports from the National Transportation Safety Board shows that the fatal accident rate for airlines has decreased even as the number of flights has increased.

Most dramatic has been the effect on airfares. Depending on the source, airfares have dropped 28%,[28] 33%,[29] or 40%[30] as a result of the free market forces unleashed by airline deregulation. This has provided savings to passengers of between $6 billion[31] and $19 billion[32] annually. Indeed, airline discounts have become such a prevalent part of the American cultural landscape that it is now commonly accepted that it may be cheaper to fly half way across the country than to go down the street to a nice restaurant.[33]

Unfortunately, although the benefits of the Deregulation Act are widespread, they are not universal. Some airports, particularly those serving small and medium-sized communities in the East and upper Midwest, have experienced higher fares and diminished service since deregulation.[34] It has been said that deregulation has benefited 70% to 75% of the country and that the question is how to address the needs of the other 25% to 30% without ruining it for the majority of air travelers.[35]

In February 1997, Chattanooga, Tennessee hosted the National Air Service Roundtable and in February 1998, Jackson Mississippi hosted a similar conference. Representatives from airports across the country, airlines, corporations, government officials, and others gathered to consider market-based solutions to local air service problems.

A key conclusion of these conferences was that greater Federal, regional, State, and local efforts were needed to promote economic growth and attract both established and new airlines to serve medium-sized markets in the East, Southeast, and Upper Midwest.

The Aviation Subcommittee held a hearing on June 25, 1997, which examined market-based solutions to air service problems experienced by some medium-sized and smaller communities across

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[26] FAA Forecasts, Supra Note 4, at page A–3.

[27] U.S. General Accounting Office, "Airline Deregulation: Changes in Airfares, Service, and Safety at Small, Medium-Sized, and Large Communities" 6 (April 1996).

[28] "Market-Based Solutions for Air Service problems at Medium-Sized Communities": Hearings before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, 105–30, 105th Congress, 1st Session, (June 25, 1997) 129 [Hereinafter cited as "Air Service Hearing"].

[29] "Impact of Recent Alliances, International Agreements, DOT Actions, and Pending Legislation on Air Fares, Air Service, and Competition in the Airline Industry": Hearings Before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, 105th Congress, 2nd Session (April 1998) (Statement of Nancy E. McFadden, General Counsel, U.S. Department of Transportation) [hereinafter cited as "Competition Hearing"].

[30] Thierer, "20th Anniversary of Airline Deregulation: Cause of Celebration, Not Re-Regulation," The Heritage Foundation Backgrounder 6 (April 22, 1998).

[31] Air Service Hearing, Supra Note 28, at 22.

[32] Thierer, Supra Note 30, at 7.

[33] J. Berendt, "Midnight in the Garden of Good and Evil," at 25 (1994).

[34] Air Service Hearing, Supra Note 28, at 61 (Statement of the U.S. General Accounting Office).

[35] Id, at 34.

the nation. At that hearing, the Subcommittee heard from a number of witnesses, including representatives from airports and communities that have experienced higher fares and limited air service since the 1978 deregulation of the airline industry.

As a result of these conferences and hearings, the Committee approved a bill (H.R. 2748), introduced by Subcommittee Chairman Duncan last year (H. Rept. 105–822). The legislation attempted to address some of the air service problems experienced by medium-sized and smaller communities without undermining the benefits most people have realized from airline deregulation. Title II of the reported bill builds on this earlier effort and makes similar changes to enhance air service, increase competition, and take advantage of the improved infrastructure that Title I of this legislation will provide.

Slots.—One barrier to improved service that has often been cited [36] is the High Density Rule (HDR).[37]

At almost all airports in the U.S., there is no limit on the number of flights an airline can offer. However, there are four airports (O'Hare in Chicago, LaGuardia and Kennedy in New York, and Reagan National near Washington, D.C.) at which flights are limited by the HDR. The HDR was adopted in 1969 as a "temporary" measure to reduce congestion and delays. At the four airports covered by it, an aircraft must have a slot [38] in order to take-off or land.

Although deregulation increased demand for access to these airports, many carriers have been unable to establish new service because of the lack of slot availability. Access has been especially limited for new entrants and passengers from the smaller airports.

The 1993 Presidential Commission recommended a series of actions to strengthen the financial health and competitiveness of the U.S. airline industry. Among its recommendations, the panel urged the FAA to "review the rule that limits operations at 'high density' airports with the aim of either removing these artificial limits or raising them to the highest practicable level consistent with safety requirements." [39]

A slot exemption provision was enacted in 1994 to allow some new air service at O'Hare, La Guardia, and Kennedy. [40] This provision allowed new service in three situations. Exemptions could be granted for essential air service to the smallest communities, for international air service authorized by bilateral air service agreements, and for service by new entrant airlines in cases where the Department of Transportation (DOT) "finds it to be in the public interest and the circumstances to be exceptional." DOT has granted some exemptions under this provision.

Since 1994, the demand for slots has grown. Expanding the current exemptions or adding new exemptions no longer seems to be the best approach. Some communities and carriers inevitably get left out. Others try to "game" the system to their own advantage at the expense of others.

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[36] Id, at 62 and 132.
[37] 14 CFR Part 93, Subpart K.
[38] A slot is a reservation for an aircraft to take-off or land at the airport.
[39] "The National Commission to Ensure a Strong Competitive Airline Industry", Change Challenge and Competition 9 (1993).
[40] Public Law 103–305, 108 Stat. 1584, 49 U.S.C. 41714 (August 23, 1994).

Moreover, the high-density rule no longer serves its intended purpose of reducing delays and congestion. Instead, the rule places an artificial limitation on operations at these airports which, in effect, harms the traveling public by reducing competition. In fact, according to the GAO, a few major air carriers have significantly increased their slot holdings at these airports while the share held by new entrant, low-fare carriers remains low. As a result, airfares at slot-controlled airports continue to be consistently higher than at airports of comparable size without constraints.[41] There are allegations that carriers hoard slots to prevent new airlines from entering HDR airports.

By eliminating the HDR immediately at Chicago's O'Hare and New York's LaGuardia and Kennedy Airports, the reported bill levels the playing field. All airlines, big or small, new or old, will now be able to serve these three airports. In addition, airlines will be more inclined to serve small communities from these airports since they will not have to worry about using their precious few slots on the most profitable routes. Without the HDR, O'Hare, LaGuardia, and Kennedy will be able to operate like every other unconstrained airport in the country.

It is important to note that lifting the HDR, which was not implemented for safety reasons, will not affect air safety. In fact, on February 11, 1999, FAA Administrator Jane Garvey testified before the House Subcommittee on Aviation that "there are no safety reasons" for the high-density rule.

The FAA has air traffic control procedures in place to provide for safety. For example, the FAA's central flow control system regulates air traffic based on the capacity of runways and airports and it is implemented independently of the HDR limits. The FAA would never intentionally allow more planes in the air than the system could adequately handle. It is air traffic control procedures, not the high density rule, which ensures the safety of the aviation system.

New developments in computer technology and air traffic management systems have increased safety while making it possible to handle greater volumes of traffic more efficiently. The elimination of the HDR is done in conjunction with the other provisions in the bill that unlock the aviation trust fund and increase investment in aviation infrastructure. This will ensure that capacity and efficiency-enhancing improvements will continue to be made to our nation's aviation system, further reducing delays and congestion and the need for a high density rule.

Therefore, it is clear that this rule no longer serves any legitimate aviation purpose. Rather, it merely acts as an unnecessary constraint on operations, barring new entry, limiting competition and inflating prices at slot-controlled airports. It is time to eliminate this arcane rule and the reported bill does that.

Some people living near airports urge the continuation of the HDR as a way to reduce noise. However, in recent years, Congress has banned the use of the loudest Stage 1 aircraft and mandated the phase-out of the noisy Stage 2 aircraft. This phase-out will be completed by the end of this year.

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[41] U.S. General Accounting Office, "Airline Deregulation: Changes in Airfares, Service Quality, and Barriers to Entry" 3 (March 1999)

The ban and phase-out have required airlines to re-equip their fleet at considerable cost. This cost has most likely been passed on to their passengers. At the same time, as noted above, passenger demand for air travel has increased dramatically. It is unrealistic to expect that air service can be perpetually frozen at levels established 30 years ago when additional service can be accommodated safely. The reported bill would safely accommodate that demand.

In addition, continuation of the HDR has pushed more traffic into the late evening hours when the rule is not in effect. This, ironically, leads to more noise for nearby residents during the most sensitive hours. Eliminating the rule will most likely ease the noise burden during these late-night hours.

In the case of Reagan National, the Committee has decided to continue the current limit on flights with only modest modifications. This maintains the agreement that was put in place when that airport was transferred from the Federal government to local control.[42]

At Reagan National, the reported bill permits DOT to permit 2 additional slot exemptions per hour, limited to six per day. If applications for the slot exemptions exceed the number available, DOT would be expected to use expedited procedures in order to meet the 120–day deadline for a decision mandated by the bill.

This limited exemption from the slot rules at Reagan National should have several beneficial effects. The ability to grant exemptions should reduce whatever pressure now exists to completely eliminate the slot rule or to take slots away from existing airlines in order to accommodate underserved communities. Where this authority leads to a modest increase in flights, that will have a beneficial impact on competition, consumer choice, and the fares that passengers pay. This will benefit all passengers, both in the area of the high-density airport, the underserved airport, and throughout the country. There will be no adverse impact on safety since section 41714(e)(4), as amended by section 201(b) of the reported bill, specifically authorizes the FAA to block the new service if it "determines that providing such service would have an adverse effect on air safety."

Funding.—Other factors cited for the air service problems at some communities are slower economic growth, harsher weather, and the dominance of large airlines at nearby airports.[43]

In 1996, a fund was created to aid the essential air service (EAS) program.[44] That fund currently has $50 million. Section 202 of the reported bill would increase that fund to $60 million and ensure that $10 million of this amount is directed to a new program. This program will help communities that are too large to benefit from the EAS program but are not large enough to secure adequate air service without some assistance. Since there is already a source of money for this fund, the new program will not require any increase in taxes.

This new program is designed to help underserved airports attract more passengers. This, in turn, could attract more air service to the community and help make that service viable over the long-

[42] Metropolitan Washington Airports Act of 1986, Public Law 99–591.
[43] Air Service Hearing, supra note 28, at 61.
[44] Public Law 104–264, 110 Stat. 3249, 49 U.S.C. 41742 (October 9, 1996).

term. To help an airline beginning service at a community to establish itself there, the fund could also be used to subsidize that airline for a period not to exceed 3 years. The reported bill also authorizes an additional $15 million to be appropriated to supplement the $10 million that is guaranteed. That $15 million could be used for the same purpose as the $10 million—to market and promote air service at small and medium-sized communities.

The $50 million remaining will continue to ensure that the air service needs of the smallest communities are protected. The Committee recognizes that the EAS program plays an extremely important role in ensuring that smaller communities can continue to have access to the national air transportation system. As a result of P.L. 104–264, this program is permanently authorized and funded independent of appropriations through fees collected pursuant to 49 U.S.C. 45301(a)(1). The Committee continues to support this provision and the goals of the program.

Regional air service incentive program.—The growing trend in regional jet use has, and will continue, to offer a service option in markets with light to moderate traffic where it otherwise would be too expensive to provide adequate service. Regional jets are perfectly suited for serving small and mid-size communities.

According to the Regional Airline Association (RAA), 28.2 million passengers flew on turboprop regional aircraft in 1986. That number has now more than doubled to over 60 million. The regional jet comprised only 10.6 percent of all seats flown by regional airlines in 1996. When factoring in the regional jets currently on order, nearly 40 percent of all regional airline passengers will eventually be on these types of planes in the near future.

Regional jets can fly farther, faster, and quieter than turboprops and will give airlines the option of flying around or over major hub airports. Currently, these regional jets are being bought by the major airlines for their commuter affiliates. They are not always being used to serve the underserved markets. The reported bill provides secured loans, loan guarantees, and lines of credit to help smaller airlines buy these aircraft. This is important because these smaller airlines are most likely to fly to currently underserved markets.

The purpose of this provision is not to help airlines or regional jet aircraft manufacturers. They already seem to have a backlog of orders. Rather the purpose is to use market mechanisms to encourage airlines to use more of these jets in underserved markets. Therefore, the reported bill conditions the grant of these credit instruments on a commitment to provide air service to an underserved market. The regional jets could do much to improve air serve at many of the communities that have not benefited from deregulation so far.

CONTRACT TOWER PROGRAM

Since 1982, the FAA has provided air traffic control (ATC) services at many low activity Level I visual flight rule (VFR) airports by contracting with ATC companies in the private sector. This contract tower program has provided significant cost savings and enhanced aviation safety. Currently, 162 airports participate in the contract tower program.

Participating airports and aviation users have generally expressed strong support for the program. Indeed, without this program, many of these airports would be without ATC services since FAA does not have the financial resources to staff these towers with its own personnel.

The average contract tower costs about $250,000 per year, about half of what it would cost FAA to operate the tower itself.

In deciding which airports to contract for ATC services, the FAA conducts a cost-benefit analysis. If the analysis at an airport results in a ratio of benefits to costs of less than 1, FAA will not contract for ATC services at that airport.

There are some airports whose ratio is slightly less than 1 or that are in danger of dropping below 1. Under current practice, these airports will not have the safety and service benefits of the contract tower program.

To improve safety at these airports, the reported bill authorizes $6 million to fund contract tower services at airports that fall just below the cost benefit threshold and at other similar airports that have a legitimate need for this service as specified in section 131 of the reported bill.

However, the reported bill does require these airports to share in the cost of the program. The local share would be in proportion to the amount that the airport's ratio falls below 1. So, for example, if the airport had a benefit to cost ratio of 0.85, it would have to absorb 15% of the cost to have its tower manned.

FAMILY ASSISTANCE

In 1996, after the ValuJet and TWA crashes, the Committee approved (H. Rept. 104–793), and, on September 18, 1996, the House passed 401 to 4, the Aviation Disaster Family Assistance Act (H.R. 3923). With only minor changes, this bill was enacted as Title VII of the Federal Aviation Reauthorization Act of 1996 (P.L. 104–264, 110 Stat. 3264). In 1997, the legislation was extended to cover foreign airlines (P.L. 105–148).

The law, at 49 U.S.C. 1136 and 41113, requires the National Transportation Safety Board (NTSB) and individual airlines to take actions to address the needs of families of passengers involved in aircraft accidents in which there is a major loss of life. The law requires airlines to submit plans to DOT and NTSB on how they will address the needs of the families in the event of an aviation disaster involving one of their aircraft.

Section 704 of the 1996 legislation called for the creation of a Task Force to address some of the more difficult issues. These included questions of family privacy, out-of-state mental health workers, and ways to improve the notification of families.

On October 29, 1997, the task force issued its report. Many of its recommendations do not require legislative changes. However, Title IV of the reported bill addresses those that do as well as related issues that have arisen as a result of experience under this new law. These include lengthening the moratorium on lawyer solicitation, permitting out-of-state Red Cross mental health workers to assist at an accident scene, upgrading airline disaster assistance plans to improve employee training, requiring airlines, upon request, to inform the family as to whether their loved one had a res-

ervation on the flight, and limiting the liability of airlines who provide this information.

The Committee recognizes that flight reservation information is not always accurate. In many cases, a person with a reservation will not have boarded the flight while a person without a reservation may actually be on the flight. However, as the Task Force noted, at page 12, "provision of preliminary and limited, but accurate information, i.e., that a family member had a reservation on the flight, is better than no information in terms of helping the family to cope with the news of the disaster." In providing this information, the airline would be free to explain the limits to the accuracy of the initial passenger manifest. In recognition of these limits, the bill limits the liability of the airline for providing inaccurate information on the basis of the initial reservation list.

Title IV also includes the text of H.R. 603, which passed the House on February 3, 1999. This provision makes clear that the Death on the High Seas Act does not apply to aviation accidents even if the plane crashes into the ocean. See House Report 106–32 for a full explanation of this provision.

SAFETY

The reported bill addresses several safety issues that the Aviation Subcommittee has considered in hearings and other forums. Some of them are discussed below.

Cargo TCAS.—As far back as the 1950s, government and airlines began searching for a viable collision avoidance system for aircraft. Several systems were developed but until 1981 none were considered acceptable. In 1981, FAA finally announced that it had decided to proceed with the development and implementation of the Traffic Alert and Collision Avoidance System (TCAS).

There are basically three versions of TCAS. TCAS I is intended for small aircraft. It warns the pilot of an impending collision but does not give instructions on how to avoid that collision. TCAS II is intended for large commercial aircraft. It not only warns the pilot of an impending collision but also advises the pilot to go either up or down to avoid that collision. TCAS III was originally intended to add to the capabilities of TCAS II by advising pilots to go left or right, if appropriate, to avoid a collision. In 1993, FAA decided that TCAS III contained substantial systematic errors and that it could not determine, in many scenarios, which direction to turn to prevent a collision. Therefore, work on TCAS III was halted.

Although FAA had committed to TCAS in 1981, progress in actually implementing the system was slow. A 1986 midair collision over Cerritos, California, finally prompted Congressional action. Section 203 of the 1987 Airport and Airways Capacity Expansion and Improvement Act, Public Law 100–223, 101 Stat. 1518, established deadlines for completing the development and installation of TCAS II. As enacted, the legislation required the FAA to implement a schedule for the certification of TCAS II that would result in that system being certified by June 30, 1989. The legislation further directed the FAA to require the installation of TCAS II on all passenger aircraft of more than 30 seats within 30 months of the date that system was certified. That meant that if the system was

certified on June 30 as scheduled, airlines would have to equip their fleet by December 30, 1991.

On December 15, 1989, Public Law 101–236 amended the TCAS directive to authorize the Administrator of the FAA to extend the original compliance deadline for installing TCAS II by two years, to December 30, 1993, if the Administrator determined that such an extension was necessary.

On April 9, 1990, FAA published a final rule containing the schedule for implementation of TCAS II in aircraft with more than 30 passenger seats. In this final rule, the FAA required that airlines phase in the implementation of TCAS II with compliance by at least 20 percent of all covered airplanes by December 30, 1990, 50 percent by December 30, 1991, and 100 percent by December 30, 1993.

The required implementation of TCAS II was essentially completed by the end of 1993. Since then, TCAS II has demonstrated the ability to reduce the potential for collisions and is now providing important safety benefits.

There are approximately 1,000 cargo aircraft operating domestically in the same airspace as passenger aircraft. These cargo aircraft are not required to have collision avoidance systems at this time. During that earlier time, there was very little discussion of requiring TCAS on cargo aircraft. On September 3, 1996, the Independent Pilots Association (IPA) filed a petition for rulemaking with the FAA, requesting that it amend its regulation to require TCAS II on cargo aircraft in addition to passenger aircraft. Hearings were held on this issue 2 years ago.[45]

The IPA favored a requirement for 50 percent of cargo aircraft to be equipped with TCAS II by July 31, 1998, and the balance of the cargo fleet to be equipped by December 30, 1998. To date, FAA has not issued a final rule requiring TCAS II on all-cargo aircraft.

Cargo airline representatives agree that cargo aircraft need the safety benefit of a collision avoidance system. However, they believe that TCAS is an outmoded system and favor a system known as ADS–B instead. Automatic dependent surveillance-broadcast (ADS–B) is being developed for use with global positioning satellite systems (GPS) and "free flight." When ADS–B becomes available, it is expected to permit aircraft to transmit additional data such as heading, next waypoint, and vertical speed and to work on the runway where TCAS is not currently effective.

The Committee agrees that cargo aircraft should be equipped with collision avoidance systems. However, the Committee believes that the FAA and the airlines are better equipped with the technical knowledge to choose between TCAS and ADS–B. Accordingly, the reported bill sets a deadline for the installation of collision avoidance systems on cargo aircraft without specifying which system should be installed although the system must provide cockpit based collision detection and conflict resolution guidance, including display of traffic, and protection from mid-air collisions that is at least as good as is provided by TCAS–II.

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[45] "Proposal to Require Traffic Alert and Collision Avoidance Systems on Cargo Aircraft": Hearing before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, 105–5, 105th Congress, 1st Session (February 26, 1997).

Pilot record sharing.—Between 1987 and 1994, there were reportedly at least 7 fatal accidents involving pilot error where the pilot had demonstrated problems at a previous airline but the airline involved in the crash was not required to check the pilot's records before making the hiring decision.

The NTSB investigated each of these accidents and, in 4 of the cases, recommended that airlines be required to check a pilot's previous performance before hiring that pilot. However, the FAA took no action to require such record checks.

One year after American Eagle flight 3379 crashed in North Carolina, the Subcommittee held a hearing on this issue.[46] Most witnesses supported legislative action. The NTSB, referring to the four accidents in which it had made recommendations in this area, testified that "[c]ommercial aircraft accidents are so rare that to have four in seven years attributable, even in part, to a single cause should be—for everyone—conclusive evidence of a serious problem."[47]

In response, the Committee approved (H. Rept. 104–684) and, on July 22, 1996 the House passed 401 to 0, the Airline Pilot Hiring and Safety Act (H.R. 3536). This was combined with a similar Senate bill, the Pilot Records Improvement Act, and incorporated into the Federal Aviation Reauthorization Act of 1996 as Title V (P.L. 104–264, 110 Stat. 3263 et seq., 49 U.S. C. 44936(f)).

This Act required airlines, before hiring a pilot, to request the records of that pilot from the FAA, the National Driver Register, and the pilot's previous employer. This was designed to ensure that airlines would be able to make informed hiring decisions.

More recently, in response to certain implementation problems that had developed, the Committee approved (H. Rept. 105–372) legislation making some improvements in the Act. This legislation was ultimately enacted.[48]

The reported bill (section 502) includes some additional fine-tuning to the Act that was suggested by FAA. One change specifies more precisely the records that must be requested, received, and maintained by air carriers. Section 44936(f)(1)(B) of current law requires the transfer of records involving a pilot's proficiency and route checks, airplane and route qualifications, training, required physical examinations, actions taken concerning release from employment or physical or professional disqualification, alcohol and drug test results, check airman evaluations, and any disciplinary action that was not subsequently overturned.

All of these requirements are directed toward the competency of the individual as a pilot. Indeed, the whole thrust of the 1996 Act was to ensure that the airline would have the information needed to determine whether the applicant was capable of flying the plane safely. While other information, such as how the pilot interacts with customers, may be important, it was not the focus of that legislation. Therefore, the reported bill amends section 44936(f)(1)(B)(ii) to clarify that while airlines are free to request

[46] "Aviation Safety: Should Airlines Be Required to Share Pilot Performance Records? Hearings before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, 104–40, 104th Congress, 1st Session (December 13 and 14, 1995).

[47] Id, at 78.

[48] Public Law 105–142, 111 Stat. 2650, December 5, 1997.

and receive other information not directly related to the competency of the individual as a pilot, they would not be required to do so by the Pilot Records Improvement Act.

In addition, the reported bill makes clear that the military is not required to release pilot records and airlines cannot be penalized for failure to get records from a foreign entity if they made a good faith effort to do so.

WHISTLEBLOWER PROTECTION FOR AIRLINE EMPLOYEES

Private sector employees who make disclosures concerning health and safety matters pertaining to the workplace are protected against retaliatory action by various Federal laws. These employees have become known as "whistleblowers."

There are currently over a dozen Federal laws protecting whistleblowers including laws protecting nuclear plant workers, miners, truckers, and farm laborers when acting as whistleblowers. For example, section 2305 of the Surface Transportation Assistance Act of 1978, 49 U.S.C. 2305, prohibits retaliation for filing a complaint or instituting any proceeding relating to violations of motor vehicle safety rules or refusing to operate an unsafe vehicle. There are no laws specifically designed to protect airline employee whistleblowers.

The Committee previously considered legislation to protect airline employee whistleblowers in 1988. Hearings were held on April 27, 1988 and H.R. 5073 passed the House on September 13, 1988. The Senate never acted so the bill died. More recently, hearings were held on this issue on July 10, 1996 (Committee document 104–57).

Title VI of the reported bill would provide protection for airline employee whistleblowers by prohibiting the discharge or other discrimination against an employee who provides information to its employer or the Federal government about air safety or files or participates in a proceeding relating to air safety. To ensure that this protection is not abused, the provision provides penalties for the filing of frivolous complaints.

EMERGENCY REVOCATION OF CERTIFICATES

To fly a plane, repair a plane, or operate an airline, airport or other aviation business, a person must obtain a certificate from the Federal Aviation Administration (FAA).

If a pilot, mechanic, airline, or other holder of a FAA certificate breaks the laws or regulations, the FAA has several means of enforcement. One is an administrative action that could take the form of a warning letter to the violator. Another approach would be to assess a fine or civil penalty against the violator. The most serious sanction that could be imposed would be to revoke that person's certificate. The FAA will usually choose initiate a revocation action in the following circumstances:

When the FAA believes that the person is not qualified to hold the certificate;

When the FAA believes that the person demonstrated a lack of care, judgment, or responsibility that would be expected of a certificate holder;

When the person has shown a poor compliance disposition such as when the person has repeatedly or deliberately violated the rules or has falsified records; In addition, if a pilot is convicted of drug smuggling, 49 U.S.C. section 44710 mandates that that pilot's certificate be revoked.

A certificate revocation could happen in one of two ways. The FAA could propose the revocation, give the person an opportunity to defend, and then, if warranted, revoke the certificate. This would allow the person to continue to operate while the certificate action was pending.

However, since 1990, the FAA has taken the view that a decision to revoke a certificate often justifies invoking the agency's emergency authority under 49 U.S.C. 44709(c) and 46105(c). This policy is embodied in FAA Order 2150.3A. Under this emergency revocation procedure, the person has the right to appeal to the NTSB and the Federal Courts of Appeals. However, in such a case, the person loses the right to operate while the revocation proceeding is pending.

The FAA defends the emergency revocation procedure on the grounds that public safety is jeopardized if an unqualified person is allowed to continue operating while the revocation proceeding is pending. Many in the aviation community, particularly pilots and lawyers who represent pilots, have criticized the emergency revocation procedure on the grounds that it presumes the person to be guilty, denies the person due process, and can destroy that person's livelihood. They argue that FAA uses the emergency revocation procedure to pressure persons into voluntarily surrendering their certificates and to circumvent the NTSB requirement that FAA process a case within 6 months.

As a result of the concerns about the emergency revocation procedure, Senator Inhofe asked the GAO to study the FAA's use of this procedure.[49]

The GAO found that since 1990 only about 15% of the 137,506 enforcement cases that FAA brought involved the revocation or suspension of a certificate. Of these, only 3,742 involved the emergency revocation of certificates. This represents about 3% of total enforcement actions and 18% of the certificate revocations. However, the percentage of emergency actions increased from 10% of total certificate actions in 1990 to an average of 20% over the next 7 years. This was partly due to the fact that, for less serious cases, FAA chose to assess fines rather than revoke certificates and partly due to FAA's decisions to make greater use of the emergency revocation procedure.

Most of the emergency revocations (about 60%) were taken against pilot certificates. Mechanics were affected 12% of the time.

According to GAO, emergency revocations as a percentage of total revocations varied in different FAA regions. The average across all regions was 18%. However, in the Eastern, Western-Pacific, and Southwest region, 28% to 38% of the certificate actions used emergency procedures.

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[49] U.S. General Accounting Office, "Aviation Safety: FAA's Use of Emergency Orders to Revoke or suspend Operating Certificates" GAO/RCED–98–199 (July 1998).

The use of emergency revocation procedures does not mean that the revocation was necessarily instituted immediately after the violation occurred. GAO found that in about half the cases, FAA issued the emergency revocation order more than 4 months after learning of the violation. Sometimes, the delay was more than 2 years. FAA justifies these delays on the grounds that time is needed to investigate the facts and determine whether a certificate revocation is warranted. Critics contend, however, that it should no longer be considered an emergency if the violation happened months or years ago and the person has been operating safely since then.

Currently, a person subject to an emergency revocation order has two aspects of that order that can be appealed. The person can either challenge the emergency nature of the order or challenge the order on the merits.

If the person challenges the emergency nature of the revocation order, the appeal is taken to a Federal court. According to GAO, few choose to do this and even fewer prevail. There is no deadline for the Federal court to act although FAA claims that the court will usually rule within 5 to 7 days.

If the person challenges the merits of the revocation order, the appeal is to the NTSB. The case is assigned to an Administrative Law Judge and then is reviewed by the full Board. The NTSB has 60 days to decide whether to uphold the FAA's revocation order.

GAO points out that 86% of the time, the FAA decision to revoke the certificate is upheld on appeal. In 52 cases during the 1990s, the FAA's action was reversed on appeal. In some instances, the case resolved itself in another way such as being converted to a civil penalty or allowing the certificate to lapse.

The Aviation Subcommittee held a hearing on this issue last year.[50] At that time, the Subcommittee heard from pilots and aviation businesses about alleged abuses by FAA officials of the agency's emergency revocation authority.

The Committee strongly believes that FAA must have emergency revocation authority in order to ensure public safety. But the Committee also believes that a citizen's due process rights must be protected.

Accordingly, the reported bill provides a new procedure for appeals of emergency revocations. Rather than appealing to a Federal court, a certificate-holder could appeal to the NTSB. This would provide an expedited procedure to ensure that an emergency really exists that justified the immediate revocation of the certificate while the appeal on the merits of the revocation was pending. The appeal to the NTSB also has the advantage of putting the decision in the hands of those who are more likely to have expertise in aviation matters than a Federal court judge who is responsible for a broader array of issues.

[50] "H.R. 1846: FAA's Emergency Revocation of FAA Licenses": Hearings before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, 105–80, 105th Congress, 2nd Session, (August 6, 1998).

PUBLIC AIRCRAFT

What are public aircrafts?—In the past, public aircraft were defined as aircraft that were (1) used exclusively by Federal, State, or local government agencies and (2) not used "for commercial purposes." However, as explained further below, that definition has been complicated by recent legislation.

There are about 5,000 aircraft used by government agencies in the U.S.

Significance of being classified as a public aircraft.—Unlike general aviation, civil, or commercial aircraft, public aircraft are not subject to FAA safety regulations, thus making such aircraft much less expensive to operate.

Legislative background.—Public aircraft have been exempted from safety regulations since Federal regulation of aviation began in 1926. The wisdom of this exemption has been questioned in recent years.

In 1986, at the request of this Committee, the GAO undertook a study of public aircraft.[51] That study suggested that Congress should consider applying FAA safety regulations to public aircraft.

In 1990, the definition of public aircraft was amended to exclude aircraft leased by a State or local government if the lease was for less than 90 days (Section 207 of P.L. 100–223, 101 Stat. 1523). This prevented civil aircraft from escaping FAA regulations by seeking cover as a public aircraft on a short-term basis. The amendment also gave the NTSB greater authority over public aircraft accidents.

The issue came to the forefront again in 1993 when a public aircraft operated by the State of South Dakota crashed killing its Governor. In response, South Dakota Senator Pressler introduced S. 1092. This bill would have required public aircraft to comply with FAA safety rules. The bill was modified in response to objections and folded into legislation reauthorizing the NTSB. That legislation was enacted into Public Law 103–411 on October 25, 1994. The provision on public aircraft can be found in section 3 of the Independent Safety Board Act Amendments of 1994 (P.L. 103–411) and section 40102(a)(37) of title 49 of the United States Code. It is commonly known as the Pressler amendment.

Pressler amendment. The Pressler amendment changed the definition of public aircraft.

With respect to the transportation of cargo, the law continued to state that a government aircraft that transports property is a public aircraft unless it transports that property "for commercial purposes." If it transports property for commercial purposes, it would be a civil aircraft.

With respect to the carriage of people, the classification is much more complicated. As a general rule, the Pressler amendment limited the class of public aircraft by excluding aircraft that carry passengers. An aircraft carrying passengers is no longer considered a public aircraft even if it is owned by a government agency.

However, there are two exceptions. If the passengers were on board the aircraft to carry out a government function such as fire-

[51] U.S. General Accounting Office, "Aviation Safety: Federal Regulation of Public Aircraft" GAO/RCED–87–19BR (December 1986).

fighting, law enforcement, or search and rescue, then the aircraft would still be a public aircraft. Also, aircraft operated by the military or an intelligence agency are still considered public aircraft. However, these exceptions would not apply if the people on board were being transported "for commercial purposes." When that occurs, those aircraft would lose their status as public aircraft.

As can be seen, the question of whether an aircraft is a public aircraft will often depend on whether it is being operated "for commercial purposes." In other words, if the government agency receives payment for carrying people in the aircraft, the aircraft would not be a public aircraft.

Foley modification. At the same time that Senator Pressler was seeking to limit the class of public aircraft, House Speaker Tom Foley was trying to expand it. He was responding to constituents who found the "commercial purposes" component too limiting.

The problem arose because, in many cases, one government agency will allow another government agency to use its aircraft under a cost reimbursement agreement. The fact that the government agency is being paid for the use of its aircraft caused the FAA to construe the flight as an operation for commercial purposes which removed it from the public aircraft classification. To prevent this and continue to permit one government to lease its aircraft to another, Speaker Foley prevailed in including another exception in the law. This permits an aircraft to continue to be classified as a public aircraft even if the owner is reimbursed by another government agency as long as the government agency renting the aircraft certifies to the FAA that the aircraft is needed to respond to a "significant and imminent threat to life or property" and that "no service by a private sector operator was reasonably available to meet the threat."

Clinger limitation. When the Pressler amendment was being considered, Mr. Clinger, who was then ranking Republican on the Aviation Subcommittee, recognized that the sudden imposition of FAA regulations on government aircraft could impose a significant cost burden on State and local government agencies. He viewed this as another unfunded Federal mandate.

As a result, at his insistence, a provision was added permitting FAA to grant an exemption to a State or local government if that entity could show that the imposition of FAA rules on it would impose "an undue economic burden" and that the State or local aviation safety program "is effective and appropriate to ensure safe operations of the type of aircraft" it operates.

FAA actions. The above-described legislation became effective on April 23, 1995. Prior to that, the FAA issued Advisory Circular 00–1.1 providing guidance on whether particular government-owned aircraft operations would be classified as public aircraft operations. For those that lost public aircraft status, the Advisory Circular provided information on bringing those aircraft into compliance with FAA safety regulations.

The FAA pointed out that the classification of an aircraft depends on how it is used. For example, an aircraft that is used for search and rescue is a public aircraft. If the same aircraft is used to transport the governor to a meeting, it is a civil aircraft. Thus, it may be more appropriate to speak of particular aircraft oper-

ations as public or civil in nature rather than classifying the aircraft itself as public or civil. The same aircraft could be a public aircraft one day and a civil aircraft the next day depending on how it is used.

The FAA's Advisory Circular also further clarified some key terms in the law. For example, with respect to "for commercial purposes," the FAA stated that it was not necessary for the owner to make a profit. If the aircraft's owner received direct or indirect payment, that was enough to cause it to lose public aircraft status.

The Advisory Circular also listed the governmental functions being performed by persons aboard the aircraft that would justify classifying that operation as a public aircraft operation. In addition to fire-fighting, search and rescue, law enforcement, aeronautical research, and biological and geological resource management which were listed in the law, the FAA cited medical evacuation and aerial survey flights as public aircraft operations. In the Committee's view, aerial photography for non-law enforcement purposes would not be considered a governmental function.

The Advisory Circular also set forth the requirements for those aircraft that were no longer public aircraft. These requirements include using licensed pilots with current medical certificates, having the aircraft, its engines, and propellers certified as airworthy, and having the aircraft properly inspected and maintained by authorized persons.

The FAA noted that many formerly public aircraft were types that had never been certificated. The agency acknowledged that these, frequently former military aircraft, would be difficult to certificate now. Nevertheless, it set forth the procedures, registration requirements, noise standards, inspection records and technical documentation requirements, and flight testing requirements that would have to be met to obtain certification. However, it is questionable whether military aircraft could ever meet these requirements.

Finally, the Advisory Circular set forth the procedures for obtaining an exemption from the above requirements. However, the FAA has indicated that such exemptions would rarely be granted. It stated that "the agency expects to invoke its exemption authority only when the public interest clearly demands it."[52]

Hearings.—The Committee's Aviation Subcommittee held hearings on this issue in 1995.[53] At that time the Subcommittee heard conflicting perspectives from the law enforcement community and the small business community on the impact of changes in the public aircraft definition.

Law enforcement's reaction.—At the hearings, state and local law enforcement agencies expressed concerns with the current definition of public aircraft. Most concerns seemed to be focused on two areas. The first involved flights using former military aircraft. These aircraft have been used in the past to transport the governor, the police chief, or other government officials. Now, however, since these former military aircraft do not hold a civil airworthi-

[52] 59 Fed. Reg. 63154, 63155 (December 7, 1994) and 60 Fed. Reg. 5074 (January 25, 1995).

[53] "Public Aircraft and Special Purpose Aircraft": Hearings Before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, 104–37, 104th Congress, 1st Session, (October 19 and December 7, 1995).

ness certificate from the FAA, they cannot be used to carry these passengers.

The second problem involves the issue of cost reimbursement. If the government agency is reimbursed for the use of its aircraft, that is considered compensation by the FAA. That means the operation is "for commercial purposes" and not a public aircraft operation.

As a result, if a law enforcement agency uses its helicopters to assist another law enforcement agency, and is then reimbursed for actual expenses, those helicopters lose their public aircraft status unless the required certifications of an imminent threat can be made. Witnesses explained how this has crimped the programs of several law enforcement agencies and fire departments.

In many cases, the public agency could hire a private sector operator to perform the flights but that would be more expensive. Public aircraft operators also questioned whether there is any real safety problem with their operations. They argued that the law was changed to address a problem that does not exist.

Private sector reaction.—The private sector, primarily commercial helicopter operators, charter operators, and small aviation businesses also testified. They supported the change in the public aircraft law in order to prevent some government agencies from competing against them unfairly. They fear that some public operators are trying to function as for-hire entities and compete with private sector operators without having to comply with FAA safety rules. This gives the public operators a cost advantage against which the private sector cannot compete. Private sector operators were quick to support the law enforcement functions of public aircraft operators but objected to government attempts to earn money from "side jobs" that would impact small commercial businesses.

Revised definition.—The reported bill does not attempt to resolve the dispute between the public and private aircraft operators. Rather, it merely attempts to create a statutory context in which this dispute can be considered and hopefully addressed.

Despite attempts to explain it above, the current definition is needlessly complex. This hinders the ability of the Congress and the affected parties to consider changes.

Therefore, section 702 of the reported bill revises the definition. The purpose and intent of Congress in adding Section 702 to H.R. 1000 is solely to replace old convoluted language (laden with multiple negatives) with positive language that states existing law in terms that are readily understood by both the nation's aviation community and the general public. Nothing in section 702 should be interpreted as a change in current public policy relating to public aircraft. Before making any changes the Committee will be mindful of the delicate balance between highly technical Federal Aviation Regulations (FARs), public aircraft operators' need for exemptions from these rules, and the need for small businesses operating commercial aircraft to be protected from government-subsidized competition in the marketplace.

NATIONAL PARK OVERFLIGHTS

Background. Commercial air tour operations have become exceedingly popular at a number of units of the National Park system

and are growing in popularity in others. Many park areas have documented or estimated significant increases in the volume of commercial air tours over the last ten years. With these increases, there has been an increase in complaints by park users that the serenity and quiet of national parks is being destroyed.

In response to this issue, in 1987, Congress enacted Public Law 100–91, commonly known as the National Parks Overflights Act (the Overflights Act). This act directed the Secretary of the Interior to conduct a study to determine the proper minimum altitude that should be maintained by aircraft when flying over units of the National Park system. The study was to also identify problems associated with overflights and provide information regarding the types of overflights that might be impacting park units. Finally, the Overflights Act required the FAA Administrator to assist the National Park Service (NPS) in carrying out this study.

As a result of this law, in 1994, the NPS submitted its Report to Congress stating that 70 percent of the managers whose parks were affected by overflights identified aircraft noise as a potential sound problem.

In December of 1993, Secretary of Interior Babbitt and then-Secretary of Transportation Peña established an interagency working group (IWG) to further study ways to address the impacts of overflights on national parks. Both the Department of Transportation and the Department of the Interior agreed that increased air tours at national parks had diminished the national park experience for some park visitors, and that measures should be taken to preserve the park experience for ground visitors, while, at the same time, providing a comparable experience for air visitors to the national park. The FAA's role in this group has been to promote, develop and foster aviation safety and to provide for safe and efficient use of airspace. In addition, FAA has recognized the need to preserve, protect and enhance the environment by minimizing the adverse effects of aviation. The NPS's role has been to protect public land resources in national parks, preserve environmental values of those areas and provide for public enjoyment of those areas.

The President issued an Executive Order on April 22, 1996, directing the Secretary of Transportation, in consultation with the leadership of relevant Departments and Agencies, to establish a framework for managing air traffic over park units and to undertake additional transportation planning to address the impact of transportation on National Parks.

In addition, a Joint Oversight Field Hearing was held by the Subcommittee on National Parks and Public Lands and the Subcommittee on Aviation in St. George Utah on November 17, 1997. The hearing addressed issues surrounding air tours conducted over national parks. Topics discussed included whether restoring natural quiet to national parks was a reasonable goal, how many complaints per million visitors were acceptable and various ways to reduce noise over the parks.

In response to the President's mandate, in 1997, the FAA and the NPS established a National Parks Overflights Working Group to develop a plan for instituting flight restrictions over National Parks.

The working group was comprised of individuals with experience in aviation and in national park management. The Working Group held several public meetings and recommended a consensus proposal on overflights last year. The proposal included the recommendation that the group endorse legislation that captures the intent of its agreement. Accordingly, this legislation encompasses the Working Group's agreement and has been endorsed by it.

This group, including air tour industry representatives, environmentalists, and Native American representatives has agreed that this legislative package would establish a framework for the management of sightseeing aircraft over the National Park System. This legislation attempts to strike a balance between the rights of ground visitors to enjoy a national park with minimal intrusion, and in some cases, no intrusion from air tour noise, with the rights of air tour visitors to a park to enjoy a spectacular air visit.

Because all units of the National Park System are not equally affected by air tours, this legislation merely sets out a standard framework of principles to apply to all units of the NPS. Specific operational requirements for each individual unit would be negotiated on an individual basis with the FAA, NPS, air tour operators, affected Native Americans and the general public. The operational requirements would be based on the type of park, the demand for air tours, and any quiet technology available. Each park could conceivably have a different air tour management plan based on the demand for air tours and characteristics of the individual park.

Bill framework.—The bill reaffirms that the FAA has the sole authority to control airspace over the United States. The Committee believes that although this legislation requires the NPS and the FAA to work together, it is important to note that this legislation does not in any way diminish the FAA's authority over U.S. airspace. The bill also reaffirms that the FAA has the authority to preserve, protect and enhance the environment by addressing the adverse effects of aircraft noise. In this case, that authority will include overflights of park and tribal lands. To regulate this particular issue, the FAA is directed to work in cooperation with the National Park Service, which is responsible for conserving the natural beauty and historical significance of national parks. The Committee realizes that this may be a difficult venture as both agencies have different priorities in this matter. However, the two agencies must work together to balance the need to protect the significant and sensitive areas of a national park while recognizing the importance of viable air tours over certain parks to all park visitors, especially those that may be infirm or handicapped. Through this cooperative process, the agencies will develop a viable air tour management plan that will balance these interests, while keeping the FAA's mandate of safe airspace.

It is important to recognize that this legislation represents a compromise between the interests of the air tour operators and those advocating quiet in the parks. This bill directs both agencies to work together to maintain to the extent possible both natural sound levels and the opportunity to view park areas using commercial sightseeing tours.

The bill requires that an air tour operator may not conduct commercial air tour operations over a national park without an approved air tour management plan, jointly agreed upon by FAA and NPS. There is an exception from this rule for existing operators that is discussed further below. This exception is to protect operations of current air tours during the time that an air tour management plan is being negotiated.

For purposes of this act, commercial air tour operations are defined as flights for compensation or hire in a powered aircraft where the purpose of the flight is sightseeing over a national park or within ½ mile outside the boundary of a national park. The operator conducting the tour must be flying below a minimum altitude, to be determined by the Administrator of the FAA in cooperation with the Director of the National Park Service, or less than 1 mile laterally from any geographic feature within the park, to be considered a "commercial air tour." The half mile boundary was implemented so that air tour operators could not circumvent the intent of this legislation by flying their air tours just outside the park boundary, thus exempt from regulation, while still causing noise disturbance. One half mile was considered a reasonable distance from the park that would prevent a viable air tour from being flown and any noise disturbances to a minimum.

The bill is also designed to require air tour management plans for air tours over tribal lands that are within or abutting a national park. Air tours over parks often fly over sacred tribal lands and Native Americans are sensitive to these disturbances over their cultural grounds. This legislation is not intended to apply the requirements of an air tour management plan to tribal lands that are not within or abutting a national park.

Air tour certification.—This bill would require existing air tour operators at any unit of the national park system to apply for authority under part 119 to operate under 121 or 135 as appropriate, to conduct air tours. These air tour operators must apply for certification within 90 days from the enactment of this bill. A narrow exception is outlined in the bill to allow some operators to continue to conduct air tours under Part 91 for up to five flights per month for any national park. These flights could be split between operators as long as the total number of flights operating at a single park does not exceed five. In order to meet the requirements for this exception, the operator must secure a letter of agreement from the Administrator and the superintendent of the national park, and must fit within the current regulatory exemption under part 119. The letter must specify the conditions under which the air tour operations will be conducted.

Air tour management plan.—As discussed above, there may be some parks where, during the ATMP process, it is determined that there will be a limit on the frequency of air tour operations over a park. In these cases, the Administrator, in cooperation with the Director of the National Park Service, will develop an open competitive process for evaluating proposals from operators interested in providing air tours over the park. The Administrator and the Director shall consider appropriate factors, some of which are listed in the bill. These include the safety record of the person submitting the proposal or his or her pilots; quiet aircraft technology proposed

to be used; experience of the person submitting the proposal with air tours over other parks; financial capability of the company; training programs provided for pilots; and the responsiveness of the person submitting the proposal to any relevant criteria identified by the NPS for the affected park.

To determine the number of operations allowed over a park, the Administrator and the Director shall take into consideration the provisions of an existing air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by the operators, and the financial viability of each air tour operation.

The requirement for an air tour management plan (ATMP) for a national park is triggered when a person applies for authority to conduct a commercial air tour operation over that park. The objective of the ATMP will be to develop acceptable and effective measures to mitigate or prevent significant adverse impacts of commercial air tours upon the natural and cultural resources, visitor experiences and tribal lands of a national park so that air tours can continue to fly over the park. In some cases, acceptable and effective measures would be those that allow aerial viewing of the park with some noise disturbances, in other cases, where noise is a more critical aspect of the park experience, aerial viewing might have to be more restricted or even banned.

The ATMP itself may limit or prohibit commercial air tour operations in a variety of ways. This would include establishing conditions for the conduct of air tour operations including routes, maximum or minimum altitudes, time of day or event restrictions, maximum number of flights in a specific unit of time, intrusions on privacy of tribal lands and mitigation of adverse noise. The ATMP may include incentives for the adoption of quiet technology by air tour operators conducting air tours over the park to improve noise quality at the park. These incentives may include preferred routes and altitudes and relief from flight caps and curfews.

If the ATMP provides for a limit on air tour operations for any time period, it must provide a system for allocating the opportunities on an equitable basis. The rationale for the measures taken in the ATMP must be documented and set forth in the record of decision.

The contents of the ATMP are to be determined in the context of a public process. FAA and NPS are required to hold at least one public meeting with interested parties and publish the proposed ATMP for notice and comment in the Federal Register. The ATMP process must also comply with regulations promulgated under the National Environmental Policy Act that determine the parameters of an environmental review. In undertaking this process, the FAA is to be the lead agency and the NPS is a cooperating agency. The FAA would have the responsibility for ensuring the safe and efficient use of the nation's airspace and protecting the public health and welfare from aircraft noise. The NPS would have the responsibility for determining the extent of impacts on natural and cultural resources and visitor experiences. This bill adds an additional requirement to existing environmental requirements in that it requires both agencies, FAA and NPS, to sign the environmental review document. This is not a current requirement under NEPA and

is intended to ensure that NPS and FAA agree on the ATMP. In addition, if there are any Native American tribal lands that may be overflown as part of an air tour operation over a park, that Tribe's participation shall be solicited. Once an ATMP is completed, amendments would only be made by the Administrator of the FAA, in cooperation with the Director of the NPS. By including an amendment process, the bill allows an ATMP to be adjusted based on experiences or new technologies.

The bill sets out several factors to be used by the FAA in determining whether a flight is a commercial air tour operation and thus, regulated by an ATMP. To determine if a flight is an air tour operation, the Administrator may consider whether there was a holding out to the public of a willingness to conduct a sightseeing flight for compensation or hire. The Administrator may also look at whether the person offering the flight referred to areas or points of interest on the surface below the route of the flight either in written or oral narrative form as well as the area the person offering the flight operates in. For example, if the flight is offered only around areas where there are no points of interest, this could be a factor against a determination that an air tour is being offered. The Administrator may also look at the frequency of the flight offered and the route of the flight. If the flight is cancelled because there is poor visibility on the surface below the route of the flight, this could be a factor in a finding that a commercial air tour is being offered. The Administrator may also look at whether the inclusion of sight seeing flights is offered as part of a travel package by the person offering the flight. In addition, the legislation gives the Administrator the power to consider other factors that he or she may find appropriate.

The bill requires the FAA to grant interim operating authority (IOA) to an air tour operator who applies for operating authority at a park where he or she is an existing air tour operator. IOA allows the operator to fly its existing air tour routes over the park while an ATMP is being developed. The Committee realizes that, in some cases, the ATMP process may be drawn out, especially over parks where air tours are highly controversial. Historical flights for purposes of an IOA will be determined by the greater of the number of flights provided by the operator in the 12 months preceding enactment of this law or the average number of flights in a 12 month period over the preceding three years and for seasonal operations, the number of flights used during the season or seasons during that 12 month period. This provision allows the operator to account for a drop in operations in the preceding 12 months if he or she operated more flights per year on average for the preceding 3 years. The operator is not allowed to increase the number of flights determined to be allotted to him or her under the IOA without approval by the Administrator and the Director. However, in some cases, the operator may be able to receive more flights. This might occur if he introduces quiet technology in his flights or if another operator at the same park cuts down on its operations and leaves a demand for air tours.

The IOA must be published in the Federal Register with an opportunity for notice and comment. It may be revoked by the Administrator for cause and shall terminate 180 days after the establish-

ment of an ATMP for that park. The IOA must promote the protection of national park resources; visitor experiences and tribal lands; safe operations of commercial air tours; the adoption of quiet technology; and shall allow for modifications based on experience if the modifications improve the protection of park resources and values and tribal lands.

Exemptions.—This legislation is not intended to apply to Grand Canyon National Park or any national park or land in Alaska as there is already legislation addressing park resources and values for both Alaska and the Grand Canyon (Public Law 100–91). If the legislation addressing the Grand Canyon should for some reason become ineffective, then this legislation will apply to the Grand Canyon National Park.

Advisory group.—The bill also sets up an advisory group to continue to provide insight and advice regarding commercial air tour operations over and near national parks. This group will deal with any issues that may arise with respect to implementation of this legislation, the development of quiet aircraft technology that could be used in commercial air tour operations and other measures that might be taken to accommodate the interests of visitors to national parks and provide recommendations to the Administrator and Director on these issues. The Administrator and the Director may also request that the group provide recommendations on safety, environmental and other issues related to commercial air tour operations. The group will be composed of representatives from the interest groups that have been involved in the regulatory and legislative process.

MISCELLANEOUS ISSUES

Title VII of the reported bill includes several other issues that have been brought to the Committee's attention. Some of them are discussed below.

Disposal of airport property.—As a general matter, the Committee is concerned about the threat to general aviation airports. Accordingly, the reported bill includes a provision to ensure that there is more careful consideration before an airport is closed or some of its property sold. The provision (section 136) requires an airport to notify the public before disposing of airport land. FAA must consider the current and future needs of airport users before permitting such a property sale. This should help preserve general aviation airports.

In this connection, the Committee has heard that there are numerous instances of revenue diversions and lack of timely payback of funds when grant releases are approved. If accurate, this warrants changes to the FAA's grant assurance enforcement program.

Improvements to leased properties.—A line of Comptroller General decisions generally prohibit an agency from making improvements to leased property unless there is specific authority to do so (See 65 Comp. Gen. 722 (1986)). However, the Comptroller General has allowed such improvements if (1) the cost of the improvements are in reasonable proportion to the overall cost of the lease, (2) the improvements will be used for the principal benefit of the government, (3) the proposed improvements are incidental to and essen-

tial for the accomplishment of the agency's mission, and (4) the interest of the government in the improvements is protected.

This is problematic for the FAA because it will often lease property for its air traffic facilities for free or for low or nominal rent. As a result, it may be unable to satisfy the first condition that the cost of the improvements is in reasonable proportion to the overall cost of the lease.

Section 709 of the reported bill addresses this problem by allowing the FAA, in cases where the property is leased for free or nominal rent, to make improvements to that property even if the cost of the improvements are more than the cost of the lease as long as the other three prongs of the Comptroller General's test are satisfied. By nominal rent, the Committee does not necessarily mean rent of $1 or less but rather rent that is significantly below fair market value. This section should not be construed as changing the basic prohibition against making improvements to leased property without specific authority to do so.

Public availability of pilot records.—Section 711 of the reported bill allows the FAA to renew its long-standing practice of making lists of airmen certificates available to the public. These lists allow for the dissemination of important aviation information to pilots and to the flying public. Pilots have had the opportunity to remove their names from such lists but FAA did little to make pilots aware of that option. This provision requires that, before an airman's address is released, the airmen be given an opportunity to prohibit the FAA from releasing it. The provision directs the FAA to recommence making the list available to the public subject to the required notification. The provision further directs the FAA to work with the aviation industry to develop a more effective program to publicize the "opt-out" opportunity in conformity with most direct mail practices. Such efforts must include, within 60 days of enactment, a one-time written notification to airmen of the advantages and disadvantages of having their address released and the opportunity to elect that their address not be released.

Alaska guide pilots.—In Alaska, there are people who earn a living by guiding tourists on hunting or fishing trips. Since air travel is often the only way to get to one's destination in Alaska, the guide will usually fly customers to the hunting or fishing spot.

For many years the FAA regulated these guide pilots under 14 CFR Part 91. However, on January 2, 1998, the FAA published a notice in the Federal Register that, in the future, these pilots would be regulated under the more stringent requirements of 14 CFR Part 135. This could have a serious adverse impact on these guides and could put many out of business.

The Committee is concerned that such a dramatic reversal of long-standing practice could be taken by an agency without giving the affected people an opportunity to comment. Accordingly, section 725 of the reported bill requires FAA to rescind its earlier notice and give the public a opportunity to comment on a new set of rules. The new rules would be similar to current part 91 regulations but with certain specified enhancements designed to improve the safety of Alaska guide pilots.

Noise.—Congress recognizes the airspace over New York and New Jersey has some of the densest airline traffic in the country,

and as such the residents of New York and New Jersey feel that they suffer from some of the worst aircraft noise in the United States.

Congress is concerned about the FAA's failure to alleviate aircraft noise over New York and New Jersey and provide substantial relief to the residents of these states.

The FAA should provide real and substantial air noise relief to the residents of New York and New Jersey. The FAA is further directed to work with local officials, citizens advocacy groups, and the Port Authority of New York and New Jersey to develop and take appropriate steps to reduce aircraft noise over New York and New Jersey as soon as possible.

Weather.—FAA and the National Weather Service have recently completed a plan to terminate their joint program for installing and maintaining equipment providing automatic weather observations, known as ASOS. During this program's life, users have identified numerous problems, many of which remain unresolved. Yet, the Committee is concerned that the FAA still does not have formal plans to meet existing and future weather reporting requirements, especially at smaller airports, with commercial technologies. Given the importance to aviation safety of timely and accurate weather reporting, the Committee requests that the FAA report no later than March 31, 2000 with a detailed plan on future requirements leading to a competitive procurement of commercial, off-the-shelf automated weather observing systems incorporating current technology or a detailed explanation as to why such a plan would not be appropriate.

Procurement.—The Committee encourages the FAA to review its procurement practices. In general, FAA's procurement inquiries or requests should be designed to include as many qualified venders as possible. Specifically, procurement specifications should not contain the name or part number of a particular vendor where multiple approved vendors exist.

Local Area Augmentation System.—The committee applauds the FAA's formation of Government Industry Partnerships for the deployment of the Local Area Augmentation System (LAAS). The committee has long been supportive of the Government/Industry Partnership concept as an innovative way of doing business.

The first public use LAAS systems will be available in mid 2001. In order to take full advantage of this critical technology as soon as possible, the committee believes the FAA should ensure robust funding for this program, including funds to begin the procurement of LAAS stations in FY 2001.

Remote maintenance monitoring.—Remote maintenance monitoring (RMM) systems offer advantages to the FAA by improving the productivity of system specialists and providing more continuous monitoring of air traffic control facilities and equipment. The FAA's new radar systems have RMM capability. However, older systems may not have this capability and their continued use, without RMM, may not be cost-effective or allow service outages that could have been avoided with better monitoring. The Committee recommends that the FAA evaluate whether installing RMM on these older facilities and equipment would be a good in-

vestment, including identifying what personnel benefits such a plan might provide, and report to the Committee on this matter.

Software procurements.—The Committee recommends that the FAA assess the prior work of the Office of Information Technology and identify processes and guidelines to help the FAA address the shortcomings noted in software dependent procurements. The Committee encourages the FAA to conduct an in-depth analysis of the processes within the FAA which are affected by commercial off the shelf technologies, identify new methods to test and validate safety critical systems that are not dependent on source code analysis, and investigate ways to reduce cost and time to establish high confidence in a system.

New towers.—The Committee is concerned that FAA is not following announced schedules for the construction of new towers. In some cases this delay will result in problems such as "line-of-sight" blockage of part of a main runway and adjacent taxiway system and force continued reliance on an existing, inadequate control tower. In other cases, the tower height is below FAA sighting standards for visual monitoring of aircraft and airport vehicle movements. The Committee is concerned about potential hazards of this type and urges FAA to follow their original construction schedule in these instances.

CONCLUSION

The Aviation Investment and Reform Act for the 21st Century (AIR 21) is a comprehensive reauthorization of the Federal Aviation Administration and the Airport Improvement Program. It seeks to address many of the problems plaguing our aviation system, by making our airports and skies safer, by injecting competition into the airline industry, and by ensuring that the investment taxpayers have made in the Aviation Trust Fund is returned in the form of affordable, safe air travel.

AIR 21 is a comprehensive 5–year authorization that will benefit all sectors of the airport and airway system.

Specifically:

For safety

Provides substantially more money for runways and other equipment at airports that will enhance safety there;

Ensures that FAA has the funding to hire and retain the air traffic controllers, maintenance technicians, and safety inspectors necessary for the safety of the aviation system;

Increases the FAA's facilities & equipment budget by 50% so that the agency can modernize our antiquated air traffic control system;

Authorizes funding to improve the training of airport screeners;

Makes runway incursion prevention devices and wind shear detection devices eligible for AIP funding;

Requires cargo airlines to install collision avoidance systems on their aircraft;

Provides whistleblower protection for both FAA and airline employees so they can reveal legitimate safety problems without fear of retaliation;

Ensures that funding is available to raise safety standards at small airports.

For competition

Provides substantially more money to build terminals, gates, taxiways, and other infrastructure to allow additional competition at airports;

Abolishes slots at airports in Chicago and New York to permit new competition there;

Requires medium and large hub airports to file a competition plan so that resources can be directed to those projects that will do the most to enhance competition.

For the environment

Significantly increases the amount of money available for noise abatement projects;

Creates a new environmental streamlining program similar to the one in TEA–21;

Establishes a regulatory regime to quiet air tours over our national parks;

Funds a program to encourage airports to use low-emission vehicles.

For small airports

Triples the amount of the minimum entitlement for non-hub airports from $500 thousand to $1.5 million per year;

For the first time, provides entitlement money for general aviation airports (this is based on their needs as set forth in FAA's national plan of integrated airport systems (NPIAS) to a maximum of $200 thousand per year);

Triples the small airport fund;

Authorizes a contract tower cost sharing program so that small airports can get the benefits of air traffic control services;

Creates a loan guarantee program to help airlines buy regional jets if they agree to use them to serve small airports;

Creates a new funding program to help small underserved airports market and promote their air service.

For large airports

Triples the amount of the annual passenger entitlement for primary airports (airports with 10,000 or more passengers per year);

Lifts the $22 million cap on the amount of annual entitlement money that a large airport can receive;

More than doubles the amount of entitlement money for cargo airports;

Increases the discretionary fund so that FAA can fund many high- priority airport improvement projects;

Protects funding for Letters of Intent (LOIs) and makes clear that it is not necessary that an airport assess a passenger facility charge (PFC) in order to get an LOI;

Raises the cap on the PFC so that an airport has the flexibility to proceed on its own with those improvement projects that cannot be funded through the Federal Airport Improvement Program.

For pilots and passengers

Reforms the management of the FAA's air traffic control system by creating an oversight board similar to the one established in the recent IRS reform legislation;

Strengthens the provisions of the Aviation Disaster Family Assistance Act that was created following the Valujet and TWA 800 crashes;

For the first time, explicitly prohibits racial discrimination in air travel;

Allows pilots to appeal an emergency revocation of their license to the safety board;

Ensures that the taxes pilots and passengers pay will actually be used to fund the safety, security and infrastructure they need for a safe and expeditious journey.

SECTION-BY-SECTION SUMMARY

Section 1.—Short title; table of contents

This section provides that the Act may be cited as the "Aviation Investment and Reform Act for the 21st Century."

Section 2.—Amendments to title 49, United States Code

This section states that the amendments in this bill are to Title 49 of the U.S. code.

Section 3.—Applicability

States that except where stated otherwise, the provisions of this bill take effect in fiscal year 2000.

Section 4.—Administrator defined

States that the term "Administrator" means the FAA Administrator.

TITLE I.—AIRPORT AND AIRWAY IMPROVEMENTS

Section 101. Airport Improvement Program

Authorizes the following for the Airport Improvement Program (AIP):

$2.475 billion for fiscal year 2000,
$4 billion for fiscal year 2001
$4.1 billion for fiscal year 2002
$4.25 billion for fiscal year 2003, and
$4.35 billion for fiscal year 2004.

Section 102. Airway facilities improvement program

Subsection (a) authorizes the following for FAA's Facilities & Equipment (F&E) program:

Such sums as may be necessary for fiscal year 2000,
$2.5 billion for fiscal year 2001, and
$3 billion for each of fiscal years 2002 through 2004.

Subsection (b) states that of the amount authorized in 2000, $8 million may be used to purchase and install universal access systems at airports. Nothing in this subsection shall be construed as requiring airports to purchase and install such systems although

the Committee believes it would be desirable if they do so voluntarily.

Section 103. FAA Operations

Subsection (a)(1) authorizes the following for FAA Operations account:

Such sums as may be necessary for fiscal year 2000,
$6.450 billion for fiscal year 2001;
$6.886 billion for fiscal year 2002;
$7.357 billion for fiscal year 2003, and
$7.860 billion for fiscal year 2004.

Subsection (a)(2) states that of the amounts authorized from 2000 to 2004:

(A) Four-hundred-fifty thousand dollars per year may be used for wildlife hazard mitigation measures;

(B) Such sums as may be necessary may be used to fund an office in FAA that is dedicated to supporting infrastructure development for the general aviation and the helicopter industry;

(C) Such sums as may be necessary may be used to modify existing air traffic control procedures to accommodate the tiltrotor aircraft;

(D) Such sums as may be necessary may be used to develop approach procedures to better enable helicopters to bring patients to hospitals;

(E) Three million dollars per year may be used to implement the FAA's plan to reduce runway incursions;

(F) Two million dollars per year may be used to fund a university consortium to provide an air safety and security management certificate program; and

(G) Such sums as may be necessary may be used to develop and improve training programs for security screeners.

Subsection (b) allows money to continue to be spent out of the trust fund for FAA operations in accordance with the formula in existing law. Whatever portion of FAA operations that the trust fund does not cover will be paid for from the general fund of the Treasury. There is a special rule for years 2000 through 2004 that would allow the trust fund limitation to be increased to ensure that the payment from the general fund does not exceed the general fund monies provided in FY 1998.

Section 104. AIP formula changes

Subsection (a) eliminates the current cap and floor on the AIP discretionary fund but ensures that all letters of intent are funded. If there is not enough money in the discretionary fund to cover the letters of intent, then the difference would be made up by pro rata reductions in the entitlements and set-asides.

Subsection (b) changes the formula for passenger entitlements at primary airports (those with more than 10,000 passengers in a year).

Paragraph (1) triples the entitlement (the amount of money that primary airports are guaranteed to receive in a year), triples the minimum entitlement from $500,000 to $1.5 million for small primary airports, and removes the $22 million cap on the maximum entitlement that a large primary airport can receive.

Paragraph (2) allows an airport to receive its previous year's entitlement if it has temporarily fallen below the 10,000-passenger threshold as a result of a strike or natural disaster. This paragraph also allows a new primary airport to receive the minimum entitlement in its first year without having to wait for the FAA's official enplanement count. In other words, if an airport opened in November 1998 or March 1999, it would receive the minimum entitlement in the fiscal year that begins on October 1, 1999 (i.e. fiscal year 2000). This applies to new airports not to replacement airports, which would get the entitlement of the airport it was replacing.

Subsection (c) increases the entitlement for cargo airports from 2.5% to 3% of total AIP funds.

Subsection (d) increases the State entitlement for general aviation airports from 18.5% to 20% and makes corresponding changes to the portion that goes to the territories to ensure that they do not receive a windfall from this change. From this 20%, each general aviation airport is given an entitlement that is either $200,000 per year or one-fifth of that airport's infrastructure needs as set forth in the FAA's national plan, whichever is less. The remaining amounts are distributed in the same way as under current law.

Subsection (e) permits money received by Alaska, Hawaii, or Puerto Rico under the State entitlement to be used for any public airport in those states.

Subsection (f) permits State entitlement money to be used for system planning.

Subsection (g) allows State highway specifications to be used for runway, taxiway, and apron pavement at general aviation airports serving aircraft that weigh less than 60,000 pounds. FAA may allow this only if it determines that it will not hurt safety or shorten the life of the pavement.

Subsection (h) increases the noise set-aside from 31% of the discretionary fund to 34% of that fund and makes a non-substantive technical change in the set-aside for the military airport program to allow that program to continue.

Subsections (i) and (j) triple the supplemental apportionment for Alaska and make technical changes with respect to Alaska.

Section 105. Passenger facility fees

Subsection (a) authorizes the FAA to permit an airport to levy a passenger facility charge (PFC) of more than $3 if the FAA finds that—

(A) The project will make a significant contribution to improving safety or security, increasing competition among airlines, reducing current or anticipated congestion, or reducing the impact of aviation noise;

(B) The project cannot reasonably be expected to be paid for from the higher AIP; and

(C) The amount of the higher PFC will not be more than $6.

Subsection (b) directs the FAA to permit an airport to charge the higher PFC to pay for terminal construction or for a highway or transit project only if the airport has made adequate provision for financing the airside needs of the airport such as runways, taxiways, aprons, and aircraft gates.

Subsection (c) requires a medium or large hub airport that charges a PFC of more than $3 to forego 75% of its passenger entitlement money. The money foregone goes into the small airport fund.

Section 106. Budget submission

Requires the FAA to submit its annual budget estimates to the authorizing Committees at the same time that it submits those documents to the Appropriation Committees.

Section 121. Runway incursion prevention devices; emergency call boxes

This section makes runway incursion prevention devices, such as integrated in-pavement lighting systems, eligible for AIP grants and directs that they be considered safety devices for the purposes of FAA's priority system. It also makes emergency call boxes eligible for funding under the AIP program.

Section 122. Windshear detection equipment

Makes windshear detection equipment eligible for AIP funding. The Committee encourages FAA to review the possibility of using a Light Detection and Ranging (LIDAR) system capable of measuring and predicting windshear using eye safe wavelengths. The Committee urges the FAA to continue to review and proceed with certification activities for LIDAR and other windshear detection devices where appropriate.

Section 123. Enhanced vision technologies

Requires a study of enhanced vision technologies and makes them eligible for AIP funding. This section also requires FAA to submit to Congress a schedule for certifying laser guidance equipment and cold cathode lighting equipment.

Section 124. Pavement maintenance

Makes routine maintenance work on runways, taxiways, and aprons eligible for AIP funds at general aviation and small commercial service airports.

Section 125. Competition plans

Requires medium and large hub airports that are dominated by one or two airlines to file competition plans in order to receive an AIP grant or to obtain approval for a PFC after October 1, 2000. Sets forth the contents of that plan. There is no requirement for an airport to hold public meetings or engage in notice and comment procedures in the development of the plan. Nor does this provision give an airport any authority to control an airline's rates, routes, or services.

Section 126. Matching share

Permits grants under the State Block grant program to include a local share that is more than the usual 10%. Also waives the requirement for a local match at non-hub and general aviation airports during the first year that the higher funding levels of this bill go into effect.

Section 127. Letters of intent

This section makes it easier for small hub and non-hub airports to receive a letter of intent (LOI) by limiting to the larger airports the criteria that the project must enhance system-wide capacity significantly.

This section also makes clear that an airport may not be required to impose a PFC in order to obtain an LOI. When Congress permitted airports to assess a PFC in 1990, it was intended to be a purely voluntary choice. It was never intended that airports would be required to impose PFCs on their passengers. Congress also spelled out in statute the criteria by which FAA would decide which airports could obtain LOIs. Nowhere did the statute provide that an airport's decision to impose a PFC could be made a criterion by which FAA determined whether to grant an LOI to an airport. Such a linkage is contrary to law and contrary to the stated policy of the FAA. This section reemphasizes that an airport's willingness to charge a PFC cannot be a criterion in deciding whether that airport can receive an LOI.

Section 128. Grants from small airport fund

Subsection (a) sets aside $15 million or 20%, whichever is less, of the amounts in the small airport fund and dedicates it to non-hub airports for projects that will help bring these airports into compliance with the standards of the new small airport certification rules. This set-aside would begin in the first fiscal year after these new rules take effect. See section 506 below. It would end 4 years later or when the FAA publishes a notice stating that all small airports meet the new standards, whichever occurs first.

Subsection (b) states that when FAA makes a grant from the Small Airport Fund, it must inform the airport receiving the grant that the money is coming from that fund. The Committee is concerned that many small airports are not aware that they are benefiting from money turned back by the large airports that have chosen to assess a PFC.

Subsection (c) directs FAA to give runway extension and other projects that will support operations by turbine powered aircraft priority for grants from the general aviation airport portion of the small airport fund when the community is willing to provide a 40% local share.

Section 129. Discretionary use of unused apportionments

This section amends subsection (f) of section 47117, which is 47117(g) in current law. The changes are set forth below.

Paragraph (f)(1) states that if the Secretary finds that an AIP entitlement grant apportioned under section 47114 is not going to be used, that money can be used for another airport grant during that fiscal year.

Paragraph (f)(2) specifies that the Secretary should restore the AIP entitlement grant found not to be required under paragraph (1), whenever a sufficient amount is made available under the AIP for grant obligations, unless it was the last fiscal year of availability of that apportionment.

Paragraph (f)(3) defines the period of availability for the restored grant. Section 47117 (b) is in the current statute and defines how

long a grant is available. If the grant not required under paragraph (f)(1) is restored by the first fiscal year after it was originally available, then it is available as defined in 47117(b). However, if the grant is restored after this period, then the grant is available as described under 47117(b) plus the number of fiscal years which sufficient funds were not available to restore the grant.

Paragraph (3)(A), reserves the amount of grants determined as not to be required under paragraph (f)(1) that have not been repaid so that it is not distributed under section 47115.

Paragraph (B) clarifies that paragraph (3)(A) does not impair the Secretary from using grants identified as not being required under paragraph (1).

Paragraph (4) specifies that nothing in this subsection would allow the Secretary to incur grants for a fiscal year above the amount specified for AIP grants (under section 48103)

Section 130. Designating current and former military airports

Subsection (a) increases the number of airports in the Military Airport Program (MAP) from 12 to 20 in FY 2001, requires that at least three of them be general aviation airports, and allows an airport to be redesignated for the program for a period of time that is less than the initial 5-year designation period.

Subsection (b) increases the limit on the amount that can be spent on terminal buildings at current and former military airports from $5 million to $7 million.

Subsection (c) increases the limit on the amount that can be spent on parking lots, fuel farms, utilities, and hangars from $4 million to $7 million and adds air cargo terminals to the list of items eligible for funding under this subsection.

Section 131. Contract tower cost-sharing

Paragraph (A) directs DOT to extend the current contract tower program to air traffic control (ATC) towers that do not now qualify for the program.

Paragraph (B) requires FAA, in administering this program, to—

(i) consider analyses and data provided by the airport;

(ii) select only those airports willing to pay a pro rata cost of operating the facility; and

(iii) select no more than two airports willing to pay for a portion of constructing the tower.

Paragraph (C) lists the characteristics of the airport that the FAA should consider in deciding which ones should get priority for this program. They are the following:

(i) Airports that are participating in the current program but have been notified that they will be terminated because their benefit to cost ratio is less than 1.

(ii) Towers that the FAA has determined have a benefit-to-cost ratio of at least 0.85.

(iii) Airports at which the tower was closed as a result of the air traffic controllers strike in 1981.

(iv) Airports that are receiving subsidized essential air service.

(v) Airports that are prepared to assume some of the construction and maintenance costs of the tower.

(vi) Airports with safety or operational problems related to their topography, weather, runway configuration, or mix of aircraft.

Paragraph (D) requires the airport or State or local government to share in the costs of operating the tower to the extent that the costs of that operation exceed the benefits.

Paragraph (E) authorizes $6 million for this program.

Section 132. Innovative financing techniques

Subsection (a) permits 25 AIP grants using innovative financing techniques at small hub, non-hub, and general aviation airports.

Subsection (b) states that the purpose would be to provide information on the use of innovative financing techniques for airport development.

Subsection (c) prohibits this section from being used to guarantee bonds and limits the types of innovative financing techniques that can be used to the following:

(1) payment of interest;

(2) commercial bond insurance and other credit enhancements associated with airport bonds; and

(3) paying a higher local share of the grant.

Section 133. Aviation security program

Subsection (a) permits FAA to carry out at least one program to test and evaluate innovative aviation security systems and related technology.

Subsection (b) lists the factors that the FAA should consider in deciding which eligible sponsor should receive the grant.

Subsection (c) makes clear that this grant does not require a local share.

Subsection (d) permits FAA to impose terms and conditions on the grant.

Subsection (e) defines an eligible sponsor as a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems. The National Safe Skies Alliance would be an example of this.

Subsection (f) authorizes $5 million per year for this program.

Section 134. Inherently Low-Emission Airport Vehicle Pilot Program

Authorizes AIP grants to 10 airports to pay the added cost of purchasing low-emission vehicles as well as the facilities and equipment for using those vehicles. Grants are limited to $2 million per airport and the Federal share of the grant shall be 50%.

Section 135. Technical amendments

Subsection (a) permits a small commercial service airport that had a multi-year agreement with FAA for grants for terminal development to continue to receive those grants from the discretionary fund even if it loses its primary airport status, subject to the availability of funds.

Subsection (b) permits an airport to waive the PFC for airlines that carry very few passengers at the airport, for passengers traveling to an airport that has less than 2,500 passengers per year, and for passengers traveling to a community that has less than 10,000 people and is not connected by a highway to the National Highway System.

Section 136. Conveyances of airport property for public airports

Subsection (a) requires notice and comment before FAA may waive an assurance that an airport made when it received an AIP grant to buy land.

Subsection (b) requires notice and comment before the FAA gives up its reversionary interest in land that an airport received from the U.S. government.

Subsection (c) gives priority consideration to a request of an airport for surplus government property.

Subsection (d) requires notice and comment before FAA waives a restriction on an airport's use of its property that it had received from the government's surplus property. The length of the comment period is not specified here or in the subsections above but the Committee would suggest 45 days as an appropriate period.

Subsection (e) requires FAA to consider the current and future needs of airport users in deciding whether to grant the waiver in subsection (d).

Subsection (f) makes technical changes in the use of terminology.

Section 151. Treatment of certain facilities as airport-related projects

Specifies in more detail the "related areas" of the airport gate to enable construction of these areas to be paid for with PFC revenue.

Section 152. Terminal development costs

Subsection (a) enables non-hub and small hub airports that borrowed money to build a terminal after August 1, 1986 to use PFC revenue to pay off the debt if the airport has suffered a decline in passengers of at least 16% between 1989 and 1997.

Subsection (b) allows non-hub and small hub airports that borrowed money to build a terminal between August 1, 1986 and September 30, 1990 or between June 1, 1991 and October 31, 1992 to use entitlement funds to pay off the debt if (A) the airport submits the required certification, (B) FAA decides that using entitlement funds to pay off debt will not defer any project affecting safety, security, or capacity, and (C) the airport will not use AIP money for new terminal development within 3 years after using entitlement money to pay off the old debt.

Subsection (c) conforms section 47119(c) in existing law to the change made by subsection (b) above.

Subsection (d) requires FAA to use the most recent year's aviation activity at a small airport to determine the number of passengers at the airport and whether the airport is receiving scheduled passenger aircraft service if that would qualify that airport for discretionary money for terminal development. Currently, general aviation airports cannot receive AIP grants for terminal development. But, at some, commercial service has begun recently. How-

ever, FAA does not consider them small commercial service airports (thereby qualifying them for terminal development grants) until the official enplanement count is completed. There is often a 2-year lag time before this is done. This provision directs FAA to look at aviation activity at the airport in the year scheduled air service begins there to determine whether the airport has the 2,500 passengers and scheduled operations that would qualify it for small commercial service status and thereby for terminal development grants.

Section 153. General facilities authority

Subsection (a) requires FAA to maintain an inventory of Instrument Landing Systems in light of the uncertainties surrounding the Wide Area Augmentation System.

Subsection (b) requires FAA to maintain and upgrade Loran-C for the same reason.

The Committee continues to be concerned about the delays and uncertainty associated with the Wide Area Augmentation System (WAAS). The committee is aware that the FAA conducted a market survey to establish that a capability exists for procurement of several existing Instrument Landing Systems (ILS) and validated that more than 160 airport runway locations qualify for the new ILS systems.

Based on demands for ILS systems, the Committee directs FAA to promptly initiate a multi-year procurement for additional ILS systems. The committee has authorized funds to initiate this program, including funds for site preparation and approach lighting systems, and directs that the FAA competitively procure equipment to assure that the maximum number of airports benefit from this program. This procurement should consider systems that do not need additional development. The committee believes that implementing such a program will ensure that near-term safety and capacity needs of airports are met while the FAA implements satellite navigation.

Section 154. Denial of airport access to certain air carriers

Requires FAA to permit an airport that will be subject to the new certification requirement for small airports (see section 506 below), but does not intend to obtain such a certificate, to block scheduled passenger operations and public charter operations there. Otherwise passengers will suffer disruption when the new certification rules go into effect because scheduled service will cease.

Section 155. Construction of runways

This section counters provisions in Appropriations Acts that prevent funding for an additional runway at a particular airport. It is not intended by this provision that that airport be given any special priority for AIP grants, only that it be given the same opportunity as any other airport to receive such grants.

Section 156. Use of recycled materials

Authorizes $1.5 million for a study of the safety and environmental implications of using recycled materials in airport pave-

ment. The FAA may contract with a University to carry out the study. A report to Congress is required one year after enactment.

TITLE II.—AIRLINE SERVICE IMPROVEMENTS

Section 201. Access to high density airports

Subsection (a) eliminates slot restrictions at all airports except Ronald Reagan Washington National Airport on March 1, 2000.

Subsection (b) allows DOT to issue slot exemptions to permit not more than 2 flights per hour and 6 flights per day from an underserved airport or in an underserved market to Ronald Reagan Washington National Airport. The flights to Reagan National must be within the 1,250 mile perimeter and use Stage 3 aircraft. Airlines interested in providing the flights must apply to DOT. The application process cannot begin until 30 days after enactment. DOT is required to make a decision on an application within 120 days. If the Secretary does not do so, the airline can begin the service until DOT acts or FAA determines the additional service to be unsafe. The introductory clause of section 41714(e)(4) is designed to ensure that the Secretary cannot use the obligations or limitations of any other law as an excuse for not meeting the 120 deadline. However, that clause does remain subject to the FAA's safety authority as set forth at the end of the paragraph. The airline may continue to hold the exemption from the slot rules as long as it continues to provide the service to the small airport or the underserved market that was the subject of the original application. It cannot take the slot exemption and use it to serve another airport or market. If the airline attempted to do so, the Secretary would be expected to withdraw the exemption and take other appropriate enforcement action. Whether a carrier is owned, allied or has another sort of relationship with some other carrier should not affect its ability to obtain slot exemptions under this provision.

Section 202. Funding for air carrier service to airports not receiving sufficient service

Subsection (a) increases the amount of money in the current fund in 49 U.S.C. 41742 from $50 million to $60 million.

Subsection (b) states that the money in this fund shall be spent as follows:

(A) $50 million to carry out the Essential Air Service (EAS) Program;

(B) $10 million to subsidize air service to an underserved airport for no more than 3 years or to assist an underserved airport to market or promote its air service.

Any money left over is to be used to improve air safety at rural airports (those with less than 100,000 passengers). The 100,000 threshold is used because it is consistent with the definition of rural airports for ticket tax purposes in section 1031(e) of Public Law 105–34, 111 Stat. 930. If more than $60 million becomes available to the fund in 49 U.S.C. 41742, at least half of that additional amount must be used for the subsidy and marketing at underserved airports described in paragraph (1)(B) above. In addition to the $10 million guaranteed, this subsection also authorizes an additional $15 million for the same subsidizing and marketing pro-

gram. DOT is directed to give priority for funding for the marketing program to those communities that are willing to provide local tax revenue to assist in the effort to improve air service at their airport. The airports that qualify for this program are non-hub and small hub airports that DOT determines have insufficient air service or that are on DOT's list as having unreasonably high air fares (an average yield of more than 19 cents).

Section 203. Waiver of local contribution

Waives the local contribution that is required for certain communities receiving subsidized essential air service if the community was designated as eligible or its proposal was approved within the specified dates.

Section 204. Policy for air service to rural areas

Adds to the statement of general policy the goal of ensuring that everyone, including those in small communities and rural areas, has affordable access to scheduled air service.

Section 205. Determination of distance from hub airport

Several Appropriations Acts have restricted eligibility for subsidized air service under the essential air service program to communities that are more than a specified distance from a hub airport. This section states that in making a determination as to whether a community is eligible under the distance criteria, DOT shall measure the distance using the most commonly used highway route between the community and the hub airport.

Section 211. Establishment of regional air service incentive program

This section adds a new Subchapter III at the end of Chapter 417, as follows:

Section 41761 states that the purpose of the program is to improve jet service to underserved markets by assisting commuter airlines in the purchase of Regional Jets.

Section 41762 defines terms.

Section 41763 authorizes, subject to appropriation, DOT to make Federal credit instruments in the form of secured loans, loan guarantees and lines of credit for aircraft purchases available to commuter airlines and new airlines.

Subsection (b) establishes conditions and limitations on the secured loans. The subsection states that DOT may not provide a secured loan that—

(1) exceeds 50% of the purchase price of an aircraft and the value of any manufacturer discount, post-purchase options or other discounts;

(2) permits repayment more than 18 years after the date of execution; or

(3) in conjunction with any other Federal credit instrument, exceeds $100 million for any single obligor.

The Secretary may allow a secured loan to be subordinate to claims of other debt holders. The Secretary may also allow scheduled loan repayments to be deferred up to three years after the date of execution of the loan agreement.

Subsection (c) establishes conditions and limitations on the loan guarantees. The subsection states that DOT may not make a loan guarantee—

(1) for more than the unpaid interest and 50% of the unpaid principal;

(2) for any loan or combination of loans that exceeds 50% of the purchase price of an aircraft and the value of any manufacturer discount, post-purchase options or other discounts;

(3) on any loan that permits repayment more than 15 years after the date of execution; or

(4) that, in conjunction with any other Federal credit instrument, exceeds $100 million for any single obligor.

Subsection (d) establishes conditions and limitations on the lines of credit. The subsection states that DOT may not provide a line of credit that —

(1) exceeds 50% of the purchase price of an aircraft and the value of any manufacturer discount, post-purchase options or other discounts;

(2) allows that amount drawn in any year to exceed 20% of the total line of credit; or

(3) is available more than 5 years after the aircraft purchase date.

Any draw on a line of credit shall represent a direct loan and may be subordinate to the claims of other debt holders. Repayment of such direct loan may not be deferred more than three years after the date of execution and must be repaid in full not later than 18 years after the date a draw on the line of credit.

Subsection (e) states that that before entering into an agreement to make available a Federal credit instrument under this section, the Secretary shall consult with the Director of the Office of Management and Budget to determine the appropriate capital reserve subsidy amount for that Federal credit instrument based on any credit evaluation deemed necessary by the Secretary.

Subsection (f) requires DOT, before making a Federal credit instrument available, to find that:

(1) the aircraft being purchased is a regional jet;

(2) the airline will use the jet to serve an underserved market with at least 2 round-trips per day, 5 days per week; and

(3) the airline will be able to repay the Federal credit instrument.

Subsection (g) states that DOT may not allow the combined amount of Federal credit instrument available for any aircraft purchase to exceed—

(1) 50% percent of the cost of the aircraft purchase; or

(2) $100,000,000

Subsection (h) states that the aircraft purchased with a Federal credit instrument under this section must be a stage 3 quiet aircraft.

Subsection (i) requires the aircraft purchased with Federal credit instruments be used to serve an underserved market for at least 3 years.

Section 41764 permits DOT to utilize the services of other Federal agencies in implementing this program and requires DOT to make available to GAO any information requested.

Section 41765 authorizes the use of funds made available by appropriations to the Department of Transportation for purposes of administration in addition to any fees collected under this subchapter to cover administrative expenses under this subchapter.

Section 41766 authorizes appropriations for subchapter III of chapter 417 of title 49 USC for the fiscal years 2000 through 2004.

Section 41767(a) terminates authority of the Secretary of Transportation to issue Federal credit instruments under this subchapter after 5 years.

Section 41767(b) requires the Secretary to continue to administer the program established this subchapter until all obligations associated with any Federal credit instrument have been satisfied.

All commuters are to be treated equally under this program regardless of whether they are owned by, allied with, code-share with, or have some other relationship with a major airline.

TITLE III.—FAA MANAGEMENT REFORM

Section 301. Air Traffic Control System defined

Defines the elements and functions of the FAA that will be subject to oversight by the new management board established in the next section. The intent of this language is to make clear that all areas involved in the performance of air traffic services would fall into this category. Besides those areas specifically mentioned in the bill, this would include elements of the FAA that (a) plan, monitor, control, schedule and implement the acquisition of material, equipment and services for the National Airspace System (NAS), (b) manage, direct, and coordinate the research, development, acquisition, testing, integration and support of air traffic systems, (c) research, develop, acquire, test, implement, and support communications, navigation, and surveillance system requirements for the NAS, (d) develop programs for applying new scientific and advanced technologies to meet NAS requirements, (e) develop flight procedures and, (f) plan, develop, and deploy the free flight program.

Section 302. Air Traffic Control Oversight Board

Subsection (a) establishes the Board. The Board shall be composed of 9 members. Six shall be non-Federal employees appointed by the President and confirmed by the Senate. The remaining three shall be the DOT Secretary, the FAA Administrator, and the head of one of the air traffic control system unions. The members of the Board must be U.S. citizens and have expertise in an area relevant to the Board's responsibilities. At least 3 of the 6 non-Federal employee members should have a background in aviation but none may have a pecuniary interest or be engaged in an aviation business or be a member of an aviation advocacy organization when serving on the Board. The members are appointed for staggered 5-year terms except the union head, whose term shall be for 3 years or the length of service as union chief, whichever is less. A member cannot serve more than two 5-year terms. Five members of the Board shall constitute a quorum. A member may be removed only for cause. The Board is responsible for overseeing the air traffic services strategic plan, its modernization program, operational

plans, appointment of top officials, and budget. The DOT Secretary and the FAA Administrator must report any action overturning a Board decision to the President and to the relevant Committees of the House and Senate.

Subsection (b) requires the President to submit nominations for the Board within 3 months and protects any FAA actions taken before the appointment of the Board.

Section 303. Chief operating officer

Requires the appointment of a Chief Operating Officer (COO) to manage the day-to-day operation of the air traffic control system. The COO is appointed for 5 years by the FAA Administrator, subject to approval by the Board, and may be removed by the Administrator.

Section 304. Federal Aviation Management Advisory Council

Under existing law, the President, with the advice and consent of the Senate, appoints this Council. This section retains this procedure for the initial appointments to the Council. However, the DOT Secretary will make all subsequent appointments. The Committee is disappointed that, more than two years after its creation, no member of this Council has been appointed. Part of the reason for this is the current appointment process. Moving the responsibility for appointments down to the Secretarial level should help speed up the process. It will also make clear that the new Oversight Board has a higher stature than this Council. The Council is to be composed of aviation interests that advise the FAA while the Board is to be composed of independent interests that oversee portions of the FAA. However, the Committee is aware that the current presidential appointment process for the Council is moving forward and we do not want this legislation to interfere with that. The Council should be appointed as soon as possible. Therefore, the reported bill retains the method of appointment in current law for the initial appointments, with the Secretary making all subsequent appointments.

Section 305. Environmental streamlining

Subsection (a) sets forth a process where the Secretary of Transportation will develop a coordinated environmental review process for aviation infrastructure projects that requires a federal environmental review, analysis, opinion, permit, license or approval. The Secretary shall implement this process through Memoranda of Understanding with the appropriate Federal or State agencies that set forth a cooperatively determined time period to do concurrent review. This time period shall take into account agency resources and statutory commitments.

Subsection (b) states that the coordinated environmental review process shall include an identification of all potential Federal agencies that have jurisdiction by law over environmental related issues that may be affected by the project or may be required by Federal law to conduct an environmentally related review or analysis or issue a permit, license, approval or opinion on the environmental impact of the project. The Secretary and the head of each identified Federal agency shall establish time periods for review for all agen-

cy environmental comments, analyses, permits, licenses, or approvals so that each agency's approval shall be completed within the established time periods for review. These reviews, including those required by the National Environmental Policy Act ("NEPA"), shall be conducted concurrently, unless conducting a concurrent review would result in a significant adverse effect on the environment, would substantively alter Federal law, or would not be possible without information developed during the review process. This last exception is intended to ensure that agencies are not put in the position of having to complete environmental reviews before they have sufficient information to conduct a sufficient review. Any time periods established under this section should be consistent with time periods established by the Council on Environmental Quality. The Secretary and any concerned Federal agency may extend the agreed upon time period if additional time is needed for analysis and review as a result of new information that could not have reasonably been anticipated.

Subsection (c) states that the Secretary may close the record on the matter if a Federal agency has not completed its review within the agreed upon time period. If the Secretary finds that an environmental issue has not been resolved after timely compliance with the review process, the Secretary and the head of the involved agency shall resolve the issues within 30 days of the Secretary's finding.

Subsection (d) states that for any project eligible for AIP, a State may require its agencies that have jurisdiction over any environmental aspects of the project to be subject to the coordinated environmental review process unless the Secretary determines that the State's participation would not be in the public interest.

Subsection (e) states that the Secretary may make funds available to an affected Federal agency to provide resources necessary to meet any time limits established under this section upon request by a State or recipient.

Subsection (f) states that this section shall not affect the reviewability of any final agency action in federal or state court or the applicability of NEPA.

Subsection (g) defines the term Federal Agency.

Section 306. Clarification of regulatory approval process

The Committee is concerned about delays in promulgating rules that are caused by lengthy and, in many cases, unnecessary Secretarial review. Rules like upgrading safety standards for repair stations have languished for no apparent reason. Accordingly, this section raises from $100 million to $250 million the threshold that would trigger Secretarial review of an FAA regulation. It also limits the type of regulations that would be considered significant enough to justify Secretarial review.

Section 307. Independent study of FAA costs and allocations

Directs the DOT Inspector General to undertake an analysis of the cost accounting system that FAA is developing to ensure that it is appropriate, reasonable, and understandable.

TITLE IV.—FAMILY ASSISTANCE

Section 401. Responsibilities of National Transportation Safety Board

Subsection (a) makes three changes to the current moratorium on lawyer solicitation of families following an accident. These changes are—

(A) Applying the moratorium to accidents involving foreign airlines that occur in this country;

(B) Applying the moratorium to associates, agents, employees or other representatives of the attorney; and

(C) Increasing the moratorium period from 30 to 45 days.

The last two changes adopt recommendation 7.2 of the Final Report of the Task Force on Assistance to Families of Aviation Disasters that was established pursuant to section 704 of the Aviation Disaster Family Assistance Act of 1996, 110 Stat. 3268. This subsection also provides for enforcement of the moratorium on lawyer solicitation.

Subsection (b) allows counselors and mental health workers of the Red Cross (or other designated organization) to offer their services at the crash scene for 30 days even if they are not licensed in that state. The NTSB's family liaison can extend this period for another 30 days if needed and if the local authorities are notified. This implements Recommendation 6 of the Task Force.

Subsection (c) extends the family assistance services to employees of foreign airlines and to other people aboard the flight even if they did not pay for the seat or hold a reservation for the flight.

Subsection (d) moves the free-standing provision in section 705 of the Family Assistance Act into Title 49.

Section 402. Air carrier plans

Subsection (a) mandates several changes to the airlines' disaster assistance plans. These changes are—

(1) Requiring airlines, upon request, to inform the family as to whether the person had a reservation on the flight (This implements Task Force Recommendation 1.2.4.);

(2) Requiring airlines to provide adequate training to employees in meeting the needs of families (This implements Task Force Recommendation 1.4);

(3) Requiring airlines to update their disaster assistance plans in light of the above new requirements within 180 days; and

(4) Requiring airlines to consult with the NTSB and the State Department when they help families in the U.S. affected by a crash outside the country.

Subsection (b) limits the liability of an airline that informs a family as to whether the person had a reservation on the flight.

Subsection (c) is the same as subsection 401(d) above.

Section 403. Foreign air carrier plans

Subsection (a) adds non-revenue passengers to those entitled to services under the Aviation Disaster Family Assistance Act.

Subsection (b) changes a word so that the portions of the statute dealing with U.S. and foreign airlines will be consistent.

Subsection (c) requires foreign airlines to provide the same training to employees as U.S. airlines. Foreign airlines are given 180 days following the date of enactment to update their disaster assistance plans to reflect this. It also requires foreign airlines to consult with the NTSB and the State Department when they help families in the U.S. affected by a crash outside the country.

Section 404. Applicability of Death on the High Seas Act

Makes clear that the Death on the High Seas Act does not apply to aviation accidents. The provision does not say what law would apply as the Committee expects courts to apply normal choice of law analysis considering such things as where the ticket was bought, where the parties reside, etc.

TITLE V.—SAFETY

Section 501. Cargo collision avoidance systems deadline

Subsection (a) requires cargo aircraft with a maximum certificated takeoff weight in excess of 15,000 kilograms (about 33,000 pounds) to be equipped with collision avoidance systems by December 31, 2002 that provide a margin of safety that is at least as good as TCAS II. According to FAA officials, this would cover aircraft as small as the Fokker 27.

Subsection (b) permits FAA to extend the deadline 2 years if that would promote safety.

Section 502. Records of employment of pilot applicants

Makes the following changes to the Pilot Records Improvement Act:

(1) Exempts the military from the requirement to provide records;

(2) Limits the records that must be provided to those that involve the individual's performance as a pilot;

(3) Allows an airline to hire a pilot previously employed by a foreign airline without receiving the records from that airline if it has made a documented good faith effort to obtain those records; and

(4) Permits certain people to have electronic access to FAA records in order to speed up the record checking process.

Section 503. Whistleblower protection for FAA employees

Restores the procedures for protecting FAA employees who "blow the whistle" on safety problems.

Section 504. Safety risk mitigation programs

Requires the FAA to issue guidelines and encourage the development of air safety risk mitigation programs throughout the aviation industry, including self-audit and self-disclosure programs. This is intended to implement one of the recommendations of the National Civil Aviation Review Commission that can be found at page III–20 of the Commission's report.

Section 505. Flight operations quality assurance rules

Requires FAA to issue a rule to protect airlines and their employees from civil enforcement actions under the Flight Operations Quality Assurance (FOQA) program. FOQA is based on trust. If people feel they will be punished for sharing information, they will not provide it and the public safety benefit will be lost. Encouraging the voluntary sharing of safety-related information has been a long-standing interest of this Committee. See, for example, section 402 of the Federal Aviation Reauthorization Act of 1996, 110 Stat. 3255, and pages 4 and 5 of H. Rept. 104–682.

Section 506. Small airport certification

Requires FAA to issue within 60 days the proposed rule implementing the requirement that small airports obtain a certificate. This requirement was first imposed by section 404 of the Federal Aviation Reauthorization Act of 1996, 110 Stat. 3256. The final rule must be issued within 1 year of the close of the comment period. This provision does not override the requirements in subsections (d) and (e) of 49 U.S.C. 44706.

Section 507. Life limited aircraft parts

Subsection (a) requires FAA to initiate a rulemaking proceeding to require the safe disposition of life-limited parts. This could be done as a separate rulemaking or as part of an ongoing rulemaking initiative.[54] Various acceptable methods of disposition are described. These include segregation of the part, destruction of the part, and the permanent marking of the part (with a phrase such as "not to be used for aviation" or a readily identifiable symbol indicating the same) when it is removed from an aircraft because it is about to exceed its specified useful life. The FAA could supplement these with different or additional requirements such as requiring segregated parts to also be marked.

Subsection (b) adds the failure to safely dispose of life limited parts to the list of violations in section 46301(a)(3) that are subject to a $10,000 civil penalty, subject to the inflation adjustment that applies to all the violations listed in that section. See 14 CFR Part 13, Subpart H.

Section 508. FAA may fine unruly passengers

Imposes a maximum $25,000 civil penalty on passengers that interfere with a flight crew or endanger the safety of the aircraft, its passengers, or crew.

Section 509. Report on Air Transportation Oversight System

Requires an annual report for the next 5 years on the FAA's new inspection system known as the Air Transportation Oversight System.

Section 510. Airplane emergency locators

Revises the existing law governing emergency locator transmitters (ELTs) to eliminate the exemption for turbo-jet powered aircraft but to add an exemption for large aircraft requiring commercial passenger or cargo air service. The effect would be to require

[54] The FAA has informally told the Committee that there is an initiative in an Aviation Rulemaking Advisory Committee (ARAC) process that could incorporate these changes as part of a recommendation to the Agency in a way that would save resources and time.

ELTs on private and business jets as well as small non-scheduled carriers like some charters and air taxis. Aircraft would not have to be equipped until January 1, 2002.

TITLE VI.—WHISTLEBLOWER PROTECTION

Section 601. Protection of employees providing air safety information

Subsection (a) prohibits an airline or a contractor of an airline from firing, or taking other adverse action against, an employee for doing any of the following:

(1) Providing information to the employer or Federal government relating to air safety;

(2) Filing or being about to file (with any knowledge of the employer) a proceeding relating to airline safety;

(3) Testifying or being about to testify in such a proceeding; or

(4) Assisting or participating in such a proceeding.

Subsection (b) governs the filing of complaints by aggrieved whistleblowers.

Paragraph (1) allows whistleblowers who believe they have been fired or otherwise treated unfairly in violation of subsection (a) to file a complaint with the Secretary of Labor within 180 days of the violation. The Labor Department must notify the airline and the FAA of the complaint.

Paragraph (2) directs the Labor Department, within 60 days of receiving a complaint, and after giving the airline an opportunity to respond, to launch an investigation to determine whether there is reason to believe the complaint has merit and to notify the parties of its findings. If Labor concludes that there is reason to believe a violation has occurred, it shall issue a preliminary order providing a remedy. Within 30 days of being notified of Labor's findings, either side may file objections and request a hearing but this shall not stay a reinstatement remedy in the preliminary order. If a hearing is not requested within 30 days, the preliminary order becomes a final order and is not subject to judicial review.

Paragraph (3) describes the final order.

Subparagraph (A) directs the Labor Secretary, within 120 days after the end of the hearing, to issue a final order providing a remedy or denying the complaint. The matter can be settled at any time prior to the issuance of the final order.

Subparagraph (B) lists the remedies that could be ordered. They are—

(i) take action to abate the violation;

(ii) reinstate the employee with back pay;

(iii) provide monetary damages to the employee.

If an order is issued under paragraph (3), the Labor Secretary, at the request of the employee, shall assess the employee's attorney's fees against the airline.

Subparagraph (C) permits the Labor Secretary to assess the airline's attorney's fees against the employee if the Secretary finds that the complaint was frivolous. Frivolous complaints are not defined but would probably include unfounded complaints potentially linked to other job-related matters.

Paragraph (4) pertains to judicial review.

Subparagraph (A) permits either party, within 60 days of the issuance of the final order, to appeal to the circuit court where the violation allegedly occurred or where the employee resided at the time of the violation. This shall not stay the order unless the court decides otherwise.

Subparagraph (B) prohibits a person from challenging the final order in another judicial proceeding if it could have been appealed under subparagraph (A) above.

Paragraph (5) permits the Labor Secretary to enforce the order by bringing suit in a District court against the person that has failed to comply. The court may issue an injunction or provide other relief.

Paragraph (6) allows one of the parties to enforce the Secretary's order.

Subparagraph (A) allows the one who won the case before the Secretary to sue the other party to force compliance with the Secretary's order. The U.S. district court will have jurisdiction over the case.

Subparagraph (B) allows the court to award attorney's fees as appropriate.

Subsection (c) states that any nondiscretionary duty imposed by this section is enforceable in a mandamus proceeding.

Subsection (d) makes clear that an employee could be fired if the employee, on his or her own, deliberately causes a violation of any requirement relating to airline safety.

Subsection (e) uses a definition of "contractor" similar to the one found in the drug testing rules at 14 CFR 121, Appendix I. This will ensure that employees actually have some expertise in a safety-sensitive position in order to avail themselves of the protections offered by this legislation.

Section 602. Civil penalty

Provides a $1,000 civil penalty for the violation of this title.

TITLE VII.—MISCELLANEOUS PROVISIONS

Section 701. Duties and powers of Administrator

Lists the statutory responsibilities for which FAA is responsible.

Section 702. Public aircraft

Revises the definition of public aircraft to make it more understandable but without intending to make any substantive change in the law.

Section 703. Prohibition on release of offeror proposals

This section is similar to a provision in the National Defense Authorization Act of 1997 (P.L. 104–201, 110 Stat. 2422, 2609) that provided that contractor proposals submitted to agencies in response to a solicitation for competitive bids are exempt from release under the Freedom of Information Act (FOIA). The FAA was not included in this exemption because, under procurement reform, it is exempt from the Federal Property and Administrative Services Act. This section would correct that omission. The section does per-

mit FAA to release certain information relating to unsuccessful offeror proposals under procedures to be developed after public comment.

Section 704. Multiyear procurement contracts

Permits FAA to make a contract for not more than 10 years for telecommunication services that are provided through the use of satellites. Generally, such contracts would be limited to 5 years.

Section 705. Federal Aviation Administration personnel management system

Subsection (a) states that the 60-day period for congressional review of a proposed change to the FAA's personnel management system shall not include any time during which Congress has adjourned for the year.

Subsection (b) permits an employee to contest an adverse personnel action either through contractual grievance procedures if the employee is a member of a bargaining unit or through the FAA's internal grievance procedure known as "Guaranteed Fair Treatment."

Subsections (c) and (d) give the employee the further option of appealing to the Merit Systems Protection Board (MSPB).

Section 706. Nondiscrimination in airline travel

Prohibits discrimination in air travel on the basis of race, color, religion, national origin, sex, or disability.

Section 707. Joint venture agreement

Makes clear that the notice provisions governing domestic alliances only apply to alliances where both the airlines involved are major airlines, as currently defined in the law.

Section 708. Extension of War Risk Insurance Program

Reauthorizes the war risk insurance program for 5 years.

Section 709. General facilities and personnel authority

Permits FAA to make improvements to real property leased for an air navigation facility if certain specified conditions are met.

Section 710. Implementation of Article 83 bis of the Chicago Convention

This section provides the legislative authority for the implementation of Article 83 bis of the Convention on International Civil Aviation, 7 December 1944, 61 Stat. 1180, T.I.A.S. No. 1591, 15 U.N.T.S. 295, known as the Chicago Convention. (The suffix bis means that the new article is inserted between Articles 83 and 84.) The section permits the FAA, through bilateral agreement, to relinquish responsibility for U.S.-registered aircraft for which safety oversight responsibility is transferred abroad and accept responsibility for the foreign-registered aircraft whose oversight is transferred to the U.S. The transferred aircraft would be treated, for all practical safety oversight purposes only, as if they were on the registry of the other country. Paragraph (3) prohibits transferring responsibility for U.S.-registered aircraft to foreign nations that are

not in compliance with their obligations under international law for the safety oversight of civil aviation. These would typically be countries that are in Category II or III under the FAA's international aviation safety assessment program.

Section 711. Public availability of airmen records

Paragraph (1) requires that specified information from the airman's certificate to once again be made available to the public within 120 days of enactment notwithstanding privacy act considerations but subject to paragraph (2).

Paragraph (2) requires that before this information can be made available to the public, the airman must be given an opportunity to withhold the information from public release.

Paragraph (3) directs FAA to work with the aviation community to develop and implement not later than 60 days from the date of enactment a one-time written notification to airmen of the advantages and disadvantages to them of making their name and address publicly available.

Section 712. Appeals of Emergency Revocations of Certificates

Gives pilots, mechanics, carriers, and other FAA certificate holders the right to appeal a FAA action that revokes their certificate immediately. Under this section, if FAA revokes a certificate on an emergency basis, the revocation would be effective immediately. However, the person could appeal the emergency nature of the revocation, as well as the merits of the revocation, to the NTSB. If, within 10 days, two members of the Board decide that there is not an emergency, the person would get the certificate back while the appeal on the merits is pending. If the certificate is given back, the full 5-member NTSB must review this action within 15 days and either uphold it or decide that the FAA was correct and the certificate should be revoked while the case is pending. In any case, the NTSB continues to have 60 days to decide the merits of the appeal. This provision is not intended to impose a new standard for determining whether an emergency revocation was justified. Under the provision, NTSB would use the same standard of review that an appeal would receive if filed under 49 U.S.C. 46110. This provision merely expedites a process that can now sometimes be overly time consuming and expensive for the certificate holder.

Section 713. Government and industry consortia

This codifies in Title 49 a provision from an Appropriations Act for fiscal year 1997 (Public Law 104–208) that allows FAA to establish consortia of government and aviation industry representatives at individual airports to provide advice on aviation security and safety.

Section 714. Passenger manifest

This section returns to the pre-recodification language with respect to passenger manifests. A passenger manifest is a list of passengers aboard a flight. Prior to the re-codification of Title 49, the law stated that the manifest should include certain information (Section 203 of Public Law 101–604, 104 Stat. 3082, November 16, 1990). This was designed to indicate that DOT had flexibility in

specifying the information to be included in the manifest. However, the recodification changed the word should to shall. In order to make DOT's flexibility clear, and because the 1994 recodification expressly stated that it made no substantive change in law, this section returns to the original wording.

Section 715. Cost recovery for foreign aviation services

This section amends section 45301(a)(2) of Title 49 and clarifies the FAA's authority to collect fees for foreign aviation services provided by the FAA, such as those provided at foreign repair stations and for other foreign activities. The FAA has collected such fees since 1995. Fees for production-certification related services outside the U.S. are not permitted. This section would not affect the FAA's ability to collect air traffic control overflight fees as other provisions in section 45301 cover that.

Section 716. Technical corrections to civil penalty provisions

Paragraph (1) deletes references in section 46301(a)(1)(A) to section 46302 (providing false information) and section 46303 (carrying a weapon). Section 46301(a)(1)(A) limits civil penalties to $1,000 while sections 46302 and 46303 impose penalties of $10,000 by their own terms. Deleting the reference would make clear that violations of these two sections carry a maximum civil penalty of $10,000.

Paragraph (2) makes clear that not only individuals, but also other persons such as airlines, are entitled to notice and an opportunity for a hearing.

Paragraph (3) adds a reference in the judicial review section to orders of the Administrator since civil penalty authority also rests in that office.

Section 717. Foreign carriers eligible for waiver under Airport Noise and Capacity Act

This section would make foreign airlines eligible for the same waiver from the December 31, 1999 date for compliance with Stage 3 noise levels as is provided to U.S. airlines under the Airport Noise and Capacity Act of 1990 (Section 9308(b) of the Omnibus Budget Reconciliation Act of 1990). Nothing in this section should be construed as encouraging the FAA to grant such waivers.

Section 718. Metropolitan Washington Airport Authority

Subsection (a) extends the deadline for reauthorizing the Metropolitan Washington Airport Authority (MWAA) from 2001 to 2004.

Subsection (b) eliminates the requirement that the additional Federal Directors be appointed before MWAA can receive AIP grants or impose a new PFC.

Section 719. Acquisition Management System

This section would give the FAA flexibility to enter into contracts for procurement of severable services that begin in one year and end in another. Prior to procurement reform, FAA had this flexibility under the Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 253l).

Section 720. Centennial of Flight Commission

Makes technical changes to legislation passed last year (P.L. 105–389) establishing a Commission to help celebrate the 100th anniversary of the Wright Brothers first flight.

Section 721. Aircraft situational display data

Subsection (a) requires any person that receives aircraft situational display data from the FAA to be able to, and to agree to, block aircraft registration numbers if the FAA asked that they be blocked.

Subsection (b) requires any existing agreement with the FAA to obtain aircraft situational display data to conform to the requirements of subsection (a) above.

Section 722. Elimination of backlog of equal employment opportunity complaints

Authorizes $2 million to help DOT eliminate the backlog of pending equal employment opportunity complaints.

Section 723. Newport News, Virginia

Removes deed restrictions at the airport at Newport News, subject to the standard conditions for such waivers.

Similarly, the Committee understands that the nearby city of Norfolk and the Norfolk Airport Authority have negotiated an agreement to lease certain property owned by the city with compensation in the form of reasonable rent payments, as authorized in a legal opinion of the FAA's regional counsel dated April 26, 1985. At the time of that opinion, the FAA asked the city to provide a commitment in the form of a certification that the city would guarantee that the obligations assumed by the airport authority as the sponsor of AIP grants would not lapse. The city manager instead executed a duplicative airport sponsorship agreement in addition to the grant assurances that had already been signed by the authority, when a commitment in this form was not necessary. This minor administrative mistake has complicated approval of the leaseback of the airport property to the airport authority. To resolve this problem, the Committee strongly urges the FAA to take whatever action is necessary to approve and implement the lease of the property for reasonable compensation as contemplated by the FAA legal opinion of April 26, 1985.

Section 724. Grant of easement, Los Angeles, California

Permits the granting of an easement to build a road that could improve access to Palmdale Airport.

Section 725. Regulation of Alaska air guides

Subsection (a) requires Alaska air guides to be regulated under the FAA rules in 14 CFR Part 91 governing general aviation rather than the rules for a commercial operation.

Subsection (b) directs the FAA to conduct a rulemaking to supplement the requirements of Part 91 with additional requirements for Alaska Air Guides that are needed to ensure air safety without putting these guides out of business.

Subsection (c) defines terms.

Section 726. Aircraft repair and maintenance advisory panel

Subsection (a) establishes a panel to review aircraft repair stations.

Subsection (b) describes the 12 members of this panel.

Subsection (c) describes the responsibilities of the panel. These are to determine how much work is done on U.S. and foreign aircraft by U.S. and foreign repair stations and to provide advice on the staffing needs, balance of trade, and safety issues associated with this issue. In developing its advice, the panel may consider the similarities and differences in the FAA regulations for initial certification and renewal of those certificates of foreign and domestic repair stations, the similarities and differences in FAA operating regulations of those stations, a comparison of the inspection findings resulting from surveillance, a comparison of the manner in which FAA inspection findings are addressed and documented by the certificate holders and the FAA. The panel may also request an evaluation of Mechanical Reliability Reports, Mechanical Interruption Summary Reports and Malfunction Defect Reports submitted to the FAA, an evaluation of component usage practices that affect a repair station's ability to determine, at the time maintenance is performed, whether a particular part will be installed on a U.S. or foreign-registered aircraft and where that aircraft will be operated, the practice of repair facilities using maintenance subcontractors located in a country different from that of the primary maintenance provider, the number of foreign repair facilities which are wholly owned (or in which a majority interest is held) by a corporation that is a citizen of the U.S., the extent to which domestic and foreign corporations engaged in the production of civil aviation products and parts have an ownership interest in or are affiliated with domestic or foreign repair facilities, the extent to which certain maintenance services are only available in foreign countries, and any other issues that the panel considers relevant to the balance of trade or safety of foreign and domestic repair facilities.

Subsection (d) requires DOT to require information to be submitted on the balance of trade and safety issues and on the extent of alcohol and drug testing at foreign repair stations.

Subsection (e) requires DOT to facilitate the collection of information from other government agencies on these issues.

Subsection (f) requires DOT to make any relevant non-proprietary information available to the public.

Subsection (g) terminates the panel 2 years after the date of enactment or December 31, 2001, whichever occurs first.

Section 727. Operations of air taxi industry

Requires the FAA to study the air taxi industry to increase the government and industry's understanding of the size and nature of the industry with a view toward using this information in the context of future regulatory actions.

Section 728. Sense of Congress concerning completion of comprehensive national airspace redesign

States that it is the sense of Congress that the FAA should complete and begin implementing the comprehensive national airspace redesign as soon as possible.

Section 729. Compliance with requirements

Permits an airport to use a completed environmental assessment or environmental impact study for a new project at the airport if the completed assessment or study was for a project that is substantially similar to the new project and meets all Federal requirements for such a study or assessment.

Section 730. Aircraft noise levels at airports

Subsection (a) requires FAA to continue to work to develop a new standard for quieter aircraft.

Subsection (b) requires annual reports to Congress on this work.

Section 731. FAA consideration of certain State proposals

Encourages the FAA to consider any proposal with a regional consensus submitted by a State aviation authority regarding the expansion of existing airport facilities or the introduction of new airport facilities.

TITLE VIII.—NATIONAL PARKS AIR TOUR MANAGEMENT

Section 801. Short title

The short title is the "National Parks Air Tour Management Act of 1999".

Section 802. Findings

This section includes the following six findings relative to the parks overflights title of the bill.

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

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights of public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, commercial air tour, environmental, and Native American representatives, recommended that the Congress enact legislation based on the Group's consensus work product; and

(6) this Act reflects the recommendations made by that Group.

Section 803. Air tour management plans for national parks

This section would require that commercial air tour operators conduct air tour operations over a National Park or tribal lands within or abutting a National Park in accordance with an approved air tour management plan (ATMP).

Prior to commencing air tour operations over a National Park, a commercial air tour operator must apply to the Administrator of the FAA for authority to conduct operations over the park. The Administrator of the FAA would prescribe operating conditions and limitations for each commercial air tour operator, and in cooperation with the Director of the National Park Service (NPS), develop an ATMP.

If an ATMP limits the number of commercial air tours over a national park area during a specified time frame, the FAA Administrator and the Director of the NPS would authorize certain commercial air tour operators to provide the service, in accordance with an open competitive process developed by the two agencies. The section sets forth the factors for consideration in authorizing the number of commercial air tours in this situation.

This section would require that commercial air tour operators over national parks and tribal lands meet the FAA safety criteria codified in 14 C.F.R. Parts 119, 121 or 135, as appropriate. Upon enactment of the legislation, existing commercial air tour operators would have 90 days to apply to the FAA for authority under 14 C.F.R Part 119 to operate under Part 135 and Part 121.

Certain commercial air tour operators, if they meet the requirements set forth in 14 C.F.R. 119, could continue to conduct tours under the standards of 14 C.F.R. Part 91. The operator would be required to secure approval from the FAA and the NPS describing the conditions for flight operations. The total number of operations under this Part 91 exception would be limited to no more than five flights in any 30–day period over a single park.

Any new entrant commercial air tour operator would be required to apply for the authority before it can begin commercial air tour operations over a National Park or tribal lands within or abutting a National Park. The FAA would be required to act on new entrant applications within 24 months.

Section 3 directs the FAA Administrator, in cooperation with the Director of the NPS, to develop and establish an ATMP for any National Park or tribal land within or abutting a National Park whenever a application is made, if an ATMP is not already in place. This requirement to establish an ATMP applies automatically if commercial air tours already exist over the National Park or tribal lands within or abutting National Parks.

An ATMP would be developed through a public process, with the appropriate environmental documentation, as required by the National Environmental Policy Act, to be signed by both the FAA and NPS, and with the final ATMP subject to judicial review.

The objective of the ATMP is to develop acceptable and effective measures to mitigate the significant adverse impacts, if any, of commercial air tours upon the natural and cultural resources and

visitor experiences at National Parks and tribal lands within or abutting National Parks.

Section 3 also lists the possible contents of an ATMP, and requires justification and documentation for any measures adopted in the ATMP.

Procedures for developing an ATMP are also outlined in this Section. The procedure would require at least one public meeting and publication of the ATMP in the Federal Register for notice and comment. Amendments to ATMPs would also be required to be published in the Federal Register for notice and comment.

Existing commercial air tour operators at national parks would apply for an ATMP to the FAA Administrator, and the FAA Administrator would grant these operators interim operating authority (IOA) until the ATMP for that National Park is complete.

The FAA Administrator would authorize the operator to conduct the same number of tour flights that the operator conducted over the past year (or the annual average of the past three years, whichever is higher). In order to increase operations, the commercial air tour operator would have to obtain the approval of the FAA Administrator and the NPS Director.

The IOA would be published in the Federal Register to provide notice and opportunity for comment. It could be revoked by the FAA Administrator for cause. In any event, it would terminate 180 days after an ATMP is developed for the National Park.

New entrants would not be allowed to conduct commercial air tour operations over a national park until the ATMP for that park is developed.

Once an ATMP is established for a specific park, it may be amended by the Administrator in cooperation with the Director of NPS. Any such amendment must be published in the Federal Register.

Section 3 specifically exempts Grand Canyon National Park and any NPS unit located in Alaska from the provisions of this section regarding the establishment of ATMPs.

Section 3 also contains definitions for terms used in this section.

Section 804. Advisory group

Within one year of enactment, the FAA Administrator and the NPS Director would establish an advisory group to provide continuing advice and counsel with respect to the operation of commercial air tours over and near National Parks.

The membership would consist of a balanced group of representatives of general aviation, commercial air tour operators, environmental concerns, Indian tribes, the FAA, and the NPS. The FAA and the NPS representatives would serve alternating one-year terms as chairman of the advisory group.

Among its duties, the advisory group would provide recommendations on the designation of commonly accepted quiet aircraft technologies, which are to be given preferential treatment in ATMPs.

Section 4 also provides for the compensation of the advisory group and the non-application of the Federal Advisory Committee Act to the group.

Section 805. Reports

Overflight fee report

Within 180 days of enactment, the FAA Administrator would report to Congress on the effects of overflight fees on the commercial air tour industry. The report would include the viability of a tax credit for operators equal to the amount of the fee charged by the NPS, as well as the financial effects that these proposed offsets are likely to have on FAA budgets and appropriations.

Quiet aircraft technology report

Not later than 2 years after the date of enactment, the FAA Administrator and the NPS Director are required to jointly transmit a report to Congress on the effectiveness of this Act in providing incentives for the development and use of quiet aircraft technology.

Section 806. Exemptions

The section exempts the State of Alaska from this Act.

Section 807. Definitions

This section sets forth definitions applicable to the Act.

TITLE IX.—TRUTH IN BUDGETING

Section 901. Short title

This title may be cited as the "Truth in Budgeting Act."

Section 902. Budgetary treatment of Airport and Airway Trust Fund

This section follows the language used to take the Social Security Trust Fund off-budget in Section 13301 of the Budget Enforcement Act of 1990. Specifically, the language provides that all receipts and disbursements of the Aviation Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of: (1) the budget of the United States Government as submitted by the President, (2) the congressional budget (including allocations of budget authority and outlays provided therein), or (3) the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman).

In addition, the Aviation Trust Fund shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the U.S. government.

Section 903. Safeguards Against Deficit Spending Out of Airport and Airway Trust Fund

This section duplicates for the Aviation Trust Fund the automatic spending safeguards provided by the Byrd Rule in the Highway Trust Fund. Specifically, if the Secretary of Transportation, in consultation with the Secretary of the Treasury, determines that fund balances and expected receipts do not cover aviation authorizations, those authorizations are reduced on a pro-rata basis to cover the shortfall.

While spending safeguards are already built into this trust fund, this provision provides the absolute assurance of a Byrd Rule type

process to ensure that the trust fund is deficit proof and operates on a pay as you go basis. (Note: the Byrd Rule as it applies to the Highway Trust Fund is named after former Senator Harry Byrd of Virginia and is not the same Byrd Rule in the Senate relating to extraneous matters in reconciliation legislation.)

Section 904. Applicability

This section states that this title shall apply beginning in fiscal year 2001.

TITLE X.—ADJUSTMENT OF TRUST FUND AUTHORIZATIONS

Section 1001. Adjustment of Trust Fund Authorizations

Subsection (a) amends adds a new Chapter 483 to Title 49 of the U.S. code, as follows:

Section 48301 includes the following definitions:

(1) Base Year—meaning the second fiscal year before the fiscal year for which the calculation is being made;

(2) AIP Program—meaning programs made available under section 48103;

(3) Aviation Income—the tax receipts and interest credited to the Aviation Trust Fund.

Section 48302 set forth the following adjustments to align aviation authorizations with revenues.

(a) Beginning with fiscal year 2003, if the actual aviation income (taxes plus interest) for the base year (for 2003, the base year would be 2001) is greater or less than the estimated aviation income for the base year, the FAA authorization levels increase or decrease proportionately.

(b) This section defines the ratio by which the authorization for each account is adjusted as being dependent on that account's share of the total sum authorized for the FAA.

(c) This paragraph requires that the President's Budget should report any increases or decreases in authorizations that would result from the calculation from subsection (a).

Section 48303 makes adjustments to align AIP program funding with budget resources. Beginning in fiscal year 2001, if the FAA accounts are appropriated at levels lower than authorized, this subsection would increase the contract authority authorized for the AIP by the difference between the authorized and appropriated levels of the three other FAA accounts—Operations, F&E, and RED. Any additional amount authorized for AIP under this section would remain subject to the obligation limitation, if any, included in the appropriations language.

Section 48304 estimates the annual aviation income that is anticipated for the years 2001 through 2004, as follows:

(1) $10,734,000,000 billion for fiscal year 2001;
(2) $11,603,000,000 billion for fiscal year 2002;
(3) $12,316,000,000 billion for fiscal year 2003; and
(4) $13,062,000,000 billion for fiscal year 2004.

Section 1002. Budget estimates

This section states that this title and title IX will not result in any direct spending outlays (pay as you go outlays) as calculated

by the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 1003. Sense of Congress on fully offsetting increased aviation spending

This section is a sense of the Congress that states the following:

(1) Aviation users pay aviation taxes to be used for aviation purposes.

(2) Aviation users will pay $14 billion more in taxes than the budget resolution provides using historic funding patterns.

(3) AIR 21 would allow the $14 billion mentioned above to be used for aviation purposes, and

(4) This funding will be fully offset by recapturing the unspent aviation taxes and reducing the $778 billion tax cut.

HEARINGS AND LEGISLATIVE HISTORY

On February 4, 10, and 11, 1999, the Aviation Subcommittee held hearings on the budgetary treatment of aviation programs and the need for additional investment in those programs. Testimony was given by the Administration and aviation users.

COMMITTEE CONSIDERATION

On May 27, 1999, the Full Committee met in open session and favorably reported H.R. 1000.

ROLLCALL VOTES

Clause 3(b) of Rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each roll call vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no roll call votes.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(i) of Rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1000.

3. Pursuant to clause 3(d)(2)(A) of Rule XIII, the Committee is filing its own estimate of the costs that would be incurred in carrying out the bill. The CBO estimate was not timely submitted to the Committee before the filing of the report.

COST ESTIMATE PREPARED BY COMMITTEE

Although we requested that the Congressional Budget Office (CBO) complete its cost estimate of H.R. 1000 by 6:00 p.m. today, it appears that the letter will not be ready to file with out report. Therefore, the Committee is forced to provide our understanding of how CBO will score our bill as reported out of the Committee.

Attached is a summary table based on a preliminary CBO estimate of the outlays resulting from H.R. 1000. The bill provides $57.353 billion in budget authority and $52.835 billion in outlays over the four-year period of 2001 through 2004 for the Federal Aviation Administration's (FAA) programs. In addition, the bill provides an additional $50 million in mandatory budget authority above the baseline for the Essential Air Service program (within the Office of the Secretary of Transportation). When added together, the bill would allow $52.885 billion in outlays. We believe this funding is consistent with the agreement we reached with you during consideration of the concurrent resolution on the budget for FY 2000 ($52.89 billion in outlays from 2001 through 2004).

FAA FUNDING UNDER AIR 21 (AS AMENDED)

[In millions of dollars]

	Air 21—					4 Year total [2]
	2000 [1]	2001	2002	2003	2004	
Operations:						
BA	5,567	6,450	6,886	7,357	7,860	28,553
OL	5,596	6,358	6,838	7,305	7,805	28,306
Airport Improvement Program (AIP):						
BA	2,475	4,000	4,100	4,250	4,350	16,700
OL	1,895	2,452	3,245	3,738	4,028	13,463
Facilities and Equipment (F&E):						
BA	2,000	2,500	3,000	3,000	3,000	11,500
OL	1,983	2,191	2,523	2,810	2,955	10,479
Research, Engineering, and Development: [3]						
BA	150	150	150	150	150	600
OL	155	150	150	150	150	600
FAA total BA [4]	10,192	13,100	14,136	14,757	15,360	57,353
FAA total OL	9,629	11,148	12,753	14,000	14,935	52,835

[1] H.R. 1000 authorizes "such sums" for Ops and F&E for FY2000, however, CBO will use the baseline for scoring purposes.
[2] The total amount is for the 4 years 2001–2004 which captures the years affected by the budgetary treatment changes of AIR 21.
[3] The RED account is not authorized under AIR 21, and therefore the baseline is assumed.
[4] Note that the total includes the RED account, even though it is not authorized under AIR 21.

(Details may not add to total, due to rounding.)

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104–4.)

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104–1.)

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

SUBTITLE I—DEPARTMENT OF TRANSPORTATION

* * * * * * *

CHAPTER 1—ORGANIZATION

Sec.
101. Purpose.

* * * * * * *

113. Air Traffic Control Oversight Board.

* * * * * * *

§ 106. Federal Aviation Administration

(a) * * *

* * * * * * *

(f) AUTHORITY OF THE SECRETARY AND THE ADMINISTRATOR.—
(1) * * *

* * * * * * *

(3) REGULATIONS.—
(A) * * *

(B) APPROVAL OF SECRETARY OF TRANSPORTATION.—(i) The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of [$100,000,000] *$250,000,000* or more (adjusted annually for inflation beginning with the year following the date of the enactment of the [Air Traffic Management System Performance Improvement Act of 1996] *Aviation Investment and Reform Act for the 21st Century*) in any year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance. For purposes of this paragraph, a regulation is significant if the Administrator, in consultation with the Secretary (as appropriate), determines that the regulation is likely to—

(I) have an annual effect on the economy of [$100,000,000] *$250,000,000* or more or adversely affect in a *substantial and* material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; *or*

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

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

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

(II) raise novel or significant legal or policy issues arising out of legal mandates that may substantially and materially affect other transportation modes.

* * * * * * *

(g) DUTIES AND POWERS OF ADMINISTRATOR.—(1) Except as provided in paragraph (2) of this subsection, the Administrator shall carry out—

(A) duties and powers of the Secretary of Transportation under subsection (f) of this section related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous material) and stated in sections 308(b), 1132(c) and (d), 40101(c), 40103(b), 40106(a), 40108, 40109(b), [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,] *40113(a), 40113(c), 40113(d), 40113(e), 40114(a), and 40119, chapter 445 (except sections 44501(b), 44502(a)(2), 44502(a)(3), 44502(a)(4),*

44503, 44506, 44509, 44510, 44514, and 44515), chapter 447 (except sections 44717, 44718(a), 44718(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 46104, 46301(d) and (h)(2), 46303(c), 46304–46308, 46310, 46311, and 46313–46316, chapter 465, and sections 47504(b)(related to flight procedures), 47508(a), and 48107 of this title; and

(B) * * *

* * * * * * *

(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary of Transportation for operations of [the Administration $5,158,000,000 for fiscal year 1997 and $5,344,000,000 for fiscal year 1998.] *the Administration—*

(A) such sums as may be necessary for fiscal year 2000;

(B) $6,450,000,000 for fiscal year 2001;

(C) $6,886,000,000 for fiscal year 2002;

(D) $7,357,000,000 for fiscal year 2003; and

(E) $7,860,000,000 for fiscal year 2004.

(2) AUTHORIZED EXPENDITURES.—Of the amounts appropriated under paragraph (1) for fiscal years 2001 through 2004—

(A) $450,000 per fiscal year may be used for wildlife hazard mitigation measures and management of the wildlife strike database of the Federal Aviation Administration;

(B) such sums as may be necessary may be used to fund an office within the Federal Aviation Administration dedicated to supporting infrastructure systems development for both general aviation and the vertical flight industry;

(C) such sums as may be necessary may be used to revise existing terminal and en route procedures and instrument flight rules to facilitate the takeoff, flight, and landing of tiltrotor aircraft and to improve the national airspace system by separating such aircraft from congested flight paths of fixed-wing aircraft;

(D) such sums as may be necessary may be used to establish helicopter approach procedures using current technologies (such as the Global Positioning System) to support all-weather, emergency medical service for trauma patients;

(E) $3,000,000 per fiscal year may be used to implement the 1998 airport surface operations safety action plan of the Federal Aviation Administration;

(F) $2,000,000 per fiscal year may be used to support a university consortium established to provide an air safety and security management certificate program, working cooperatively with United States air carriers; except that funds under this subparagraph—

(i) may not be used for the construction of a building or other facility; and

(ii) may only be awarded on the basis of open competition; and

(G) such sums as may be necessary may be used to develop or improve training programs (including model train-

ing programs and curriculum) for security screeners at airports.

* * * * * * *

(p) MANAGEMENT ADVISORY COUNCIL.—

(1) * * *

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

(A) * * *

* * * * * * *

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

(C) 13 members representing aviation interests, appointed by—

(i) in the case of initial appointments to the Council, the President by and with the advice and consent of the Senate; and

(ii) in the case of subsequent appointments to the Council, the Secretary of Transportation.

* * * * * * *

(6) ADMINISTRATIVE MATTERS.—

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

* * * * * * *

(r) CHIEF OPERATING OFFICER.—

(1) IN GENERAL.—

(A) APPOINTMENT.—There shall be a Chief Operating Officer for the air traffic control system to be appointed by the Administrator, with approval of the Air Traffic Control Oversight Board established by section 113. The Chief Operating Officer shall report directly to the Administrator and shall be subject to the authority of the Administrator.

(B) QUALIFICATIONS.—The Chief Operating Officer shall have a demonstrated ability in management and knowledge of or experience in aviation.

(C) TERM.—The Chief Operating Officer shall be appointed for a term of 5 years.

(D) REMOVAL.—The Chief Operating Officer shall serve at the pleasure of the Administrator, except that the Administrator shall make every effort to ensure stability and continuity in the leadership of the air traffic control system.

(E) VACANCY.—Any individual appointed to fill a vacancy in the position of Chief Operating Officer occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

(2) ANNUAL PERFORMANCE AGREEMENT.—The Administrator and the Chief Operating Officer, in consultation with the Air Traffic Control Oversight Board, shall enter into an annual performance agreement that sets forth measurable organization

and individual goals for the Chief Operating Officer in key operational areas. The agreement shall be subject to review and renegotiation on an annual basis.

(3) ANNUAL PERFORMANCE REPORT.—The Chief Operating Officer shall prepare and submit to the Secretary of Transportation and Congress an annual management report containing such information as may be prescribed by the Secretary.

* * * * * * *

§ 113. Air Traffic Control Oversight Board

(a) ESTABLISHMENT.—There is established within the Department of Transportation an "Air Traffic Control Oversight Board" (in this section referred to as the "Oversight Board").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Oversight Board shall be composed of 9 members, as follows:

(A) Six members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

(B) One member shall be the Secretary of Transportation or, if the Secretary so designates, the Deputy Secretary of Transportation.

(C) One member shall be the Administrator of the Federal Aviation Administration.

(D) One member shall be an individual who is appointed by the President, by and with the advice and consent of the Senate, from among individuals who are the leaders of their respective unions of air traffic control system employees.

(2) QUALIFICATIONS AND TERMS.—

(A) QUALIFICATIONS.—Members of the Oversight Board described in paragraph (1)(A) shall—

(i) have a fiduciary responsibility to represent the public interest;

(ii) be citizens of the United States; and

(iii) be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in 1 or more of the following areas:

(I) Management of large service organizations.

(II) Customer service.

(III) Management of large procurements.

(IV) Information and communications technology.

(V) Organizational development.

(VI) Labor relations.

At least 3 members of the Oversight Board appointed under paragraph (1)(A) should have knowledge of, or a background in, aviation. At least one of such members should have a background in managing large organizations successfully. In the aggregate, such members should collectively bring to bear expertise in all of the areas described in subclauses (I) through (VI) of clause (iii).

(B) PROHIBITIONS.—No member of the Oversight Board described in paragraph (1)(A) may—

(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise;

(ii) engage in another business related to aviation or aeronautics; or

(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.

(C) TERMS FOR AIR TRAFFIC CONTROL REPRESENTATIVES.—A member appointed under paragraph (1)(D) shall be appointed for a term of 3 years, except that the term of such individual shall end whenever the individual no longer meets the requirements of paragraph (1)(D).

(D) TERMS FOR NONFEDERAL OFFICERS OR EMPLOYEES.—A member appointed under paragraph (1)(A) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

(i) 2 members shall be appointed for a term of 3 years;

(ii) 2 members shall be appointed for a term of 4 years; and

(iii) 2 members shall be appointed for a term of 5 years.

(E) REAPPOINTMENT.—An individual may not be appointed under paragraph (1)(A) to more than two 5-year terms on the Oversight Board.

(F) VACANCY.—Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

(3) ETHICAL CONSIDERATIONS.—

(A) FINANCIAL DISCLOSURE.—During the entire period that an individual appointed under subparagraph (A) or (D) of paragraph (1) is a member of the Oversight Board, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act, except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

(B) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, an individual appointed under subparagraph (A) or (D) of paragraph (1) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Board, except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

(C) WAIVER.—At the time the President nominates an individual for appointment as a member of the Oversight Board under paragraph (1)(D), the President may waive for the term of the member any appropriate provision of chapter 11 of title 18, to the extent such waiver is necessary to

allow the member to participate in the decisions of the Board while continuing to serve as a full-time Federal employee or a representative of employees. Any such waiver shall not be effective unless a written intent of waiver to exempt such member (and actual waiver language) is submitted to the Senate with the nomination of such member.

(4) QUORUM.—Five members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

(5) REMOVAL.—Any member of the Oversight Board appointed under subparagraph (A) or (D) of paragraph (1) may be removed for cause by the President.

(6) CLAIMS.—

(A) IN GENERAL.—A member of the Oversight Board appointed under subparagraph (A) or (D) of paragraph (1) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member of the Oversight Board.

(B) EFFECT ON OTHER LAW.—This paragraph shall not be construed—

(i) to affect any other immunity or protection that may be available to a member of the Oversight Board under applicable law with respect to such transactions;

(ii) to affect any other right or remedy against the United States under applicable law; or

(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

(c) GENERAL RESPONSIBILITIES.—

(1) OVERSIGHT.—The Oversight Board shall oversee the Federal Aviation Administration in its administration, management, conduct, direction, and supervision of the air traffic control system.

(2) CONFIDENTIALITY.—The Oversight Board shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

(d) SPECIFIC RESPONSIBILITIES.—The Oversight Board shall have the following specific responsibilities:

(1) STRATEGIC PLANS.—To review, approve, and monitor achievements under a strategic plan of the Federal Aviation Administration for the air traffic control system, including the establishment of—

(A) a mission and objectives;

(B) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

(C) annual and long-range strategic plans.

(2) MODERNIZATION AND IMPROVEMENT.—To review and approve—

(A) methods of the Federal Aviation Administration to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control; and

(B) procurements of air traffic control equipment by the Federal Aviation Administration in excess of $100,000,000.

(3) OPERATIONAL PLANS.—To review the operational functions of the Federal Aviation Administration, including—

(A) plans for modernization of the air traffic control system;

(B) plans for increasing productivity or implementing cost-saving measures; and

(C) plans for training and education.

(4) MANAGEMENT.—To—

(A) review and approve the Administrator's appointment of a Chief Operating Officer under section 106(r);

(B) review the Administrator's selection, evaluation, and compensation of senior executives of the Federal Aviation Administration who have program management responsibility over significant functions of the air traffic control system;

(C) review and approve the Administrator's plans for any major reorganization of the Federal Aviation Administration that would impact on the management of the air traffic control system;

(D) review and approve the Administrator's cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation; and

(E) review the performance and cooperation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets.

(5) BUDGET.—To—

(A) review and approve the budget request of the Federal Aviation Administration related to the air traffic control system prepared by the Administrator;

(B) submit such budget request to the Secretary of Transportation; and

(C) ensure that the budget request supports the annual and long-range strategic plans.

The Secretary shall submit the budget request referred to in paragraph (5)(B) for any fiscal year to the President who shall submit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year.

(e) REPORTING OF OVERTURNING OF BOARD DECISIONS.—If the Secretary or Administrator overturns a decision of the Oversight Board, the Secretary or Administrator, as appropriate shall report such action to the President, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(f) BOARD PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) IN GENERAL.—Each member of the Oversight Board who—

(i) appointed under subsection (b)(1)(A); or

(ii) appointed under subsection (b)(1)(D) and is not otherwise a Federal officer or employee,

shall be compensated at a rate of $30,000 per year. All other members shall serve without compensation for such service.

(B) CHAIRPERSON.—Notwithstanding subparagraph (A), the chairperson of the Oversight Board shall be compensated at a rate of $50,000 per year.

(2) TRAVEL EXPENSES.—

(A) IN GENERAL.—The members of the Oversight Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, to attend meetings of the Oversight Board and, with the advance approval of the chairperson of the Oversight Board, while otherwise away from their homes or regular places of business for purposes of duties as a member of the Oversight Board.

(B) REPORT.—The Oversight Board shall include in its annual report under subsection (g)(3)(A) information with respect to the travel expenses allowed for members of the Oversight Board under this paragraph.

(3) STAFF.—

(A) IN GENERAL.—The chairperson of the Oversight Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

(B) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairperson of the Oversight Board, a Federal agency shall detail a United States Government employee to the Oversight Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5.

(g) ADMINISTRATIVE MATTERS.—

(1) CHAIR.—

(A) TERM.—The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

(B) POWERS.—Except as otherwise provided by a majority vote of the Oversight Board, the powers of the chairperson shall include—

(i) establishing committees;

(ii) setting meeting places and times;

(iii) establishing meeting agendas; and

(iv) developing rules for the conduct of business.

(2) MEETINGS.—The Oversight Board shall meet at least quarterly and at such other times as the chairperson determines appropriate.

(3) REPORTS.—

(A) ANNUAL.—The Oversight Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(B) ADDITIONAL REPORT.—Upon a determination by the Oversight Board under subsection (c)(1) that the organization and operation of the Federal Aviation Administration's air traffic control system are not allowing the Federal Aviation Administration to carry out its mission, the Oversight Board shall report such determination to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(C) COMPTROLLER GENERAL'S REPORT.—Not later than April 30, 2004, the Comptroller General of the United States shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the success of the Oversight Board in improving the performance of the air traffic control system.".

* * * * * * *

SUBTITLE II—OTHER GOVERNMENT AGENCIES

* * * * * * *

CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

* * * * * * *

SUBCHAPTER III—AUTHORITY

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

(a) * * *

* * * * * * *

(g) PROHIBITED ACTIONS.—

(1) * * *

(2) UNSOLICITED COMMUNICATIONS.—In the event of an accident involving an air carrier providing interstate or foreign air **[**transportation,**]** *transportation and in the event of an accident involving a foreign air carrier that occurs within the United States,* no unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney *(including any associate, agent, employee, or other representative of an attorney)* or any potential party to the litigation to an individual injured in the accident, or to a relative of an individual involved in the accident, before the **[**30th day**]** *45th day* following the date of the accident.

(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

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

(1) * * *

[(2) PASSENGER.—The term "passenger" includes an employee of an air carrier aboard an aircraft.**]**

(2) PASSENGER.—The term "passenger" includes—

(A) an employee of an air carrier or foreign air carrier aboard an aircraft; and

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

(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.

* * * * * * *

SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

§ 1151. Aviation enforcement

(a) CIVIL ACTIONS BY BOARD.—The National Transportation Safety Board may bring a civil action in a district court of the United States against a person to enforce section 1132, 1134(b) or (f)(1) (related to an aircraft accident), *1136(g)(2),* or 1155(a) of this title or a regulation prescribed or order issued under any of those sections. An action under this subsection may be brought in the judicial district in which the person does business or the violation occurred.

(b) CIVIL ACTIONS BY ATTORNEY GENERAL.—On request of the Board, the Attorney General may bring a civil action in an appropriate court—

(1) to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), *1136(g)(2),* or 1155(a) of this title or a regulation prescribed or order issued under any of those sections; and

(2) * * *

(c) PARTICIPATION OF BOARD.—On request of the Attorney General, the Board may participate in a civil action to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), *1136(g)(2),* or 1155(a) of this title.

* * * * * * *

SUBTITLE VII—AVIATION PROGRAMS

* * * * * * *

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

CHAPTER 401—GENERAL PROVISIONS

§ 40101. Policy

(a) ECONOMIC REGULATION.—In carrying out subpart II of this part and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity:

(1) * * *

* * * * * * *

(16) ensuring that consumers in all regions of the United States, including those in small communities and rural and remote areas, have access to affordable, regularly scheduled air service.

* * * * * * *

§ 40102. Definitions

(a) GENERAL DEFINITIONS.—In this part—

(1) * * *

* * * * * * *

(5) "air traffic control system" means the combination of elements used to safely and efficiently monitor, direct, control, and guide aircraft in the United States and United States-assigned airspace, including—

(A) allocated electromagnetic spectrum and physical, real, personal, and intellectual property assets making up facilities, equipment, and systems employed to detect, track, and guide aircraft movement;

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

(C) published procedures that explain required actions, activities, and techniques used to ensure adequate aircraft separation; and

(D) trained personnel with specific technical capabilities to satisfy the operational, engineering, management, and planning requirements for air traffic control.

[(5)] *(6)* "air transportation" means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

[(6)] *(7)* "aircraft" means any contrivance invented, used, or designed to navigate, or fly in, the air.

[(7)] *(8)* "aircraft engine" means an engine used, or intended to be used, to propel an aircraft, including a part, appurtenance, and accessory of the engine, except a propeller.

[(8)] *(9)* "airman" means an individual—

(A) * * *

* * * * * * *

[(9)] *(10)* "airport" means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

[(10)] *(11)* "all-cargo air transportation" means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

[(11)] *(12)* "appliance" means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

[(12)] *(13)* "cargo" means property, mail, or both.

[(13)] *(14)* "charter air carrier" means an air carrier holding a certificate of public convenience and necessity that authorizes it to provide charter air transportation.

[(14)] *(15)* "charter air transportation" means charter trips in air transportation authorized under this part.

[(15)] *(16)* "citizen of the United States" means—

(A) * * *

* * * * * * *

[(16)] *(17)* "civil aircraft" means an aircraft except a public aircraft.

[(17)] *(18)* "civil aircraft of the United States" means an aircraft registered under chapter 441 of this title.

[(18)] *(19)* "conditional sales contract" means a contract—

(A) * * *

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[(19)] *(20)* "conveyance" means an instrument, including a conditional sales contract, affecting title to, or an interest in, property.

[(20)] *(21)* "Federal airway" means a part of the navigable airspace that the Administrator designates as a Federal airway.

[(21)] *(22)* "foreign air carrier" means a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation.

[(22)] *(23)* "foreign air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation, between a place in the United States and a place outside the United States when any part of the transportation or operation is by aircraft.

[(23)] *(24)* "foreign air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

[(24)] *(25)* "interstate air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation—

(A) * * *

* * * * * * *

[(25)] *(26)* "interstate air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(A) * * *

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[(26)] *(27)* "intrastate air carrier" means a citizen of the United States undertaking by any means to provide only intrastate air transportation.

[(27)] *(28)* "intrastate air transportation" means the transportation by a common carrier of passengers or property for compensation, entirely in the same State, by turbojet-powered aircraft capable of carrying at least 30 passengers.

[(28)] *(29)* "landing area" means a place on land or water, including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or cargo.

[(29)] *(30)* "mail" means United States mail and foreign transit mail.

[(30)] *(31)* "navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations under this subpart and subpart III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft.

[(31)] *(32)* "navigate aircraft" and "navigation of aircraft" include piloting aircraft.

[(32)] *(33)* "operate aircraft" and "operation of aircraft" mean using aircraft for the purposes of air navigation, including—

(A) * * *

* * * * * * *

[(33)] *(34)* "person", in addition to its meaning under section 1 of title 1, includes a governmental authority and a trustee, receiver, assignee, and other similar representative.

[(34)] *(35)* "predatory" means a practice that violates the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

[(35)] *(36)* "price" means a rate, fare, or charge.

[(36)] *(37)* "propeller" includes a part, appurtenance, and accessory of a propeller.

[(37) "public aircraft"—

[(A) means an aircraft—

[(i) used only for the United States Government;

[(ii) owned by the United States Government and operated by any person for purposes related to crew training, equipment development, or demonstration; or

[(iii) owned and operated (except for commercial purposes), or exclusively leased for at least 90 continuous days, by a government (except the United States Government), including a State, the District of Columbia, or a territory or possession of the United States, or political subdivision of that government; but

[(B) does not include a government-owned aircraft—

[(i) transporting property for commercial purposes; or

[(ii) transporting passengers other than—

[(I) transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of, a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management; or

[(II) transporting (for other than commercial purposes) persons aboard the aircraft if the aircraft is operated by the Armed Forces or an intelligence agency of the United States.

An aircraft described in the preceding sentence shall, notwithstanding any limitation relating to use of the aircraft for commercial purposes, be considered to be a public aircraft for the purposes of this part without regard to whether the aircraft is operated by a unit of government on behalf of another unit of government, pursuant to a cost reimbursement agreement between such units of government, if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat.]

(38) "public aircraft" means an aircraft—

(A) used only for the United States Government, and operated under the conditions specified by section 40125(b) if owned by the Government;

(B) owned by the United States Government, operated by any person for purposes related to crew training, equipment development, or demonstration, and operated under the conditions specified by section 40125(b);

(C) owned and operated by the government of a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of one of these governments, under the conditions specified by section 40125(c); or

(D) exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of one of these governments, under the conditions specified by section 40125(c).

[(38)**]** *(39)* "spare part" means an accessory, appurtenance, or part of an aircraft (except an aircraft engine or propeller), aircraft engine (except a propeller), propeller, or appliance, that is to be installed at a later time in an aircraft, aircraft engine, propeller, or appliance.

[(39)**]** *(40)* "State authority" means an authority of a State designated under State law—

(A) to receive notice required to be given a State authority under subpart II of this part; or

(B) as the representative of the State before the Secretary of Transportation in any matter about which the Secretary is required to consult with or consider the views of a State authority under subpart II of this part.

[(40)**]** *(41)* "ticket agent" means a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.

[(41)**]** *(42)* "United States" means the States of the United States, the District of Columbia, and the territories and possessions of the United States, including the territorial sea and the overlying airspace.

* * * * * * *

§ 40110. General procurement authority

(a) * * *

* * * * * * *

(d) PROHIBITION ON RELEASE OF OFFEROR PROPOSALS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), a proposal in the possession or control of the Administrator may not be made available to any person under section 552 of title 5.

(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a proposal of an offeror the disclosure of which is authorized by the Administrator pursuant to procedures published in the Federal Register. The Administrator shall provide an opportunity for public comment on the procedures for a period of not less than 30 days beginning on the date of such publication in order to receive and consider the views of all interested parties

on the procedures. The procedures shall not take effect before the 60th day following the date of such publication.

(3) PROPOSAL DEFINED.—In this subsection, the term "proposal" means information contained in or originating from any proposal, including a technical, management, or cost proposal, submitted by an offeror in response to the requirements of a solicitation for a competitive proposal.

§ 40111. Multiyear procurement contracts for services and related items

(a) * * *

(b) TELECOMMUNICATIONS SERVICES.—Notwithstanding section 1341(a)(1)(B) of title 31, the Administrator may make a contract of not more than 10 years for telecommunication services that are provided through the use of a satellite if the Administrator finds that the longer contract period would be cost beneficial.

[(b)**]** *(c)* REQUIRED FINDINGS.—The Administrator may make a contract under this section only if the Administrator finds that—

(1) * * *

* * * * * * *

[(c)**]** *(d)* CONSIDERATIONS.—When making a contract under this section, the Administrator shall be guided by the following:

(1) * * *

* * * * * * *

[(d)**]** *(e)* ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) * * *

* * * * * * *

§ 40117. Passenger facility fees

(a) DEFINITIONS.—In this section—

(1) * * *

* * * * * * *

(3) "eligible airport-related project" means a project—

(A) * * *

* * * * * * *

(C) for costs of terminal development referred to in subparagraph (B) incurred after August 1, 1986, at an airport that did not have more than .25 percent of the total annual passenger boardings in the United States in the most recent calendar year for which data is available and at which total passenger boardings declined by at least 16 percent between calendar year 1989 and calendar year 1997;

[(C)**]** *(D)* for airport noise capability planning under section 47505 of this title;

[(D)**]** *(E)* to carry out noise compatibility measures eligible for assistance under section 47504 of this title, whether or not a program for those measures has been approved under section 47504; **[**and**]**

[(E)] *(F)* for constructing gates [and]*, related areas at which passengers board or exit aircraft*[.]*(including structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door and roof systems, and building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service)), and aircraft fueling facilities adjacent to the gate.*

* * * * * * *

(b) GENERAL AUTHORITY.—(1) * * *

* * * * * * *

(4) Notwithstanding paragraph (1), the Secretary may authorize under this section an eligible agency to impose a passenger facility fee in whole dollar amounts of more than $3 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, if the Secretary finds—

(A) that the project will make a significant contribution to improving air safety and security, increasing competition among air carriers, reducing current or anticipated congestion, or reducing the impact of aviation noise on people living near the airport;

(B) that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103; and

(C) that the amount to be imposed is not more than twice that which may be imposed under paragraph (1).

* * * * * * *

(d) LIMITATIONS ON APPROVING APPLICATIONS.—The Secretary may approve an application that an eligible agency has submitted under subsection (c) of this section to finance a specific project only if the Secretary finds, based on the application, that—

(1) * * *

(2) each project is an eligible airport-related project that will—

(A) * * *

* * * * * * *

(C) provide an opportunity for enhanced competition between or among air carriers and foreign air carriers; [and]

(3) the application includes adequate justification for each of the specific projects[.]*; and*

(4) in the case of an application to impose a fee of more than $3 for a surface transportation or terminal project, the agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates.

* * * * * * *

(i) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations—

(1) may prescribe the time and form by which a passenger facility fee takes effect; [and]

(2) shall—

(A) * * *

* * * * * * *

(D) require that the amount collected for any air transportation be noted on the ticket for that air transportation**[**.**]***; and*

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

(A) passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carrier in the class constitutes not more than 1 percent of the total number of passengers enplaned annually at the airport at which the fee is imposed; or

(B) passengers traveling to an airport—

(i) that has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; and

(ii) in a community which has a population of less than 10,000 and is not connected by a land highway to the land-connected National Highway System within a State.

(j) COMPETITION PLANS.—Beginning in fiscal year 2001, no eligible agency may impose a passenger facility fee under this section with respect to a covered airport (as such term is defined in section 47106(f)) unless the agency has submitted to the Secretary a written competition plan in accordance with such section. This subsection does not apply to passenger facility fees in effect before the date of enactment of this subsection.

* * * * * * *

§ 40120. Relationship to other laws

(a) NONAPPLICATION.—Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States *(including the Act entitled "An Act relating to the maintenance of actions for death on the high seas and other navigable waters", approved March 30, 1920, commonly known as the Death on the High Seas Act (46 U.S.C. App. 761–767; 41 Stat. 537–538))* and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

* * * * * * *

§ 40122. Federal Aviation Administration personnel management system

(a) IN GENERAL.—

(1) * * *

(2) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Administrator's pro-

posed change to the personnel management system shall not take effect until 60 days have elapsed after the Administrator has transmitted the proposed change, along with the objections of the exclusive bargaining representatives to the change, and the reasons for such objections, to Congress. *The 60-day period shall not include any period during which Congress has adjourned sine die.*

* * * * * * *

(g) RIGHT TO CONTEST ADVERSE PERSONNEL ACTIONS.—An employee of the Federal Aviation Administration who is the subject of a major adverse personnel action may contest the action either through any contractual grievance procedure that is applicable to the employee as a member of the collective bargaining unit or through the Administration's internal process relating to review of major adverse personnel actions of the Administration, known as Guaranteed Fair Treatment or under section 347(c) of the Department of Transportation and Related Agencies Appropriations Act, 1996.

(h) ELECTION OF FORUM.—Where a major adverse personnel action may be contested through more than one of the indicated forums (such as the contractual grievance procedure, the Federal Aviation Administration's internal process, or that of the Merit Systems Protection Board), an employee must elect the forum through which the matter will be contested. Nothing in this section is intended to allow an employee to contest an action through more than one forum unless otherwise allowed by law.

(i) DEFINITION.—For purposes of this section, the term "major adverse personnel action" means a suspension of more than 14 days, a reduction in pay or grade, a removal for conduct or performance, a nondisciplinary removal, a furlough of 30 days or less (but not including placement in a nonpay status as the result of a lapse of appropriations or an enactment by Congress), or a reduction in force action.

* * * * * * *

§ 40125. Qualifications for public aircraft status

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL PURPOSES.—The term "commercial purposes" means the transportation of persons or property for compensation or hire, but does not include the operation of an aircraft by one government on behalf of another government under a cost reimbursement agreement if the government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation is necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet the threat.

(2) GOVERNMENTAL FUNCTION.—The term "governmental function" means an activity undertaken by a government, such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management.

(3) QUALIFIED NON-CREWMEMBER.—The term "qualified non-crewmember" means an individual, other than a member of the crew, aboard an aircraft—

(A) operated by the armed forces or an intelligence agency of the United States Government; or

(B) whose presence is required to perform, or is associated with the performance of, a governmental function.

(b) AIRCRAFT OWNED BY THE UNITED STATES.—An aircraft described in subparagraph (A) or (B) of section 40102(38), if owned by the Government, qualifies as a public aircraft except when it is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

(c) AIRCRAFT OWNED BY STATE AND LOCAL GOVERNMENTS.—An aircraft described in subparagrapg (C) or (D) of section 40102(a)(38) qualifies as a public aircraft except when it is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

§ 40126. Overflights of national parks

(a) IN GENERAL.—

(1) GENERAL REQUIREMENTS.—A commercial air tour operator may not conduct commercial air tour operations over a national park (including tribal lands) except—

(A) in accordance with this section;

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

(C) in accordance with any applicable air tour management plan for the park.

(2) APPLICATION FOR OPERATING AUTHORITY.—

(A) APPLICATION REQUIRED.—Before commencing commercial air tour operations over a national park (including tribal lands), a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over the park.

(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS.—Whenever an air tour management plan limits the number of commercial air tour operations over a national park during a specified time frame, the Administrator, in cooperation with the Director, shall issue operation specifications to commercial air tour operators that conduct such operations. The operation specifications shall include such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour operations over the park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

(i) the safety record of the person submitting the proposal or pilots employed by the person;

(ii) any quiet aircraft technology proposed to be used by the person submitting the proposal;

(iii) the experience of the person submitting the proposal with commercial air tour operations over other national parks or scenic areas;

(iv) the financial capability of the company;

(v) any training programs for pilots provided by the person submitting the proposal; and

(vi) responsiveness of the person submitting the proposal to any relevant criteria developed by the National Park Service for the affected park.

(C) NUMBER OF OPERATIONS AUTHORIZED.—In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

(D) COOPERATION WITH NPS.—Before granting an application under this paragraph, the Administrator, in cooperation with the Director, shall develop an air tour management plan in accordance with subsection (b) and implement such plan.

(3) EXCEPTION.—

(A) IN GENERAL.—If a commercial air tour operator secures a letter of agreement from the Administrator and the superintendent for the national park that describes the conditions under which the commercial air tour operation will be conducted, then notwithstanding paragraph (1), the commercial air tour operator may conduct such operations over the national park under part 91 of title 14, Code of Federal Regulations, if such activity is permitted under part 119 of such title.

(B) LIMIT ON EXCEPTIONS.—Not more than 5 flights in any 30-day period over a single national park may be conducted under this paragraph.

(4) SPECIAL RULE FOR SAFETY REQUIREMENTS.—Notwithstanding subsection (d), an existing commercial air tour operator shall apply, not later than 90 days after the date of enactment of this section, for operating authority under part 119, 121, or 135 of title 14, Code of Federal Regulations. A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park (including tribal lands). The Administrator shall act on any such application for a new entrant and issue a decision on the application not later than 24 months after it is received or amended.

(b) AIR TOUR MANAGEMENT PLANS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in cooperation with the Director, shall establish an air tour management plan for any national park (including tribal lands) for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over

the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (4).

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

(2) ENVIRONMENTAL DETERMINATION.—In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) (including a finding of no significant impact, an environmental assessment, and an environmental impact statement) and the record of decision for the air tour management plan.

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

(A) may limit or prohibit commercial air tour operations;

(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour operation routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of adverse noise, visual, or other impacts;

(C) may apply to all commercial air tour operations;

(D) shall include incentives (such as preferred commercial air tour operation routes and altitudes and relief from flight caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations over the park;

(E) shall provide a system for allocating opportunities to conduct commercial air tours if the air tour management plan includes a limitation on the number of commercial air tour operations for any time period; and

(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E) and include such justifications in the record of decision.

(4) PROCEDURE.—In establishing an air tour management plan for a national park (including tribal lands), the Administrator and the Director shall—

(A) hold at least one public meeting with interested parties to develop the air tour management plan;

(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with the regulations, the Federal Aviation Administration shall be the lead agency and the National Park Service is a cooperating agency); and

(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflown by aircraft involved in a commercial air tour operation over the park, as a cooperating agency under the regulations referred to in subparagraph (C).

(5) JUDICIAL REVIEW.—An air tour management plan developed under this subsection shall be subject to judicial review.

(6) AMENDMENTS.—The Administrator, in cooperation with the Director, may make amendments to an air tour management plan. Any such amendments shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

(c) DETERMINATION OF COMMERCIAL AIR TOUR OPERATION STATUS.—In making a determination of whether a flight is a commercial air tour operation, the Administrator may consider—

(1) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

(2) whether a narrative that referred to areas or points of interest on the surface below the route of the flight was provided by the person offering the flight;

(3) the area of operation;

(4) the frequency of flights conducted by the person offering the flight;

(5) the route of flight;

(6) the inclusion of sightseeing flights as part of any travel arrangement package offered by the person offering the flight;

(7) whether the flight would have been canceled based on poor visibility of the surface below the route of the flight; and

(8) any other factors that the Administrator considers appropriate.

(d) INTERIM OPERATING AUTHORITY.—

(1) IN GENERAL.—Upon application for operating authority, the Administrator shall grant interim operating authority under this subsection to a commercial air tour operator for commercial air tour operations over a national park (including tribal lands) for which the operator is an existing commercial air tour operator.

(2) REQUIREMENTS AND LIMITATIONS.—Interim operating authority granted under this subsection—

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

(i) the number of flights used by the operator to provide such tours within the 12-month period prior to the date of enactment of this section; or

(ii) the average number of flights per 12-month period used by the operator to provide such tours within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

(B) may not provide for an increase in the number of commercial air tour operations conducted during any time period by the commercial air tour operator above the num-

ber that the air tour operator was originally granted unless such an increase is agreed to by the Administrator and the Director;

(C) shall be published in the Federal Register to provide notice and opportunity for comment;

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

(E) shall terminate 180 days after the date on which an air tour management plan is established for the park or the tribal lands;

(F) shall promote protection of national park resources, visitor experiences, and tribal lands;

(G) shall promote safe operations of the commercial air tour;

(H) shall promote the adoption of quiet technology, as appropriate; and

(I) shall allow for modifications of the operation based on experience if the modification improves protection of national park resources and values and of tribal lands.

(e) EXEMPTIONS.—

(1) IN GENERAL.—Except as provided by paragraph (2), this section shall not apply to—

(A) the Grand Canyon National Park;

(B) tribal lands within or abutting the Grand Canyon National Park; or

(C) any unit of the National Park System located in Alaska or any other land or water located in Alaska.

(2) EXCEPTION.—This section shall apply to the Grand Canyon National Park if section 3 of Public Law 100–91 (16 U.S.C. 1a–1 note; 101 Stat. 674–678) is no longer in effect.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL AIR TOUR OPERATOR.—The term "commercial air tour operator" means any person who conducts a commercial air tour operation.

(2) EXISTING COMMERCIAL AIR TOUR OPERATOR.—The term "existing commercial air tour operator" means a commercial air tour operator that was actively engaged in the business of providing commercial air tour operations over a national park at any time during the 12-month period ending on the date of enactment of this section.

(3) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR.—The term "new entrant commercial air tour operator" means a commercial air tour operator that—

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

(B) has not engaged in the business of providing commercial air tour operations over the national park (including tribal lands) in the 12-month period preceding the application.

(4) COMMERCIAL AIR TOUR OPERATION.—The term "commercial air tour operation" means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park, within ½ mile outside the boundary of any national park, or over tribal lands, during which the aircraft flies—

(A) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or

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

(5) NATIONAL PARK.—The term "national park" means any unit of the National Park System.

(6) TRIBAL LANDS.—The term "tribal lands" means Indian country (as that term is defined in section 1151 of title 18) that is within or abutting a national park.

(7) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(8) DIRECTOR.—The term "Director" means the Director of the National Park Service.

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

* * * * * * *

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

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

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

(1) * * *

* * * * * * *

(14) An assurance that, upon request of the family of a passenger, the air carrier will inform the family of whether the passenger's name appeared on a preliminary passenger manifest for the flight involved in the accident.

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

(16) An assurance that the air carrier, in the event that the air carrier volunteers assistance to United States citizens within the United States in the case of an aircraft accident outside the United States involving major loss of life, the air carrier will consult with the Board and the Department of State on the provision of the assistance.

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

(1) a plan that meets the requirements of subsection (b); and

(2) an agreement that in the event that the air carrier volunteers assistance to United States citizens within the United States in the case of an aircraft accident outside the United States involving major loss of life, the air carrier will consult with the Board and the Department of State on the provision of the assistance.

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

* * * * * * *

(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.

CHAPTER 413—FOREIGN AIR TRANSPORTATION

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§ 41310. Discriminatory practices

[(a) PROHIBITION.—An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.]

(a) PROHIBITIONS.—

(1) IN GENERAL.—An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

(2) DISCRIMINATION AGAINST PERSONS.—An air carrier or foreign air carrier may not subject a person in foreign air transportation to discrimination on the basis of race, color, national origin, religion, or sex.

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§ 41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) * * *

[(2) PASSENGER.—The term "passenger" includes an employee of a foreign air carrier or air carrier aboard an aircraft.]

(2) PASSENGER.—The term "passenger" has the meaning given such term by section 1136 of this title.

(b) SUBMISSION OF PLANS.—A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a [significant] *major* loss of life.

(c) CONTENTS OF PLANS.—To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

(1) * * *

(15) TRAINING OF EMPLOYEES AND AGENTS.—An assurance that the foreign air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(16) CONSULTATION ON CARRIER RESPONSE NOT COVERED BY PLAN.—An assurance that the foreign air carrier, in the event that the foreign air carrier volunteers assistance to United States citizens within the United States in the case of an aircraft accident outside the United States involving major loss of life, the foreign air carrier will consult with the Board and the Department of State on the provision of the assistance.

* * * * * * *

(d) PERMIT AND EXEMPTION REQUIREMENT.—The Secretary shall not approve an application for a permit under section 41302 unless the applicant [has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).] *has included as part of the application or request for exemption—*

(1) a plan that meets the requirements of subsection (c); and

(2) an agreement that, in the event that the foreign air carrier volunteers assistance to United States citizens within the United States in the case of an aircraft accident outside the United States involving major loss of life, the foreign air carrier will consult with the Board and the Department of State on the provision of the assistance.

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CHAPTER 417—OPERATIONS OF CARRIERS

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SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

41731. Definitions.

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[41742. Essential air service authorization.]
41742. Small community air service authorization.

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SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM

Sec.
41761. Purpose.
41762. Definitions.

SUBCHAPTER I—REQUIREMENTS

* * * * * * *

§ 41702. Interstate air transportation

[An air carrier] *(a) SAFE AND ADEQUATE AIR TRANSPORTATION.—An air carrier* shall provide safe and adequate interstate air transportation.

(b) DISCRIMINATION AGAINST PERSONS.—An air carrier may not subject a person in interstate air transportation to discrimination on the basis of race, color, national origin, religion, or sex.

* * * * * * *

§ 41705. Discrimination against handicapped individuals

In providing air transportation, an air carrier *or foreign air carrier* may not discriminate against an otherwise qualified individual on the following grounds:

(1) * * *

* * * * * * *

§ 41714. Availability of slots

(a) * * *

* * * * * * *

[(e) STUDY.—

[(1) MATTERS TO BE CONSIDERED.—The Secretary shall continue the Secretary's current examination of slot regulations and shall ensure that the examination includes consideration of—

[(A) whether improvements in technology and procedures of the air traffic control system and the use of quieter aircraft make it possible to eliminate the limitations on hourly operations imposed by the high density rule contained in part 93 of title 14 of the Code of Federal Regulations or to increase the number of operations permitted under such rule;

[(B) the effects of the elimination of limitations or an increase in the number of operations allowed on each of the following:

[(i) congestion and delay in any part of the national aviation system;

[(ii) the impact of noise on persons living near the airport;

[(iii) competition in the air transportation system;

[(iv) the profitability of operations of airlines serving the airport; and

[(v) aviation safety;

[(C) the impact of the current slot allocation process upon the ability of air carriers to provide essential air service under subchapter II of this chapter;

[(D) the impact of such allocation process upon the ability of new entrant air carriers to obtain slots in time periods that enable them to provide service;

[(E) the impact of such allocation process on the ability of foreign air carriers to obtain slots;

[(F) the fairness of such process to air carriers and the extent to which air carriers are provided equivalent rights of access to the air transportation market in the countries of which foreign air carriers holding slots are citizens;

[(G) the impact, on the ability of air carriers to provide domestic and international air service, of the withdrawal of slots from air carriers in order to provide slots for foreign air carriers; and

[(H) the impact of the prohibition on slot withdrawals in subsections (b)(2) and (b)(3) of this section on the aviation relationship between the United States Government and foreign governments, including whether the prohibition in such subsections will require the withdrawal of slots from general and military aviation in order to meet the needs of air carriers and foreign air carriers providing foreign air transportation (and the impact of such withdrawal on general aviation and military aviation) and whether slots will become available to meet the needs of air carriers and foreign air carriers to provide foreign air transportation as a result of the planned relocation of Air Force Reserve units and the Air National Guard at O'Hare International Airport.

[(2) REPORT.—Not later than January 31, 1995, the Secretary shall complete the current examination of slot regulations and shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of such examination.

[(f) RULEMAKING.—The Secretary shall conduct a rulemaking proceeding based on the results of the study described in subsection (e). In the course of such proceeding, the Secretary shall issue a notice of proposed rulemaking not later than August 1, 1995, and shall issue a final rule not later than 90 days after public comments are due on the notice of proposed rulemaking.]

(e) SLOTS FOR AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—

(1) EXEMPTIONS.—Notwithstanding chapter 491, the Secretary may by order grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable air carriers to provide nonstop air transportation using jet aircraft that comply with the stage 3 noise levels of part 36 of such title 14 between Ronald Reagan Washington National Airport and an airport that had less than 2,000,000 enplanements in the most recent year for which such enplanement data is available or between Ronald Reagan Washington National Air-

port and an airport that does not have nonstop transportation to Ronald Reagan Washington National Airport using such aircraft on the date on which the application for an exemption is filed.

(2) LIMITATIONS.—

(A) MAXIMUM NUMBER OF EXEMPTIONS.—No more than 2 exemptions per hour and no more than 6 exemptions per day may be granted under this subsection for slots at Ronald Reagan Washington National Airport.

(B) MAXIMUM DISTANCE OF FLIGHTS.—An exemption may be granted under this subsection for a slot at Ronald Reagan Washington National Airport only if the flight utilizing such slot begins or ends within 1,250 miles of the Airport and a stage 3 aircraft is used for such flight.

(3) APPLICATION.—An air carrier interested in an exemption under this subsection shall submit to the Secretary an application for such exemption. No application may be submitted to the Secretary before the last day of the 30-day period beginning on the date of the enactment of this paragraph.

(4) DEADLINE FOR DECISION.—Notwithstanding any other provision of law, the Secretary shall make a decision with regard to granting an exemption under this subsection on or before the 120th day following the date of the application for the exemption. If the Secretary does not make the decision on or before such 120th day, the air carrier applying for the service may provide such service until the Secretary makes the decision or the Administrator of the Federal Aviation Administration determines that providing such service would have an adverse effect on air safety.

(5) PERIOD OF EFFECTIVENESS.—An exemption granted under this subsection shall remain in effect only while the air carrier for whom the exemption is granted continues to provide the nonstop air transportation for which the exemption is granted.

(f) TREATMENT OF CERTAIN COMMUTER AIR CARRIERS.—The Secretary shall treat all commuter air carriers that have cooperative agreements, including code share agreements with other air carriers, equally for determining eligibility for exemptions under this section regardless of the form of the corporate relationship between the commuter air carrier and the other air carrier.

* * * * * * *

§ 41716. Joint venture agreements

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) JOINT VENTURE AGREEMENT.—The term "joint venture agreement" means [an agreement entered into by a major air carrier] *an agreement entered into between 2 or more major air carriers* on or after January 1, 1998, with regard to (A) codesharing, blocked-space arrangements, long-term wet leases (as defined in section 207.1 of title 14, Code of Federal Regulations) of a substantial number (as defined by the Secretary by regulation) of aircraft, or frequent flyer programs, or (B) any other cooperative working arrangement (as defined by the Secretary by regulation) between 2 or more major air carriers that

affects more than 15 percent of the total number of available seat miles offered by the major air carriers.

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SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

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§ 41736. Air transportation to noneligible places

(a) * * *

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(b) APPROVAL FOR CERTAIN AIR TRANSPORTATION.—Notwithstanding subsection (a)(1)(B) of this section, the Secretary shall approve a proposal under this section to compensate an air carrier for providing air transportation to a place in the 48 contiguous States or the District of Columbia and designate the place as eligible for compensation under this section if—

(1) * * *

* * * * * * *

Paragraph (4) shall not apply to any place for which a proposal was approved or that was designated as eligible under this section in the period beginning on October 1, 1991, and ending on December 31, 1997.

* * * * * * *

§ 41742. [Essential] *Small community* air service authorization

(a) IN GENERAL.—Out of the amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration, the sum of **[**$50,000,000**]** *$60,000,000* is authorized and shall be made available immediately for obligation and expenditure to carry out the **[**essential air**]** *small community air* service program under this subchapter for each fiscal year.

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

(b) FUNDING FOR SMALL COMMUNITY AIR SERVICE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, from moneys credited to the account established under section 45303(a), including the funds derived from fees imposed under the authority contained in section 45301(a)—

(A) not to exceed $50,000,000 for each fiscal year beginning after September 30, 1999, shall be used to carry out the small community air service program under this subchapter; and

(B) not to exceed $10,000,000 for such fiscal year shall be used—

(i) for assisting an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

(ii) for assisting an underserved airport to obtain jet aircraft service (and to promote passenger use of that service) to and from the underserved airport; and

(iii) for assisting an underserved airport to implement such other measures as the Secretary of Transportation, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(2) RURAL AIR SAFETY.—Any funds that are made available by paragraph (1) for a fiscal year and that the Secretary determines will not be obligated or expended before the last day of such fiscal year shall be available to the Administrator for use under this subchapter in improving rural air safety at airports with less than 100,000 annual boardings.

(3) ALLOCATION OF ADDITIONAL FUNDING.—If, for a fiscal year beginning after September 30, 1999, more than $60,000,000 is made available under subsection (a) to carry out the small community air service program, ½ of the amounts in excess of $60,000,000 shall be used for the purposes specified in paragraph (1)(B), in addition to amounts made available for such purposes under paragraph (1)(B).

(4) USE OF UNOBLIGATED AMOUNTS.—Any funds made available under paragraph (1)(A) for the small community air service program for a fiscal year that the Secretary determines will not be obligated or expended before the last day of such fiscal year shall be available for use by the Secretary for the purposes described in paragraph (1)(B).

(5) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under paragraph (1), of the amounts appropriated pursuant to section 106(k) for a fiscal year beginning after September 30, 2000, not to exceed $15,000,000 may be used—

(A) to provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

(B) to provide assistance to an underserved airport to obtain jet aircraft service (and to promote passenger use of that service) to and from the underserved airport; and

(C) to provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to con-

sumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(6) PRIORITY CRITERIA FOR ASSISTING AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—In providing assistance to airports under paragraphs (1)(B) and (5), the Administrator shall give priority to those airports for which a community will provide, from local sources (other than airport revenues), a portion of the cost of the activity to be assisted.

(7) DEFINITIONS.—In this subsection, the following definitions apply:

(A) UNDERSERVED AIRPORT.—The term "underserved airport" means a nonhub airport or small hub airport (as such terms are defined in section 41731) that—

(i) the Secretary determines is not receiving sufficient air carrier service; or

(ii) has unreasonably high airfares.

(B) UNREASONABLY HIGH AIRFARE.—The term "unreasonably high airfare", as used with respect to an airport, means that the airfare listed in the table entitled "Top 1,000 City-Pair Market Summarized by City", contained in the Domestic Airline Fares Consumer Report of the Department of Transportation, for one or more markets for which the airport is a part of has an average yield listed in such table that is more than 19 cents.

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

SUBCHAPTER III—REGIONAL AIR SERVICE INCENTIVE PROGRAM

§ 41761. Purpose

The purpose of this subchapter is to improve service by jet aircraft to underserved markets by providing assistance, in the form of Federal credit instruments, to commuter air carriers that purchase regional jet aircraft for use in serving those markets.

§ 41762. Definitions

In this subchapter, the following definitions apply:

(1) AIR CARRIER.—The term "air carrier" means any air carrier holding a certificate of public convenience and necessity issued by the Secretary of Transportation under section 41102.

(2) AIRCRAFT PURCHASE.—The term "aircraft purchase" means the purchase of commercial transport aircraft, including spare parts normally associated with the aircraft.

(3) CAPITAL RESERVE SUBSIDY AMOUNT.—The term "capital reserve subsidy amount" means the amount of budget authority sufficient to cover estimated long-term cost to the United States Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any in-

cidental effects on government receipts or outlays in accordance with provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq).

(4) COMMUTER AIR CARRIER.—The term "commuter air carrier" means an air carrier that primarily operates aircraft designed to have a maximum passenger seating capacity of 75 or less in accordance with published flight schedules.

(5) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made under this subchapter.

(6) FINANCIAL OBLIGATION.—The term "financial obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of an aircraft purchase, other than a Federal credit instrument.

(7) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined by section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation) known as Rule 144A(a) of the Security and Exchange Commission and issued under the Security Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(8) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 41763(d) to provide a direct loan at a future date upon the occurrence of certain events.

(9) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary under section 41763(c) to pay all or part of any of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(10) NEW ENTRANT AIR CARRIER.—The term "new entrant air carrier" means an air carrier that has been providing air transportation according to a published schedule for less than 5 years, including any person that has received authority from the Secretary to provide air transportation but is not providing air transportation.

(11) NONHUB AIRPORT.—The term "nonhub airport" means an airport that each year has less than .05 percent of the total annual boardings in the United States.

(12) OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(13) REGIONAL JET AIRCRAFT.—The term "regional jet aircraft" means a civil aircraft—

(A) powered by jet propulsion; and

(B) designed to have a maximum passenger seating capacity of not less than 30 nor more than 75.

(14) SECURED LOAN.—The term "secured loan" means a direct loan funded by the Secretary in connection with the financing of an aircraft purchase under section 41763(b).

(15) SMALL HUB AIRPORT.—The term "small hub airport" means an airport that each year has at least .05 percent, but less than .25 percent, of the total annual boardings in the United States.

(16) UNDERSERVED MARKET.—The term "underserved market" means a passenger air transportation market (as defined by the Secretary) that—

(A) is served (as determined by the Secretary) by a nonhub airport or a small hub airport;

(B) is not within a 40-mile radius of an airport that each year has at least .25 percent of the total annual boardings in the United States; and

(C) the Secretary determines does not have sufficient air service.

§ 41763. Federal credit instruments

(a) IN GENERAL.—Subject to this section, the Secretary of Transportation may enter into agreements with 1 or more obligors to make available Federal credit instruments, the proceeds of which shall be used to finance aircraft purchases.

(b) SECURED LOANS.—

(1) TERMS AND LIMITATIONS.—

(A) IN GENERAL.—A secured loan under this section with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(B) MAXIMUM AMOUNT.—No secured loan may be made under this section—

(i) that extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased; or

(ii) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than $100,000,000 of outstanding credit to any single obligor.

(C) FINAL PAYMENT DATE.—The final payment on of the secured loan shall not be due later than 18 years after the date of execution of the loan agreement.

(D) SUBORDINATION.—The secured loan may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

(E) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the United States Government of making a secured loan under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(2) REPAYMENT.—

(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from aircraft revenues and other repayment sources.

(B) COMMENCEMENT.—Scheduled loan repayments of principal and interest on a secured loan under this section shall commence no later than 3 years after the date of execution of the loan agreement.

(3) PREPAYMENT.—

(A) USE OF EXCESS REVENUE.—After satisfying scheduled debt service requirements on all financial obligations and secured loans and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing financial obligations, the secured loan may be prepaid at anytime without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from proceeds of refinancing from non-Federal funding sources.

(c) LOAN GUARANTEES.—

(1) IN GENERAL.—A loan guarantee under this section with respect to a loan made for an aircraft purchase shall be made in such form and on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—No loan guarantee shall be made under this section—

(A) that extends to more than the unpaid interest and 50 percent of the unpaid principal on any loan;

(B) that, for any loan or combination of loans, extends to more than 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts, to be purchased with the loan or loan combination;

(C) on any loan with respect to which terms permit repayment more than 15 years after the date of execution of the loan; or

(D) that, when added to the remaining balance on any other Federal credit instruments made under this subchapter, provides more than $100,000,000 of outstanding credit to any single obligor.

(3) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the United States Government of making a loan guarantee under this section. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(d) LINES OF CREDIT.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occur-

rence of certain events for any aircraft purchase selected under this section.

(2) TERMS AND LIMITATIONS.—

(A) IN GENERAL.—A line of credit under this subsection with respect to an aircraft purchase shall be on such terms and conditions and contain such covenants, representatives, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(B) MAXIMUM AMOUNT.—

(i) TOTAL AMOUNT.—The amount of any line of credit shall not exceed 50 percent of the purchase price (including the value of any manufacturer credits, post-purchase options, or other discounts) of the aircraft, including spare parts.

(ii) 1–YEAR DRAWS.—The amount drawn in any year shall not exceed 20 percent of the total amount of the line of credit.

(C) DRAWS.—Any draw on the line of credit shall represent a direct loan.

(D) PERIOD OF AVAILABILITY.—The line of credit shall be available not more than 5 years after the aircraft purchase date.

(E) RIGHTS OF THIRD-PARTY CREDITORS.—

(i) AGAINST UNITED STATES GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the United States Government with respect to any draw on the line of credit.

(ii) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lender's behalf.

(F) SUBORDINATION.—A direct loan under this subsection may be subordinate to claims of other holders of obligations in the event of bankruptcy, insolvency, or liquidation of the obligor as determined appropriate by the Secretary.

(G) FEES.—The Secretary may establish fees at a level sufficient to cover all of a portion of the costs to the United States Government of providing a line of credit under this subsection. The proceeds of such fees shall be deposited in an account to be used by the Secretary for the purpose of administering the program established under this subchapter and shall be available upon deposit until expended.

(3) REPAYMENT.—

(A) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this subsection.

(B) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a direct loan under this subsection shall commence no later than 3 years after the date of the first draw on the line of credit and shall be repaid, with interest, not later than 18 years after the date of the first draw.

(e) RISK ASSESSMENT.—Before entering into an agreement under this section to make available a Federal credit instrument, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve

subsidy amount for the Federal credit instrument based on such credit evaluations as the Secretary deems necessary.

(f) CONDITIONS.—Subject to subsection (h), the Secretary may only make a Federal credit instrument available under this section if the Secretary finds that—

(1) the aircraft to be purchased with the Federal credit instrument is a regional jet aircraft needed to improve the service and efficiency of operation of a commuter air carrier or new entrant air carrier;

(2) the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to use the aircraft to provide service to underserved markets; and

(3) the prospective earning power of the commuter air carrier or new entrant air carrier, together with the character and value of the security pledged, including the collateral value of the aircraft being acquired and any other assets or pledges used to secure the Federal credit instrument, furnish—

(A) reasonable assurances of the air carrier's ability and intention to repay the Federal credit instrument within the terms established by the Secretary—

(i) to continue its operations as an air carrier; and

(ii) to the extent that the Secretary determines to be necessary, to continue its operations as an air carrier between the same route or routes being operated by the air carrier at the time of the issuance of the Federal credit instrument; and

(B) reasonable protection to the United States.

(g) LIMITATION ON COMBINED AMOUNT OF FEDERAL CREDIT INSTRUMENTS.—The Secretary shall not allow the combined amount of Federal credit instruments available for any aircraft purchase under this section to exceed—

(1) 50 percent of the cost of the aircraft purchase; or

(2) $100,000,000 for any single obligor.

(h) REQUIREMENT.—Subject to subsection (i), no Federal credit instrument may be made under this section for the purchase of any regional jet aircraft that does not comply with the stage 3 noise levels of part 36 of title 14 of the Code of Federal Regulations, as in effect on January 1, 1999.

(i) OTHER LIMITATIONS.—No Federal credit instrument shall be made by the Secretary under this section for the purchase of a regional jet aircraft unless the commuter air carrier or new entrant air carrier enters into a legally binding agreement that requires the carrier to provide scheduled passenger air transportation to the underserved market for which the aircraft is purchased for a period of not less than 36 consecutive months after the date that aircraft is placed in service.

§ 41764. Use of Federal facilities and assistance

(a) USE OF FEDERAL FACILITIES.—To permit the Secretary of Transportation to make use of such expert advice and services as the Secretary may require in carrying out this subchapter, the Secretary may use available services and facilities of other agencies and instrumentalities of the United States Government—

(1) with the consent of the appropriate Federal officials; and

(2) on a reimbursable basis.

(b) ASSISTANCE.—The head of each appropriate department or agency of the United States Government shall exercise the duties and powers of that head in such manner as to assist in carrying out the policy specified in section 41761.

(c) OVERSIGHT.—The Secretary shall make available to the Comptroller General of the United States such information with respect to any Federal credit instrument made under this subchapter as the Comptroller General may require to carry out the duties of the Comptroller General under chapter 7 of title 31.

§ 41765. Administrative expenses

In carrying out this subchapter, the Secretary shall use funds made available by appropriations to the Department of Transportation for the purpose of administration, in addition to the proceeds of any fees collected under this subchapter, to cover administrative expenses of the Federal credit instrument program under this subchapter.

§ 41766. Funding

Of the amounts appropriated under section 106(k) for each of fiscal years 2001 through 2004, such sums as may be necessary may be used to carry out this subchapter, including administrative expenses.

§ 41767. Termination

(a) AUTHORITY TO ISSUE FEDERAL CREDIT INSTRUMENTS.—The authority of the Secretary of Transportation to issue Federal credit instruments under section 41763 shall terminate on the date that is 5 years after the date of the enactment of this subchapter.

(b) CONTINUATION OF AUTHORITY TO ADMINISTER PROGRAM FOR EXISTING FEDERAL CREDIT INSTRUMENTS.—On and after the termination date, the Secretary shall continue to administer the program established under this subchapter for Federal credit instruments issued under this subchapter before the termination date until all obligations associated with such instruments have been satisfied.

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CHAPTER 421—LABOR-MANAGEMENT PROVISIONS

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SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

§ 42121. Protection of employees providing air safety information

(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with re-

spect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

(3) testified or is about to testify in such a proceeding; or

(4) assisted or participated or is about to assist or participate in such a proceeding.

(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Federal Aviation Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION; PRELIMINARY ORDER.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the

record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to his or her former position together with the compensation (including back

pay) and restore the terms, conditions, and privileges associated with his or her employment; and

(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $5,000.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever a person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to

any party whenever the court determines such award is appropriate.

(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, contractor, or subcontractor who, acting without direction from such air carrier, contractor, or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

(e) CONTRACTOR DEFINED.—In this section, the term "contractor" means a company that performs safety-sensitive functions by contract for an air carrier.

* * * * * * *

SUBPART III—SAFETY

* * * * * * *

CHAPTER 443—INSURANCE

* * * * * * *

§ 44310. Ending effective date

The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter is not effective after [August 6, 1999] *December 31, 2004*.

CHAPTER 445—FACILITIES, PERSONNEL, AND RESEARCH

* * * * * * *

§ 44502. General facilities and personnel authority

(a) GENERAL AUTHORITY.—(1) * * *

* * * * * * *

(4) PURCHASE OF INSTRUMENT LANDING SYSTEM.—

(A) * * *

(B) AUTHORIZATION.—No less than $30,000,000 of the amounts appropriated under section 48101(a) for [each of fiscal years 1995 and 1996] *each of fiscal years 1999 through 2004* shall be used for the purpose of carrying out this paragraph, including acquisition *under new or existing contracts*, site preparation work, installation, and related expenditures.

(5) MAINTENANCE AND UPGRADE OF LORAN–C NAVIGATION FACILITIES.—The Secretary shall maintain and upgrade Loran–C navigation facilities throughout the transition period to satellite-based navigation.

(6) IMPROVEMENTS ON LEASED PROPERTIES.—The Administrator may make improvements to real property leased for no or nominal consideration for an air navigation facility, regardless of whether the cost of making the improvements exceeds the cost of leasing the real property, if—

(A) the improvements primarily benefit the Government;

(B) the improvements are essential for accomplishment of the mission of the Federal Aviation Administration; and

(C) the interest of the Government in the improvements is protected.

* * * * * * *

CHAPTER 447—SAFETY REGULATION

§ 44701. General requirements

(a) * * *

* * * * * * *

(e) BILATERAL EXCHANGES OF SAFETY OVERSIGHT RESPONSIBILITIES.—

(1) IN GENERAL.—Notwithstanding the provisions of this chapter, the Administrator, pursuant to Article 83 bis of the Convention on International Civil Aviation and by a bilateral agreement with the aeronautical authorities of another country, may exchange with that country all or part of their respective functions and duties with respect to registered aircraft under the following articles of the Convention: Article 12 (Rules of the Air); Article 31 (Certificates of Airworthiness); or Article 32a (Licenses of Personnel).

(2) RELINQUISHMENT AND ACCEPTANCE OF RESPONSIBILITY.—The Administrator relinquishes responsibility with respect to the functions and duties transferred by the Administrator as specified in the bilateral agreement, under the Articles listed in paragraph (1) for United States-registered aircraft described in paragraph (4)(A) transferred abroad and accepts responsibility with respect to the functions and duties under those Articles for aircraft registered abroad and described in paragraph (4)(B) that are transferred to the United States.

(3) CONDITIONS.—The Administrator may predicate, in the agreement, the transfer of functions and duties under this subsection on any conditions the Administrator deems necessary and prudent, except that the Administrator may not transfer responsibilities for United States registered aircraft described in paragraph (4)(A) to a country that the Administrator determines is not in compliance with its obligations under international law for the safety oversight of civil aviation.

(4) REGISTERED AIRCRAFT DEFINED.—In this subsection, the term "registered aircraft" means—

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

no such place of business, its permanent residence in another country; or

(B) aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, if it has no such place of business, its permanent residence in the United States.

[(e)**]** *(f)* EXEMPTIONS.—The Administrator may grant an exemption from a requirement of a regulation prescribed under subsection (a) or (b) of this section or any of sections 44702–44716 of this title if the Administrator finds the exemption is in the public interest.

(g) SAFETY RISK MANAGEMENT PROGRAM GUIDELINES.—The Administrator shall issue guidelines and encourage the development of air safety risk mitigation programs throughout the aviation industry, including self-audits and self-disclosure programs.

* * * * * * *

§ 44703. Airman certificates

(a) * * *

* * * * * * *

(c) PUBLIC INFORMATION.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, the information contained in the records of contents of any airman certificate issued under this section that is limited to an airman's name, address, date of birth, and ratings held shall be made available to the public after the 120th day following the date of enactment of the Aviation Investment and Reform Act for the 21st Century.

(2) OPPORTUNITY TO WITHHOLD INFORMATION.—Before making any information concerning an airman available to the public under paragraph (1), the airman shall be given an opportunity to elect that the information not be made available to the public.

(3) DEVELOPMENT AND IMPLEMENTATION OF PROGRAM.—Not later than 60 days after the date of enactment of the Aviation Investment and Reform Act for the 21st Century, the Administrator shall develop and implement, in cooperation with representatives of the aviation industry, a one-time written notification to airmen to set forth the implications of making information concerning an airman available to the public under paragraph (1) and to carry out paragraph (2).

[(c)**]** *(d)* APPEALS.—(1) An individual whose application for the issuance or renewal of an airman certificate has been denied may appeal the denial to the National Transportation Safety Board, except if the individual holds a certificate that—

(A) * * *

* * * * * * *

[(d)**]** *(e)* RESTRICTIONS AND PROHIBITIONS.—The Administrator of the Federal Aviation Administration may—

(1) * * *

* * * * * * *

[(e)] *(f)* CONTROLLED SUBSTANCE VIOLATIONS.—The Administrator of the Federal Aviation Administration may not issue an airman certificate to an individual whose certificate is revoked under section 44710 of this title except—

(1) * * *

* * * * * * *

[(f)] *(g)* MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for issuing airman certificates necessary to make the system more effective in serving the needs of pilots and officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The modifications shall ensure positive and verifiable identification of each individual applying for or holding a certificate and shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) * * *

* * * * * * *

§ 44706. Airport operating certificates

(a) * * *

* * * * * * *

(g) INCLUDED CHARTER AIR TRANSPORTATION.—For the purposes of subsection (a)(2), a scheduled passenger operation includes charter air transportation for which the general public is provided in advance a schedule containing the departure location, departure time, and arrival location of the flights.

(h) AUTHORITY TO PRECLUDE SCHEDULED PASSENGER OPERATIONS.—The Administrator shall permit an airport that will be subject to certification under subsection (a)(2) to preclude scheduled passenger operations (including public charter operations described in subsection (g)) at the airport if the airport notifies the Administrator, in writing, that it does not intend to obtain an airport operating certificate.

§ 44709. Amendments, modifications, suspensions, and revocations of certificates

(a) * * *

* * * * * * *

[(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—When a person files an appeal with the Board under subsection (d) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately—

[(1) the order is effective; and

[(2) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.]

(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), if a person files an appeal with the Board under section (d), the order of the Administrator is stayed.

(2) EMERGENCIES.—If the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately, the order is effective, except that a person filing an appeal under subsection (d) may file a written petition to the Board for an emergency stay on the issues of the appeal that are related to the existence of the emergency. The Board shall have 10 days to review the materials. If any 2 members of the Board determine that sufficient grounds exist to grant a stay, an emergency stay shall be granted. If an emergency stay is granted, the Board must meet within 15 days of the granting of the stay to make a final disposition of the issues related to the existence of the emergency.

(3) FINAL DISPOSITION OF APPEAL.—In all cases, the Board shall make a final disposition of the merits of the appeal not later than 60 days after the Administrator advises the Board of the order.

* * * * * * *

§ 44712. Emergency locator transmitters

(a) * * *

* * * * * * *

[(b) NONAPPLICATION.—Subsection (a) of this section does not apply to—

[(1) turbojet-powered aircraft;

[(2) aircraft when used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

[(3) aircraft when used in training operations conducted entirely within a 50 mile radius of the airport from which the training operations begin;

[(4) aircraft when used in flight operations related to design and testing, the manufacture, preparation, and delivery of the aircraft, or the aerial application of a substance for an agricultural purpose;

[(5) aircraft holding certificates from the Administrator of the Federal Aviation Administration for research and development;

[(6) aircraft when used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

[(7) aircraft equipped to carry only one individual.

(b) NONAPPLICATION.—Subsection (a) does not apply to—

(1) aircraft when used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

(2) aircraft when used in training operations conducted entirely within a 50-mile radius of the airport from which the training operations begin;

(3) aircraft when used in flight operations related to the design and testing, manufacture, preparation, and delivery of aircraft;

(4) aircraft when used in research and development if the aircraft holds a certificate from the Administrator of the Federal Aviation Administration to carry out such research and development;

(5) aircraft when used in showing compliance with regulations crew training, exhibition, air racing, or market surveys;

(6) aircraft when used in the aerial application of a substance for an agricultural purpose;

(7) aircraft with a maximum payload capacity of more than 7,500 pounds when used in air transportation; or

(8) aircraft capable of carrying only one individual.

(c) COMPLIANCE.—An aircraft meets the requirement of subsection (a) if it is equipped with an emergency locator transmitter that transmits on the 121.5/243 megahertz frequency or the 406 megahertz frequency, or with other equipment approved by the Secretary for meeting the requirement of subsection (a).

[(c)**]** *(d)* REMOVAL.—The Administrator shall prescribe regulations specifying the conditions under which an aircraft subject to subsection (a) of this section may operate when its emergency locator transmitter has been removed for inspection, repair, alteration, or replacement.

* * * * * * *

§ 44725. Life-limited aircraft parts

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to require the safe disposition of life-limited parts removed from an aircraft. The rulemaking proceeding shall ensure that the disposition deter installation on an aircraft of a life-limited part that has reached or exceeded its life limits.

(b) SAFE DISPOSITION.—For the purposes of this section, safe disposition includes any of the following methods:

(1) The part may be segregated under circumstances that preclude its installation on an aircraft.

(2) The part may be permanently marked to indicate its used life status.

(3) The part may be destroyed in any manner calculated to prevent reinstallation in an aircraft.

(4) The part may be marked, if practicable, to include the recordation of hours, cycles, or other airworthiness information. If the parts are marked with cycles or hours of usage, that information must be updated when the part is retired from service.

(5) Any other method approved by the Administrator.

(c) DEADLINES.—In conducting the rulemaking proceeding under subsection (a), the Administrator shall—

(1) not later than 180 days after the date of enactment of this section, issue a notice of proposed rulemaking; and

(2) not later than 180 days after the close of the comment period on the proposed rule, issue a final rule.

(d) PRIOR-REMOVED LIFE-LIMITED PARTS.—No rule issued under subsection (a) shall require the marking of parts removed before the effective date of the rules issued under subsection (a), nor shall any such rule forbid the installation of an otherwise airworthy life-limited part.

* * * * * * *

CHAPTER 449—SECURITY

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SUBCHAPTER I—REQUIREMENTS

* * * * * * *

§ 44903. Air transportation security

(a) * * *

* * * * * * *

(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Administrator may establish at individual airports such consortia of government and aviation industry representatives as the Administrator may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered Federal advisory committees.

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§ 44909. Passenger manifests

(a) AIR CARRIER REQUIREMENTS.—(1) * * *

* * * * * * *

(2) The passenger manifest [shall] *should* include the following information:

(A) * * *

* * * * * * *

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

§ 44936. Employment investigations and restrictions

(a) * * *

* * * * * * *

(f) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

(1) IN GENERAL.—Subject to paragraph (14), before allowing an individual to begin service as a pilot, an air carrier shall request and receive the following information:

(A) * * *

(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person *(except a branch of the United States Armed Forces, the National Guard, or a reserve component of the United States Armed Forces)* that has employed the individual as a pilot of a civil or public aircraft at any time during the 5-year period preceding the date of

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

(i) * * *

(ii) other records pertaining to the [individual] *individual's performance as a pilot* that are maintained by the air carrier or person concerning—

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

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

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

* * * * * * *

(14) SPECIAL RULES WITH RESPECT TO CERTAIN PILOTS.—

(A) * * *

(B) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier, without obtaining information about an individual under paragraph (1)(B) from an air carrier or other person that no longer exists *or from a foreign government or entity that employed the individual*, may allow the individual to begin service as a pilot if the air carrier required to request the information has made a documented good faith attempt to obtain such information.

(15) ELECTRONIC ACCESS TO FAA RECORDS.—For the purpose of increasing timely and efficient access to Federal Aviation Administration records described in paragraph (1), the Administrator may allow, under terms established by the Administrator, a designated individual to have electronic access to a specified database containing information about such records.

* * * * * * *

CHAPTER 453—FEES

* * * * * * *

§ 45301. General provisions

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

(1) * * *

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

(2) Services (other than air traffic control services) provided to a foreign government or to any entity obtaining services outside the United States, except that the Administrator shall not impose fees in any manner for production-certification related

service performed outside the United States pertaining to aeronautical products manufactured outside the United States.

* * * * * * *

(d) PRODUCTION-CERTIFICATION RELATED SERVICE DEFINED.—In this section, the term "production-certification related service" has the meaning given that term in appendix C of part 187 of title 14, Code of Federal Regulations.

* * * * * * *

SUBPART IV—ENFORCEMENT AND PENALTIES

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CHAPTER 463—PENALTIES

* * * * * * *

§ 46301. Civil penalties

(a) GENERAL PENALTY.—(1) A person is liable to the United States Government for a civil penalty of not more than $1,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 411, chapter 413 (except sections 41307 and 41310(b)–(f)), chapter 415 (except sections 41502, 41505, and 41507–41509), chapter 417 (except sections 41703, 41704, 41710, 41713, and 41714), chapter 419, [subchapter II of chapter 421] *subchapter II or III of chapter 421*, chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and 44908), or section [46302, 46303, or] 47107(b) (including any assurance made under such section) of this title;

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies;

(C) any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title; or

(D) a regulation of the United States Postal Service under this part.

* * * * * * *

(3) A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) of this subsection related to—

(A) the transportation of hazardous material; [or]

(B) the registration or recordation under chapter 441 of this title of an aircraft not used to provide air transportation[.]*;*

(C) a violation of section 44725, relating to the safe disposal of life-limited aircraft parts; or

(D) a violation of section 41705, relating to discrimination against handicapped individuals.

* * * * * * *

(d) ADMINISTRATIVE IMPOSITION OF PENALTIES.—(1) * * *

* * * * * * *

(7)(A) The Administrator may impose a penalty on **[**an individual**]** *a person* (except an individual acting as a pilot, flight engineer, mechanic, or repairman) only after notice and an opportunity for a hearing on the record.

* * * * * * *

(f) COMPROMISE AND SETOFF.—(1)(A) The Secretary may compromise the amount of a civil penalty imposed for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), section 44502(b) or (c), chapter 447 (except sections 44717 and 44719–44723), chapter 449 (except sections 44902, 44903(d), 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), 44908, and 44909), or section 46302, 46303, *46316,* or 47107(b) of this title; or

(ii) * * *

* * * * * * *

(g) JUDICIAL REVIEW.—An order of the Secretary *or the Administrator* imposing a civil penalty may be reviewed judicially only under section 46110 of this title.

* * * * * * *

§ 46316. Interference with cabin or flight crew

An individual who interferes with the duties or responsibilities of the flight crew or cabin crew of a civil aircraft, or who poses an imminent threat to the safety of the aircraft or other individuals on the aircraft, is liable to the United States Government for a civil penalty of not more than $25,000.

[§ 46316.] *§ 46317.* General criminal penalty when specific penalty not provided

(a) CRIMINAL PENALTY.—Except as provided by subsection (b) of this section, when another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title shall be fined under title 18. A separate violation occurs for each day the violation continues.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply to chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), chapter 445, chapter 447 (except sections 44718(a)), and chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title.

* * * * * * *

PART B—AIRPORT DEVELOPMENT AND NOISE

CHAPTER 471—AIRPORT DEVELOPMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

SUBCHAPTER I—AIRPORT IMPROVEMENT

§ 47101. Policies

(a) GENERAL.—It is the policy of the United States—

(1) * * *

* * * * * * *

(11) that the airport improvement program should be administered to encourage projects that employ innovative technology *(including integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices)*, concepts, and approaches that will promote safety, capacity, and efficiency improvements in the construction of airports and in the air transportation system (including the development and use of innovative concrete and other materials in the construction of airport facilities to minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability) and to encourage and solicit innovative technology proposals and activities in the expenditure of funding pursuant to this subchapter;

* * * * * * *

(f) MAXIMUM USE OF SAFETY FACILITIES.—This subchapter should be carried out consistently with a comprehensive airspace system plan, giving highest priority to commercial service airports, to maximize the use of safety facilities, including installing, operating, and maintaining, to the extent possible with available money and considering other safety needs—

(1) * * *

* * * * * * *

(9) runway edge lighting and marking; [and]

(10) radar approach coverage for each airport terminal area[.]*; and*

(11) runway and taxiway incursion prevention devices, including integrated in-pavement lighting systems for runways and taxiways.

* * * * * * *

§ 47102. Definitions

In this subchapter—

(1) * * *

* * * * * * *

(3) "airport development" means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) * * *

* * * * * * *

(B) acquiring for, or installing at, a public-use airport—

(i) * * *

(ii) safety or security equipment, including explosive detection devices [and universal access systems,], *universal access systems, and emergency call boxes,* the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport *and integrated in-pavement lighting systems for runways and taxiways and other runway and taxiway incursion prevention devices*;

(iii) equipment to remove snow, to measure runway surface friction, or for aviation-related weather reporting*, including closed circuit weather surveillance equipment*;

(iv) firefighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats;

(v) aircraft deicing equipment and structures (except aircraft deicing fluids and storage facilities for the equipment and fluids); [and]

(vi) interactive training systems[.]*;*

(vii) windshear detection equipment; and

(viii) enhanced vision technologies that are certified by the Administrator of the Federal Aviation Administration and that are intended to replace or enhance conventional landing light systems.

* * * * * * *

(H) routine work to preserve and extend the useful life of runways, taxiways, and aprons at airports that are not primary airports, under guidelines issued by the Administrator.

* * * * * * *

(21) ENHANCED VISION TECHNOLOGIES.—The term "enhanced vision technologies" means laser guidance, ultraviolet guidance, infrared, and cold cathode technologies.

§ 47104. Project grant authority

(a) * * *

* * * * * * *

(c) EXPIRATION OF AUTHORITY.—After [August 6, 1999,] *September 30, 2004,* the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

(1) * * *

* * * * * * *

§ 47106. Project grant application approval conditioned on satisfaction of project requirements

(a) * * *

* * * * * * *

(f) COMPETITION PLANS.—

(1) PROHIBITION.—Beginning in fiscal year 2001, no passenger facility fee may be approved for a covered airport under section 40117 and no grant may be made under this subchapter for a covered airport unless the airport has submitted to the Secretary a written competition plan in accordance with this subsection.

(2) CONTENTS.—A competition plan under this subsection shall include information on the availability of airport gates and related facilities, leasing and sub-leasing arrangements, gate-use requirements, patterns of air service, gate-assignment policy, financial constraints, airport controls over air- and ground-side capacity, whether the airport intends to build or acquire gates that would be used as common facilities, and airfare levels (as compiled by the Department of Transportation) compared to other large airports.

(3) COVERED AIRPORT DEFINED.—In this subsection, the term "covered airport" means a commercial service airport—

(A) that has more than .25 percent of the total number of passenger boardings each year at all such airports; and

(B) at which 1 or 2 air carriers control more than 50 percent of the passenger boardings.

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) * * *

* * * * * * *

(h) MODIFYING ASSURANCES AND REQUIRING COMPLIANCE WITH ADDITIONAL ASSURANCES.—Before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987 *(including an assurance with respect to disposal of land by an airport owner or operator under subsection (c)(2)(B) without regard to whether or not the assurance or grant was made before December 29, 1987)*, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

(1) * * *

* * * * * * *

§ 47108. Project grant agreements

(a) * * *

* * * * * * *

(e) CHANGE IN AIRPORT STATUS.—In the event that the status of a primary airport changes to a nonprimary airport at a time when a terminal development project under a multiyear agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the agreement, subject to the availability of funds.

§ 47109. United States Government's share of project costs

(a) GENERAL.—Except as provided in subsection (b) of this section, the United States Government's share of allowable project costs is—

(1) 75 percent for a project at a primary airport having at least .25 percent of the total number of passenger boardings each year at all commercial service airports;

(2) not more than 90 percent for a project funded by a grant issued to and administered by a State under section 47128, relating to the State block grant program;

[(2)**]** *(3)* 90 percent for a project at any other airport; **[**and**]**

[(3)**]** *(4)* 40 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134**[**.**]***; and*

(5) 100 percent in fiscal year 2001 for any project—

(A) at an airport other than a primary airport; or

(B) at a primary airport having less than .05 percent of the total number of passenger boardings each year at all commercial service airports.

* * * * * * *

§ 47110. Allowable project costs

(a) * * *

* * * * * * *

(e) LETTERS OF INTENT.—(1) * * *

(2) Paragraph (1) of this subsection applies to a project—

(A) * * *

* * * * * * *

[(C) the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(d) of this title.**]**

(C) that meets the criteria of section 47115(d) and, if for a project at a commercial service airport having at least 0.25 percent of the boardings each year at all such airports, the Secretary decides will enhance system-wide airport capacity significantly.

* * * * * * *

[(5) A letter of intent issued under paragraph (1) of this subsection may not condition the obligation of amounts on the imposition of a passenger facility fee.**]**

(5) LETTERS OF INTENT.—The Secretary may not require an eligible agency to impose a passenger facility fee under section 40117 in order to obtain a letter of intent under this section.

* * * * * * *

§ 47114. Apportionments

(a) * * *

* * * * * * *

(c) AMOUNTS APPORTIONED TO SPONSORS.—(1)(A) The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

[(i) $7.80 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

[(ii) $5.20 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

[(iii) $2.60 for each of the next 400,000 passenger boardings at the airport during the prior calendar year;

[(iv) $.65 for each of the next 500,000 passenger boardings at the airport during the prior calendar year; and

[(v) $.50 for each additional passenger boarding at the airport during the prior calendar year.]

(i) $23.40 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

(ii) $15.60 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

(iii) $7.80 for each of the next 400,000 passenger boardings at the airport during the prior calendar year;

(iv) $1.95 for each of the next 500,000 passenger boardings at the airport during the prior calendar year; and

(v) $1.50 for each additional passenger boarding at the airport during the prior calendar year.

(B) Not less than [$500,000 nor more than $22,000,000] *$1,500,000* may be apportioned under subparagraph (A) of this paragraph to an airport sponsor for a primary airport for each fiscal year.

(C) Notwithstanding subparagraph (A), the Secretary shall apportion to an airport sponsor in a fiscal year an amount equal to the amount apportioned to that sponsor in the previous fiscal year if the Secretary finds that—

(i) passenger boardings at the airport were less than 10,000 in the calendar year used to calculate the apportionment;

(ii) the airport had at least 10,000 passenger boardings in the calendar year prior to the calendar year used to calculate the apportionment; and

(iii) the cause of the decrease in passenger boardings was a temporary but significant interruption in service by an air carrier to that airport due to an employment action, natural disaster, or other event unrelated to the demand for air transportation at the airport.

(D) Notwithstanding subparagraph (A), the Secretary shall apportion on the first day of the first fiscal year following the official opening of a new airport with scheduled passenger air transpor-

tation an amount equal to the minimum amount set forth in subparagraph (B) to the sponsor of such airport.

(2) CARGO ONLY AIRPORTS.—

(A) APPORTIONMENT.—Subject to subparagraph (D), the Secretary shall apportion an amount equal to [2.5] *3* percent of the amount subject to apportionment each fiscal year to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds.

* * * * * * *

(d) AMOUNTS APPORTIONED [TO STATES] *FOR GENERAL AVIATION AIRPORTS*.—

(1) *DEFINITIONS*.—In this subsection—

(A) "area" includes land and water.

(B) "population" means the population stated in the latest decennial census of the United States.

[(2) The Secretary shall apportion to the States 18.5 percent of the amount subject to apportionment for each fiscal year as follows:

[(A) 0.66 percent of the apportioned amount to Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

[(B) except as provided in paragraph (3) of this subsection, 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (A) of this paragraph in the proportion that the population of each of those States bears to the total population of all of those States.

[(C) except as provided in paragraph (3) of this subsection, 49.67 percent of the apportioned amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (A) of this paragraph in the proportion that the area of each of those States bears to the total area of all of those States.

[(3) An amount apportioned under paragraph (2) of this subsection for an airport in—

[(A) Alaska may be made available by the Secretary for a public airport described in section 47117(e)(1)(C)(ii) of this title to which section 15(a)(3)(A)(II) of the Airport and Airway Development Act of 1970 applied during the fiscal year that ended September 30, 1981; and

[(B) Puerto Rico may be made available by the Secretary for a primary airport and an airport described in section 47117(e)(1)(C) of this title.]

(2) APPORTIONMENTS.—The Secretary shall apportion 20 percent of the amount subject to apportionment for each fiscal year as follows:

(A) To each airport, excluding primary airports but including reliever and nonprimary commercial service airports, in States the lesser of—

(i) $200,000; or

(ii) 1/5 of the most recently published estimate of the 5-year costs for airport improvement for the airport, as listed in the national plan of integrated airport systems

developed by the Federal Aviation Administration under section 47103.

(B) Any remaining amount to States as follows:

(i) 0.62 percent of the remaining amount to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.

(ii) Except as provided in paragraph (3), 49.69 percent of the remaining amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (i) in the proportion that the population of each of those States bears to the total population of all of those States.

(iii) Except as provided in paragraph (3), 49.69 percent of the remaining amount for airports, excluding primary airports but including reliever and nonprimary commercial service airports, in States not named in clause (i) in the proportion that the area of each of those States bears to the total area of all of those States.

(3) SPECIAL RULE.—An amount apportioned under paragraph (2) to Alaska, Puerto Rico, or Hawaii for airports in such State may be made available by the Secretary for any public airport in those respective jurisdictions.

(4) INTEGRATED AIRPORT SYSTEM PLANNING.—Notwithstanding paragraph (2), funds made available under this subsection may be used for integrated airport system planning that encompasses 1 or more primary airports.

(5) FLEXIBILITY IN PAVEMENT CONSTRUCTION STANDARDS.—The Secretary may permit the use of State highway specifications for airfield pavement construction using funds made available under this subsection at nonprimary airports serving aircraft that do not exceed 60,000 pounds gross weight if the Secretary determines that—

(A) safety will not be negatively affected; and

(B) the life of the pavement will not be shorter than it would be if constructed using Federal Aviation Administration standards.

(e) **[**ALTERNATIVE**]** *SUPPLEMENTAL* APPORTIONMENT FOR ALASKA.—

(1) **[**Instead of apportioning amounts for airports in Alaska under**]** *IN GENERAL.—Notwithstanding* subsections (c) and (d) of this section, the Secretary may apportion amounts for **[**those airports**]** *airports in Alaska* in the way in which amounts were apportioned in the fiscal year ending September 30, 1980, under section 15(a) of the Act *and by increasing the amount so determined for each of those airports by 3 times*. However, in apportioning amounts for a fiscal year under this subsection, the Secretary shall apportion—

(A) for each primary airport at least as much as would be apportioned for the airport under subsection (c)(1) of this section; and

(B) a total amount at least equal to the minimum amount required to be apportioned to airports in Alaska in

the fiscal year ending September 30, 1980, under section 15(a)(3)(A) of the Act.

(2) *AUTHORITY FOR DISCRETIONARY GRANTS*.—This subsection does not prohibit the Secretary from making project grants for airports in Alaska from the discretionary fund under section 47115 of this title.

[(3) Airports referred to in this subsection include those public airports that received scheduled service as of September 3, 1982, but were not apportioned amounts in the fiscal year ending September 30, 1980, under section 15(a) of the Act because the airports were not under the control of a State or local public agency.**]**

(3) AIRPORTS ELIGIBLE FOR FUNDS.—An amount apportioned under this subsection may be used for any public airport in Alaska.

(f) REDUCING APPORTIONMENTS.—**[**An amount**]**

(1) IN GENERAL.—An amount that would be apportioned under this section (except subsection (c)(2)) in a fiscal year to the sponsor of an airport having at least .25 percent of the total number of boardings each year in the United States and for which a fee is imposed in the fiscal year under section 40117 of this title shall be reduced by **[**an amount equal to 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section.**]** *an amount equal to—*

(A) in the case of a fee of $3 or less, 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section; and

(B) in the case of a fee of more than $3, 75 percent of the projected revenues from the fee in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned under this section.

(2) EFFECTIVE DATE OF REDUCTION.—A reduction in an apportionment required by paragraph (1) shall not take effect until the first fiscal year following the year in which the collection of the fee imposed under section 40117 is begun.

§ 47115. Discretionary fund

(a) * * *

* * * * * * *

[(g) MINIMUM AMOUNT TO BE CREDITED.—

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

[(A) $148,000,000; plus

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

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

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

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

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

[(A) ⅓ shall be made available to airports for which apportionments are made under section 47114(d) of this title.

[(B) ⅓ shall be made available for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

[(C) ⅓ shall be made available to current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title.

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

(g) PRIORITY FOR LETTERS OF INTENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall fulfill intentions to obligate under section 47110(e) with amounts available in the fund established by subsection (a) and, if such amounts are not sufficient for a fiscal year, with amounts made available to carry out sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) on a pro rata basis.

(2) PROCEDURE.—Before apportioning funds under sections 47114(c)(1)(A), 47114(c)(2), 47114(d), and 47117(e) of each fiscal year, the Secretary shall determine the amount of funds that will be necessary to fulfill intentions to obligate under section 47110(e) in such fiscal year. If such amount is greater than the amount of funds that will be available in the fund established by subsection (a) for such fiscal year, the Secretary shall reduce the amount to be apportioned under such sections for such fiscal year on a pro rata basis by an amount equal to the difference.

§ 47116. Small airport fund

(a) * * *

* * * * * * *

(d) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—[In making]

(1) CONSTRUCTION OF NEW RUNWAYS.—In making grants to sponsors described in subsection (b)(2), the Secretary shall give priority consideration to multi-year projects for construction of new runways that the Secretary finds are cost beneficial and would increase capacity in a region of the United States.

(2) AIRPORT DEVELOPMENT FOR TURBINE POWERED AIRCRAFT.—In making grants to sponsors described in subsection (b)(1), the Secretary shall give priority consideration to airport development projects to support operations by turbine powered aircraft, if the non-Federal share of the project is at least 40 percent.

(e) SET-ASIDE FOR MEETING SAFETY TERMS IN AIRPORT OPERATING CERTIFICATES.—In the first fiscal year beginning after the effective date of regulations issued to carry out section 44706(b) with respect to airports described in section 44706(a)(2), and in each of the next 4 fiscal years, the lesser of $15,000,000 or 20 percent of the amounts that would otherwise be distributed to sponsors of airports under subsection (b)(2) shall be used to assist the airports in meeting the terms established by the regulations. If the Secretary publishes in the Federal Register a finding that all the terms established by the regulations have been met, this subsection shall cease to be effective as of the date of such publication.

(f) NOTIFICATION OF SOURCE OF GRANT.—Whenever the Secretary makes a grant under this section, the Secretary shall notify the recipient of the grant, in writing, that the source of the grant is from the small airport fund.

§ 47117. Use of apportioned amounts

(a) * * *

* * * * * * *

(e) SPECIAL APPORTIONMENT CATEGORIES.—(1) The Secretary shall use amounts available to the discretionary fund under section 47115 of this title for each fiscal year as follows:

(A) At least [31] *34* percent for grants for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c) of this title. The Secretary may count the amount of grants made for such planning and programs with funds apportioned under section 47114 in that fiscal year in determining whether or not such [31] *34* percent requirement is being met in that fiscal year.

(B) [At least 4 percent to sponsors of current] *At least 4 percent to sponsors of current* or former military airports designated by the Secretary under section 47118(a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system and to sponsors of noncommercial service airports for grants for operational and maintenance expenses at any such airport if the amount of such grants to the sponsor of the airport does not exceed $30,000 in that fiscal year, if the Secretary determines that the airport is adversely affected by the closure or

realignment of a military base, and if the sponsor of the airport certifies that the airport would otherwise close if the airport does not receive the grant.

* * * * * * *

[(f) LIMITATION FOR COMMERCIAL SERVICE AIRPORT IN ALASKA.—The Secretary may not make a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114(e) of this title.

[(g) DISCRETIONARY USE OF APPORTIONMENTS.—(1) Subject to paragraph (2) of this subsection, if the Secretary finds, based on the notices the Secretary receives under section 47105(f) of this title or otherwise, that an amount apportioned under section 47114 of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during that fiscal year for any of the purposes for which amounts are authorized for grants under section 48103 of this title.

[(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

[(A) the total amount used for grants for the fiscal year under section 48103 of this title will not be more than the amount made available under section 48103 for that fiscal year; and

[(B) the amounts authorized for grants under section 48103 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants under the apportionment during the fiscal year and that remain available under subsection (b) of this section.]

(f) DISCRETIONARY USE OF APPORTIONMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary finds that all or part of an amount of an apportionment under section 47114 is not required during a fiscal year to fund a grant for which the apportionment may be used, the Secretary may use during such fiscal year the amount not so required to make grants for any purpose for which grants may be made under section 48103. The finding may be based on the notifications that the Secretary receives under section 47105(f) or on other information received from airport sponsors.

(2) RESTORATION OF APPORTIONMENTS.—

(A) IN GENERAL.—If the fiscal year for which a finding is made under paragraph (1) with respect to an apportionment is not the last fiscal year of availability of the apportionment under subsection (b), the Secretary shall restore to the apportionment an amount equal to the amount of the apportionment used under paragraph (1) for a discretionary grant whenever a sufficient amount is made available under section 48103.

(B) PERIOD OF AVAILABILITY.—If restoration under this paragraph is made in the fiscal year for which the finding is made or the succeeding fiscal year, the amount restored shall be subject to the original period of availability of the apportionment under subsection (b). If the restoration is made thereafter, the amount restored shall remain available in accordance with subsection (b) for the original period of availability of the apportionment, plus the number

of fiscal years during which a sufficient amount was not available for the restoration.

(3) NEWLY AVAILABLE AMOUNTS.—

(A) RESTORED AMOUNTS TO BE UNAVAILABLE FOR DISCRETIONARY GRANTS.—Of an amount newly available under section 48103 of this title, an amount equal to the amounts restored under paragraph (2) shall not be available for discretionary grant obligations under section 47115.

(B) USE OF REMAINING AMOUNTS.—Subparagraph (A) does not impair the Secretary's authority under paragraph (1), after a restoration under paragraph (2), to apply all or part of a restored amount that is not required to fund a grant under an apportionment to fund discretionary grants.

(4) LIMITATIONS ON OBLIGATIONS APPLY.—Nothing in this subsection shall be construed to authorize the Secretary to incur grant obligations under section 47104 for a fiscal year in an amount greater than the amount made available under section 48103 for such obligations for such fiscal year.

[(h)**]** *(g)* LIMITING AUTHORITY OF SECRETARY.—The authority of the Secretary to make grants during a fiscal year from amounts that were apportioned for a prior fiscal year and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

§ 47118. Designating current and former military airports

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate current or former military airports for which grants may be made under section 47117(e)(1)(B) of this title. The maximum number of airports bearing such designation at any time is **[**12**]** *12 for fiscal year 2000 and 20 for each fiscal year thereafter*. The Secretary may only so designate an airport (other than an airport so designated before August 24, 1994) if—

(1) * * *

* * * * * * *

[(c) CONSIDERATIONS.—In carrying out this section, the Secretary shall consider only current or former military airports that, when at least partly converted to civilian commercial or reliever airports as part of the national air transportation system, will enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.**]**

[(d)**]** *(c)* GRANTS.—Grants under section **[**47117(e)(1)(E)**]** *47117(e)(1)(B)* of this title may be made for an airport designated under subsection (a) of this section for the 5 fiscal years following the designation, and for subsequent **[**5-fiscal-year periods**]** *periods, each not to exceed 5 fiscal years,* if the Secretary determines that the airport satisfies the designation criteria under subsection (a) at the beginning of **[**each such subsequent 5-fiscal-year period**]** *each such subsequent period*.

[(e)**]** *(d)* TERMINAL BUILDING FACILITIES.—Not more than **[**$5,000,000**]** *$7,000,000* for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available to the sponsor of a current or former military airport

the Secretary designates under this section to construct, improve, or repair a terminal building facility, including terminal gates used for revenue passengers getting on or off aircraft. A gate constructed, improved, or repaired under this subsection—

(1) may not be leased for more than 10 years; and

(2) is not subject to majority in interest clauses.

[(f)] *(e)* PARKING LOTS, FUEL FARMS, UTILITIES, [AND HANGARS] *HANGERS, AND AIR CARGO TERMINALS*.—Not more than a total of [$4,000,000] *$7,000,000* for each airport from amounts the Secretary distributes under section 47115 of this title for fiscal years beginning after September 30, 1992, is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair airport surface parking lots, fuel farms, utilities, and hangars *and air cargo terminals of an area that is 50,000 square feet or less*.

(f) DESIGNATION OF GENERAL AVIATION AIRPORT.—Notwithstanding any other provision of this section, at least 3 of the airports designated under subsection (a) shall be general aviation airports that were former military installations closed or realigned under a section referred to in subsection (a)(1).

§ 47119. Terminal development costs

(a) REPAYING BORROWED MONEY.—An amount apportioned under section 47114 of this title and made available to the sponsor of an air carrier airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, or, in the case of a commercial service airport which annually had less than [0.05] *0.25* percent of the total enplanements in the United States, [between January 1, 1992, and October 31, 1992,] *between August 1, 1986, and September 30, 1990, or between June 1, 1991, and October 31, 1992,* is available to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title if they had been incurred after September 3, 1982. An amount is available for a grant under this subsection—

(1) only if—

(A) the sponsor submits the certification required under section 47110(d) of this title;

(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer [an airport development project outside the terminal area at that airport] *any needed airport development project affecting safety, security, or capacity*; and

* * * * * * *

(c) NONHUB AIRPORTS.—With respect to a project at a commercial service airport which annually has less than [0.05] *0.25* percent of the total enplanements in the United States, the Secretary may approve the use of the amounts described in subsection (a) notwithstanding the requirements of sections 47107(a)(17), 47112, and 47113.

(d) DETERMINATION OF PASSENGER BOARDING AT COMMERCIAL SERVICE AIRPORT.—For the purpose of determining whether an amount may be distributed for a fiscal year from the discretionary

fund in accordance with subsection (b)(2)(A) to a commercial service airport, the Secretary shall make the determination of whether or not a public airport is a commercial service airport on the basis of the number of passenger boardings and type of air service at the public airport in the calendar year that includes the first day of such fiscal year or the preceding calendar year, whichever is more beneficial to the airport.

* * * * * * *

§ 47124. Agreements for State and local operation of airport facilities

(a) * * *

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—(1) * * *

* * * * * * *

(3) CONTRACT AIR TRAFFIC CONTROL TOWER PILOT PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish a pilot program to contract for air traffic control services at Level I air traffic control towers, as defined by the Administrator of the Federal Aviation Administration, that do not qualify for the Contract Tower program established under subsection (a) and continued under paragraph (1) (hereafter in this paragraph referred to as the "Contract Tower Program").

(B) PROGRAM COMPONENTS.—In carrying out the pilot program established under subparagraph (A), the Administrator shall—

(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Administrator;

(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a 1 to 1 benefit-to-cost ratio, as required for eligibility under the Contract Tower Program; and

(iii) approve for participation no more than 2 facilities willing to fund up to 50 percent, but not less than 25 percent, of construction costs for an air traffic control tower built by the airport operator and for each of such facilities the Federal share of construction cost does not exceed $1,100,000.

(C) PRIORITY.—In selecting facilities to participate in the program under this paragraph, the Administrator shall give priority to the following:

(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Administration has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

(ii) Air traffic control towers that the Administrator determines have a benefit-to-cost ratio of at least .85.

(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

(iv) Air traffic control towers that are located at airports or points at which an air carrier is receiving compensation under the essential air service program under this chapter.

(v) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

(vi) Air traffic control towers that are located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic tower under the pilot program established under this paragraph exceed the benefits, the airport sponsor or State of local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefit.

(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k), not to exceed $6,000,000 per fiscal year may be used to carry out this paragraph.

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§ 47125. Conveyances of United States Government land

(a) CONVEYANCES TO PUBLIC AGENCIES.—Except as provided in subsection (b) of this section, the Secretary of Transportation shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems. The head of the department, agency, or instrumentality shall decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality and shall notify the Secretary of that decision not later than 4 months after receiving the request. If the head of the department, agency, or instrumentality decides that the requested conveyance is consistent with its needs, the head of the department, agency, or instrumentality, with the approval of the Attorney General and without cost to the Government, shall make the conveyance. A conveyance may be made only on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance. *The Secretary may only release an option of the United States for a reversionary interest under this subsection after providing notice and an opportunity for public comment. The Secretary shall publish in the Federal Register any deci-*

sion of the Secretary to release a reversionary interest and the reasons for the decision.

* * * * * * *

[§ 47132. Pavement maintenance

[(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue guidelines to carry out a pavement maintenance pilot project to preserve and extend the useful life of runways, taxiways, and aprons at airports for which apportionments are made under section 47114(d). The guidelines shall provide that the Administrator may designate not more than 10 projects. The guidelines shall provide criteria for the Administrator to use in choosing the projects. At least 2 such projects must be in States without a primary airport that had 0.25 percent or more of the total boardings in the United States in the preceding calendar year. In designating a project, the Administrator shall take into consideration geographical, climatological, and soil diversity.

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

* * * * * * *

§ 47135. Innovative financing techniques

(a) IN GENERAL.—The Secretary of Transportation may approve applications for not more than 25 airport development projects for which grants received under this subchapter may be used for innovative financing techniques. Such projects shall be located at airports that each year have less than .25 percent of the total number of passenger boardings each year at all commercial service airports.

(b) PURPOSE.—The purpose of grants made under this section shall be to provide information on the benefits and difficulties of using innovative financing techniques for airport development projects.

(c) LIMITATIONS.—

(1) NO GUARANTEES.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

(2) TYPES OF TECHNIQUES.—In this section, innovative financing techniques are limited to—

(A) payment of interest;

(B) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development; and

(C) flexible non-Federal matching requirements.

§ 47136. Aviation security program

(a) GENERAL AUTHORITY.—To improve security at public airports in the United States, the Secretary of Transportation shall carry out not less than one project to test and evaluate innovative aviation security systems and related technology.

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

(1) evaluates and tests the benefits of innovative aviation security systems or related technology, including explosives detection systems, for the purpose of improving aviation security, including aircraft physical security, access control, and passenger and baggage screening; and

(2) provides testing and evaluation of airport security systems and technology in an operational, test bed environment.

(c) MATCHING SHARE.—Notwithstanding section 47109, the United States Government's share of allowable project costs for a project under this section shall be 100 percent.

(d) TERMS AND CONDITIONS.—The Secretary may establish such terms and conditions as the Secretary determines appropriate for carrying out a project under this section, including terms and conditions relating to the form and content of a proposal for a project, project assurances, and schedule of payments.

(e) ELIGIBLE SPONSOR DEFINED.—In this section, the term "eligible sponsor" means a nonprofit corporation composed of a consortium of public and private persons, including a sponsor of a primary airport, with the necessary engineering and technical expertise to successfully conduct the testing and evaluation of airport and aircraft related security systems.

(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available to the Secretary under section 47115 in a fiscal year, the Secretary shall make available not less than $5,000,000 for the purpose of carrying out this section.

§ 47137. Inherently low-emission airport vehicle pilot program

(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 public-use airports under which the sponsors of such airports may use funds made available under section 48103 for use at such airports to carry out inherently low-emission vehicle activities. Notwithstanding any other provision of this subchapter, inherently low-emission vehicle activities shall for purposes of the pilot program be treated as eligible for assistance under this subchapter.

(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(d)).

(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

(d) UNITED STATES GOVERNMENT'S SHARE.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under the pilot program shall be 50 percent.

(e) MAXIMUM AMOUNT.—Not more than $2,000,000 may be expended under the pilot program at any single public-use airport.

(f) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an evaluation of the effectiveness of the pilot program.

(g) INHERENTLY LOW-EMISSION VEHICLE ACTIVITY DEFINED.—In this section, the term "inherently low-emission vehicle activity" means—

(1) the construction of infrastructure facilities necessary for the use of vehicles that are certified as inherently low-emission vehicles under title 40 of the Code of Federal Regulations, that are labeled in accordance with section 88.312–93(c) of such title, and that are located or primarily used at public-use airports;

(2) the payment of that portion of the cost of acquiring such vehicles that exceeds the cost of acquiring other vehicles that would be used for the same purpose; or

(3) the acquisition of technological equipment necessary for the use of vehicles described in paragraph (1).

§ 47138. Safeguards against deficit spending

(a) ESTIMATES OF UNFUNDED AVIATION AUTHORIZATIONS AND NET AVIATION RECEIPTS.—Not later than March 31 of each year, the Secretary of Transportation, in consultation with the Secretary of the Treasury, shall estimate—

(1) the amount which would (but for this section) be the unfunded aviation authorizations at the close of the first fiscal year that begins after that March 31, and

(2) the net aviation receipts to be credited to the Airport and Airway Trust Fund during the fiscal year.

(b) PROCEDURE IF EXCESS UNFUNDED AVIATION AUTHORIZATIONS.—If the Secretary of Transportation determines for any fiscal year that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of such excess.

(c) ADJUSTMENT OF AUTHORIZATIONS IF UNFUNDED AUTHORIZATIONS EXCEED RECEIPTS.—

(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines that there is an excess referred to in subsection (b) for a fiscal year, the Secretary shall determine the percentage which—

(A) such excess, is of

(B) the total of the amounts authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year.

(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines a percentage under paragraph (1), each amount authorized to be appropriated from the Airport and Airway Trust Fund for the next fiscal year shall be reduced by such percentage.

(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

(1) ADJUSTMENT OF AUTHORIZATIONS.—If, after a reduction has been made under subsection (c)(2), the Secretary determines that the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2) or that the excess referred to in subsection (b) is less than the amount previously determined, each amount authorized to be appropriated that was reduced under subsection (c)(2) shall be increased, by an equal percentage, to the extent the Secretary determines that it may be so increased without causing the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2) (but not by more than the amount of the reduction).

(2) APPORTIONMENT.—The Secretary shall apportion amounts made available for apportionment by paragraph (1).

(3) PERIOD OF AVAILABILITY.—Any funds apportioned under paragraph (2) shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned under paragraph (2).

(e) REPORTS.—Any estimate under subsection (a) and any determination under subsection (b), (c), or (d) shall be reported by the Secretary to Congress.

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

(1) NET AVIATION RECEIPTS.—The term "net aviation receipts" means, with respect to any period, the excess of—

(A) the receipts (including interest) of the Airport and Airway Trust Fund during such period, over

(B) the amounts to be transferred during such period from the Airport and Airway Trust Fund under section 9502(d) of the Internal Revenue Code of 1986 (other than paragraph (1) thereof).

(2) UNFUNDED AVIATION AUTHORIZATIONS.—The term "unfunded aviation authorization" means, at any time, the excess (if any) of—

(A) the total amount authorized to be appropriated from the Airport and Airway Trust Fund which has not been appropriated, over

(B) the amount available in the Airport and Airway Trust Fund at such time to make such appropriation (after all other unliquidated obligations at such time which are payable from the Airport and Airway Trust Fund have been liquidated).

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

§ 47151. Authority to transfer an interest in surplus property

(a) GENERAL AUTHORITY.—Subject to sections 47152 and 47153 of this title, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may [give] *convey to* a State, political subdivision of a State, or tax-supported organization any interest in surplus property—

(1) * * *

(2) if the Administrator of General Services approves the [gift] *conveyance* and decides the interest is not best suited for industrial use.

(b) ENSURING COMPLIANCE.—Only the Secretary may ensure compliance with an instrument [giving] *conveying* an interest in surplus property under this subchapter. The Secretary may amend the instrument to correct the instrument or to make the [gift] *conveyance* comply with law.

(c) DISPOSING OF INTERESTS NOT [GIVEN] *CONVEYED* Under This Subchapter.—An interest in surplus property that could be used at a public airport but that is not [given] *conveyed* under this subchapter shall be disposed of under other applicable law.

(d) REQUESTS BY PUBLIC AGENCIES.—Except with respect to a request made by another department, agency, or instrumentality of the executive branch of the United States Government, such a department, agency, or instrumentality shall give priority consideration to a request made by a public agency (as defined in section 47102) for surplus property described in subsection (a) for use at a public airport.

§ 47152. Terms of [gifts] *conveyances*

Except as provided in section 47153 of this title, the following terms apply to a [gift] *conveyance* of an interest in surplus property under this subchapter:

(1) * * *

* * * * * * *

§ 47153. Waiving and adding terms

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may waive, without charge, a term of a [gift] *conveyance* of an interest in property under this subchapter if the Secretary decides, *after providing notice and an opportunity for public comment,* that—

(A) the property no longer serves the purpose for which it was [given] *conveyed*; or

(B) the waiver will not prevent carrying out the purpose for which the [gift] *conveyance* was made and is necessary to advance the civil aviation interests of the United States.

* * * * * * *

(3) PUBLICATION OF DECISIONS.—The Secretary shall publish in the Federal Register any decision to waive a term under paragraph (1) and the reasons for the decision.

* * * * * * *

(c) CONSIDERATIONS.—In deciding whether to waive a term required by section 47152 or add another term, the Secretary shall consider the current and future needs of the users of the airport.

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CHAPTER 475—NOISE

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SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

* * * * * * *

§ 47528. Prohibition on operating certain aircraft not complying with stage 3 noise levels

(a) PROHIBITION.—Except as provided in subsection (b) or (f) of this section and section 47530 of this title, a person may operate after December 31, 1999, a civil subsonic turbojet with a maximum weight of more than 75,000 pounds to or from an airport in the United States only if the Secretary of Transportation finds that the aircraft complies with the stage 3 noise levels.

(b) WAIVERS.—(1) If, not later than July 1, 1999, at least 85 percent of the aircraft used by an air carrier or foreign air carrier to provide air transportation comply with the stage 3 noise levels, the carrier may apply for a waiver of subsection (a) of this section for the remaining aircraft used by the carrier to provide air transportation. The application must be filed with the Secretary not later than January 1, 1999, and must include a plan with firm orders for making all aircraft used by the carrier to provide air transportation comply with the noise levels not later than December 31, 2003.

* * * * * * *

*(e) HAWAIIAN OPERATIONS.—(1) * * **

* * * * * * *

(4) An air carrier operating stage 2 aircraft under this subsection may operate stage 2 aircraft to or from the 48 contiguous States on a nonrevenue basis in order to—

(A) perform maintenance (including major alterations) or preventative maintenance on aircraft operated, or to be operated, within the limitations of paragraph (2)(B); or

(B) conduct operations within the limitations of paragraph (2)(B).

(f) AIRCRAFT MODIFICATION OR DISPOSAL.—After December 31, 1999, the Secretary may provide a procedure under which a person may operate a stage 1 or stage 2 aircraft in nonrevenue service to or from an airport in the United States in order to—

(1) sell the aircraft outside the United States;

(2) sell the aircraft for scrapping; or

(3) obtain modifications to the aircraft to meet stage 3 noise levels.

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PART C—FINANCING

CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.
48101. Air navigation facilities and equipment.

* * * * * * *

48112. Aviation safety accelerated program.

§ 48101. Air navigation facilities and equipment

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Not more than a total of the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title:

[(1) $2,068,000,000 for fiscal year 1997.
[(2) $2,129,000,000 for fiscal year 1998.
[(3) $2,131,000,000 for fiscal year 1999.]
(1) Such sums as may be necessary for fiscal year 2000.
(2) $2,500,000,000 for fiscal year 2001.
(3) $3,000,000,000 for each of fiscal years 2002 through 2004.

* * * * * * *

(d) UNIVERSAL ACCESS SYSTEMS.—Of the amounts appropriated under subsection (a) for fiscal year 2001, $8,000,000 may be used for the voluntary purchase and installation of universal access systems.

* * * * * * *

§ 48103. Airport planning and development and noise compatibility planning and programs

The total amounts which shall be available after September 30, 1998, to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c) of this title [shall be $2,050,000,000 for the period beginning October 1, 1998 and ending August 6, 1999.] *shall be—*

(1) $2,410,000,000 for fiscal year 1999;
(2) $2,475,000,000 for fiscal year 2000;
(3) $4,000,000,000 for fiscal year 2001;
(4) $4,100,000,000 for fiscal year 2002;
(5) $4,250,000,000 for fiscal year 2003; and
(6) $4,350,000,000 for fiscal year 2004.

§ 48104. Operations and maintenance

(a) * * *

[(b) LIMITATION FOR FISCAL YEAR 1993.—The amount that may be appropriated out of the Fund for fiscal year 1993 may not be more than an amount equal to—

[(1) 75 percent of the amount made available under sections 106(k) and 48101–48103 of this title for that fiscal year; less
[(2) the amount made available under sections 48101–48103 of this title for that fiscal year.

[(c) LIMITATION FOR FISCAL YEARS 1994–1998.—The amount appropriated from the Trust Fund for the purposes of paragraphs (1) and (2) of subsection (a) for each of fiscal years 1994 through 1998 may not exceed the lesser of—

[(1) 50 percent of the amount of funds made available under sections 48101–48103 of this title for such fiscal year; or

[(2)(A) 72.5 percent of the amount of funds made available under sections 106(k) and 48101–48103 of this title for such fiscal year; less

[(B) the amount of funds made available under sections 48101–48103 of this title for such fiscal year.]

(b) LIMITATION FOR FISCAL YEAR 1999.—The amount appropriated from the Trust Fund for the purposes of paragraphs (1) and (2) of subsection (a) for fiscal year 1999 may not exceed the lesser of—

(1) 50 percent of the amount of funds made available under sections 48101 through 48103 for such fiscal year; or

(2)(A) 72.5 percent of the amount of funds made available under sections 106(k) and 48101 through 48103 for such fiscal year; less

(B) the amount of funds made available under sections 48101 through 48103 for such fiscal year.

(c) LIMITATION FOR FISCAL YEARS 2000–2004.—The amount appropriated from the Trust Fund for the purposes of paragraphs (1) and (2) of subsection (a) for each of fiscal years 2000 through 2004 may not exceed—

(1) 70 percent of the FAA guaranteed spending levels for budget resources under section 48302, as adjusted, for such fiscal year; less

(2) the amount of funds made available under sections 48101 through 48103 and 48112 for such fiscal year.

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§ 48108. Availability and uses of amounts

(a) * * *

* * * * * * *

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—In a fiscal year beginning after September 30, [1998] *2004*, the Secretary of Transportation may obligate or expend an amount appropriated out of the Fund under section 48104 of this title only if a law expressly amends section 48104.

* * * * * * *

§ 48112. Aviation safety accelerated program

The total amounts which shall be available after September 30, 1999, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 to make grants for the aviation safety accelerated program under section 47161 shall be—

(1) $921,000,000 for fiscal year 2000;
(2) $1,254,000,000 for fiscal year 2001;
(3) $2,157,000,000 for fiscal year 2002;
(4) $2,787,000,000 for fiscal year 2003; and
(5) $3,125,000,000 for fiscal year 2004.

* * * * * * *

CHAPTER 483—ADJUSTMENT OF TRUST FUND AUTHORIZATIONS

§ 48301. Definitions

In this chapter, the following definitions apply:

(1) BASE YEAR.—The term "base year" means the second fiscal year before the fiscal year for which the calculation is being made.

(2) AIP PROGRAM.—The term "AIP program" means the programs for which amounts are made available under section 48103.

(3) AVIATION INCOME.—The term "aviation income" means the tax receipts credited to the Airport and Airway Trust Fund and any interest attributable to the Fund.

§ 48302. Adjustment to align aviation authorizations with revenues

(a) AUTHORIZATION OF APPROPRIATIONS.—Beginning with fiscal year 2003, if the actual level of aviation income for the base year is greater or less than the estimated aviation income level specified in section 48304 for the base year, the amounts authorized to be appropriated (or made available) for the fiscal year under each of sections 106(k), 48101, 48102, and 48103 are adjusted as follows:

(1) If the actual level of aviation income for the base year is greater than the estimated aviation income level specified in section 48304 for the base year, the amount authorized to be appropriated (or made available) for such section is increased by an amount determined by multiplying the amount of the excess by the ratio for such section set forth in subsection (b).

(2) If the actual level of aviation income for the base year is less than the estimated aviation income level specified in section 48304 for the base year, the amount authorized to be appropriated (or made available) for such section is decreased by an amount determined by multiplying the amount of the shortfall by the ratio for such section set forth in subsection (b).

(b) RATIO.—The ratio referred to in subsection (a) with respect to section 106(k), 48101, 48102, or 48103, as the case may be, is the ratio that—

(1) the amount authorized to be appropriated (or made available) under such section for the fiscal year; bears to

(2) the total sum of amounts authorized to be appropriated (or made available) under all of such sections for the fiscal year.

(c) PRESIDENT'S BUDGET.—When the President submits a budget for a fiscal year under section 1105 of title 31, United States Code, the Director of the Office of Management and Budget shall calculate and the budget shall report any increase or decrease in authorization levels resulting from this section.

§ 48303. Adjustment to AIP program funding

On the effective date of a general appropriations Act providing appropriations for a fiscal year beginning after September 30, 2000, for the Federal Aviation Administration, the amount made available for a fiscal year under section 48103 shall be increased by the amount, if any, by which—

(1) the total sum of amounts authorized to be appropriated under all of sections 106(k), 48101, and 48102 for such fiscal year, including adjustments made under section 48302; exceeds

(2) the amounts appropriated for programs funded under such sections for such fiscal year.

Any contract authority made available by this section shall be subject to an obligation limitation.

§ 48304. Estimated aviation income

For purposes of section 48302, the estimated aviation income levels are as follows:

(1) $10,734,000,000 for fiscal year 2001.
(2) $11,603,000,000 for fiscal year 2002.
(3) $12,316,000,000 for fiscal year 2003.
(4) $13,062,000,000 for fiscal year 2004.

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PART D—PUBLIC AIRPORTS

CHAPTER 491—METROPOLITAN WASHINGTON AIRPORTS

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§ 49106. Metropolitan Washington Airports Authority

(a) * * *

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(c) BOARD OF DIRECTORS.—(1) * * *

* * * * * * *

(6)(A) Not more than 2 of the members of the board appointed by the President may be of the same political party.

(B) In carrying out their duties on the board, members appointed by the President shall ensure that adequate consideration is given to the national interest.

[(C) The members to be appointed under paragraph (1)(D) of this subsection must be appointed before October 1, 1997. If the deadline is not met, the Secretary of Transportation and the Airports Authority are subject to the limitations of section 49108 of this title until all members referred to in paragraph (1)(D) are appointed.**]**

[(D)**]** *(C)* A member appointed by the President may be removed by the President for cause.

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§ 49108. Limitations

After October 1, [2001] *2004*, the Secretary of Transportation may not approve an application of the Metropolitan Washington Airports Authority—

(1) for an airport development project grant under subchapter I of chapter 471 of this title; or

(2) to impose a passenger facility fee under section 40117 of this title.

* * * * * * *

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

* * * * * * *

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

* * * * * * *

SEC. 347. (a) * * *

(b) The provisions of title 5, United States Code, shall not apply to the new personnel management system developed and implemented pursuant to subsection (a), with the exception of—

(1) section 2302(b), relating to whistleblower protection*, including the provisions for investigation and enforcement as provided in chapter 12 of title 5, United States Code*;

* * * * * * *

(6) chapter 81, relating to compensation for work injury; [and]

(7) chapters 83–85, 87, and 89, relating to retirement, unemployment compensation, and insurance coverage[.]*; and*

(8) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board.

[(c) This section shall take effect on April 1, 1996.]

(c) APPEALS TO MERIT SYSTEMS PROTECTION BOARD.—Under the new personnel management system developed and implemented under subsection (a), an employee of the Federal Aviation Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996.

SEC. 348. (a) * * *

* * * * * * *

[(c) This section shall take effect on April 1, 1996.]

(c) CONTRACTS EXTENDING INTO A SUBSEQUENT FISCAL YEAR.—Notwithstanding subsection (b)(3), the Administrator may enter into contracts for procurement of severable services that begin in one fiscal year and end in another if (without regard to any option

to extend the period of the contract) the contract period does not exceed 1 year.

* * * * * * *

CENTENNIAL OF FLIGHT COMMEMORATION ACT

* * * * * * *

SEC. 4. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 6 members, as follows:

(1) * * *

* * * * * * *

(5) As chosen by the Commission, the president or head of a United States aeronautical society, foundation, or organization of national stature or prominence*, or his designee,* who will be a person from a State other than Ohio or North Carolina.

* * * * * * *

(g) STATUS.—The members of the Commission described in paragraphs (1), (3), (4), and (5) of subsection (a) shall not be considered to be officers or employees of the United States.

SEC. 5. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) * * *

* * * * * * *

[(7) encourage the publication of popular and scholarly works related to the history of aviation or the anniversary of the centennial of powered flight.**]**

(7) as a nonprimary purpose, publish popular and scholarly works related to the history of aviation or the anniversary of the centennial of powered flight.

* * * * * * *

SEC. 6. POWERS.

(a) * * *

* * * * * * *

(e) CONFLICTS OF INTEREST.—At its second business meeting, the Commission shall adopt a policy to protect against possible conflicts of interest involving its members and employees. The Commission shall consult with the Office of Government Ethics in the development of such a policy and shall recognize the status accorded its members under section 4(g).

SEC. 7. STAFF AND SUPPORT SERVICES.

(a) EXECUTIVE DIRECTOR.—There shall be an Executive Director appointed by the Commission and chosen from among detailees from the agencies and organizations represented on the Commission**[**.**]** *or represented on the First Flight Centennial Advisory Board under subparagraphs (A) through (E) of section 12(b)(1).* The Executive Director may be paid at a rate not to exceed the

maximum rate of basic pay payable for the Senior Executive Service.

* * * * * * *

SEC. 9. EXCLUSIVE RIGHT TO NAME, LOGOS, EMBLEMS, SEALS, AND MARKS.

(a) * * *

* * * * * * *

(d) USE OF FUNDS.—Funds from licensing royalties received pursuant to this section shall be used by the Commission to carry out the duties of the Commission specified by this Act**[**.**]**, *except that the Commission may transfer any portion of such funds that is in excess of the funds necessary to carry out such duties to any Federal agency or the National Air and Space Museum of the Smithsonian Institution to be used for the sole purpose of commemorating the history of aviation or the centennial of powered flight.*

* * * * * * *

(f) DUTIES TO BE CARRIED OUT BY ADMINISTRATOR OF NASA.—The duties of the Commission under this section shall be carried out by the Administrator of the National Aeronautics and Space Administration, in consultation with the Commission.

* * * * * * *

ACT OF JULY 5, 1994

AN ACT To revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code.

CONFORMING PROVISIONS

SEC. 4. (a) * * *

* * * * * * *

[(k) Effective January 1, 1999, the following sections of title 49, United States Code, as enacted by section 1 of this Act, are amended as follows:

[(1) In sections 41107, 41901(b)(1), 41902(a), and 41903, strike "transportation or between places in Alaska" wherever it appears and substitute "transportation".

[(2) Strike section 41901(g).

[(3) In section 41902(b)—

[(A) strike clause (3); and

[(B) in clause (4), strike "clauses (1)–(3)" and substitute "clauses (1) and (2)".**]**

* * * * * * *

COMMITTEE ON COMMERCE,
Washington, DC, May 26, 1999.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SHUSTER: As you know, on March 11, 1999, the Committee on Transportation and Infrastructure ordered reported H.R. 1000, the Aviation Investment and Reform Act for the 21st Century Act. The environmental streamlining provisions of the bill are virtually identical to section 1309 of the conference report to accompany the Transportation Equity Act for the 21st Century ("TEA–21"; H.Rpt. 105–550). As you may recall, members of the Committee on Commerce were appointed as conferees on that provision during the TEA–21 conference.

Because of the importance of legislation reauthorizing the Nation's aviation programs, I recognize your desire to bring this legislation before the House in an expeditious manner. Given that the environmental streamlining language is virtually identical to language agreed to by the Commerce Committee during the TEA–21 conference, I will not exercise the Committee's right to a sequential referral. By agreeing to waive its consideration of the bill, however, the Commerce Committee does not waive its jurisdiction over H.R. 1000. In addition, the Commerce Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Commerce Committee for conferees on H.R. 1000 or similar legislation.

I request that you include this letter as a part of the Committee's report on H.R. 1000 and as part of the RECORD during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

TOM BLILEY,
Chairman.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, May 29, 1999.

Hon. THOMAS BLILEY,
Chairman, Committee on Commerce, Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of May 29, 1999 regarding H.R. 1000, the Aviation Investment and Reform Act for the 21st Century. Your assistance in allowing prompt consideration of this bill is very much appreciated.

I agree that the provision you have identified in your letter is of jurisdictional interest to the Committee on Commerce and I agree that by foregoing a sequential referral, the Committee on Commerce is not waiving its jurisdiction. Be assured that I will support your request to be represented in any conference committee with the Senate on this provision.

As you requested, I will include this exchange of letter in the Committee report on this bill and in the Congressional RECORD when the bill is considered on the Floor. Thank you for your cooperation and your continued support of aviation matters.

With warm personal regards, I am

Sincerely,

BUD SHUSTER,
Chairman.

COMMITTEE ON RESOURCES,
Washington, DC, May 27, 1999.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure
Rayburn HOB, Washington, DC.

DEAR MR. CHAIRMAN: I have reviewed the text of H.R. 1000, the Aviation Investment and Reform Act for the 21st Century, and I believe that the Committee on Resources has a jurisdictional interest in several sections of the bill. These include: (1) Section 305, environmental streamlining [as it relates to the National Environmental Policy Act]; and (2) Title VIII, National Parks Air Tour Management. The latter is based on the text of H.R. 717, which was referred additionally to the Resources Committee this Congress.

I have no objection to the environmental streamlining provision in H.R. 1000 and therefore will not seek a sequential referral of the bill based on its inclusion. I also understand that you have agreed to provide exceptions from the Title VIII program for the Lake Mead National Recreation Area. We appreciate your agreement on this issue.

However, there appears to be an additional issue raised in connection with Title VIII. Based on testimony received by National Parks and Public Lands Subcommittee Chairman James Hansen at a hearing this week, it is clear that there is some concern about the regulation on noise as it relates to air tours over the Grand Canyon. A rational solution to this concern would be the incorporation of language in H.R. 1000 or an explanatory colloquy on the Floor during debate on the bill which requires a reasonable standard for regulation of air tour noise. This new provision could read:

> The air tour sound threshold and all other aircraft sound standards for operation in the Grand Canyon shall be based on valid and reasonable scientific sound methodology and these threshold and sound standards shall allow for the continued existence of a viable air tour industry in the Grand Canyon.

This is a standard that the National Park Service supported in concept in testimony on May 25, 1999. Its inclusion in H.R. 1000 is good government and should be noncontroversial. I understand that Chairman Hansen has spoken to Aviation Subcommittee Chairman John Duncan (who also serves on the Resources Committee) who is supportive of this language.

Finally, I ask that any manager's amendment to the bill strike section 806 of H.R. 1000. This appears to duplicate (and expand

unnecessarily) an existing Alaska provision found in the amendment made by section 803 of the bill.

I hope that we can use this opportunity to correct some overreaching by the National Park Service in managing Grand Canyon air tours. I look forward to working with you and your staff.

Sincerely,

DON YOUNG,
Chairman.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, May 29, 1999.

Hon. DON YOUNG,
Chairman, Committee on Resources, Longworth House Office Building, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of May 29, 1999 regarding H.R. 1000, The Aviation Investment and Reform Act for the 21st Century. Your assistance in allowing prompt consideration of this bill is very much appreciated.

I agree that the provisions you have identified in your letter are of jurisdictional interest to the Committee on Resources and I agree that by foregoing a sequential referral, the Committee on Resources is not waiving its jurisdiction on those provisions.

In particular, you have raised several issues with respect to the Title VIII of the bill, National Parks Air Tour Management. First, the Transportation Committee has reached an agreement with the Committee on Resources to provide an exception from this title regarding air tours that overfly the Lake Mead National Recreation Area as a transportation route on their way to fly an air tour of the Grand Canyon. This will be included in a Manager's amendment offered during floor consideration of H.R. 1000. Second, I and other members of the Transportation Committee agree that there is some concern about the regulation of noise as it relates to air tours over the Grand Canyon. As you know, this title of H.R. 1000 and its companion legislation, H.R. 717, are a result of a great deal of hard work and compromise by the competing interests that are affected by this bill. In addition, the Grand Canyon has been specifically exempted from this legislation by agreement of all parties. However, I would like to continue to work with you to reach an acceptable legislative compromise on this issue or an explanatory colloquy during Floor consideration of H.R. 1000.

Finally, I will make every effort to accommodate your request regarding section 806 of the bill.

I will include this exchange of letters in the Committee report on this bill. Thank you for your cooperation and your continued support of aviation matters.

With warm personal regards, I am

Sincerely,

BUD SHUSTER,
Chairman.

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